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April 9, 2024

The Honorable Jeff Duncan
Chairman
Subcommittee of the Energy, Climate, and
Grid Security Subcommittee
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee of the Energy, Climate, and
Grid Security Subcommittee
House Energy and Commerce Committee
2322A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Duncan and Ranking Member DeGette,

As the Energy, Climate, and Grid Security Subcommittee conducts its hearing titled “American Nuclear Energy Expansion: Spent Fuel Policy and Innovation,” I write on behalf of my constituents in California’s 49th Congressional District to share our perspectives on spent nuclear fuel issues. I first wish to express my appreciation for the Subcommittee’s attention to such a long-standing issue that impacts Congressional districts across the country, including the one that I represent and call home. I am also grateful for the Subcommittee’s invitation to Daniel Stetson, the Chairman of the San Onofre Community Engagement Panel, to share more about the impact that the current system of spent fuel management has on our community.

Since the 1950s, approximately 90,000 metric tons of spent nuclear fuel have been generated from commercial nuclear power generation in the United States, and this inventory grows by approximately 2,000 metric tons every single year.¹ In 1982, Congress passed the *Nuclear Waste Policy Act*, which mandated that the U.S. government take possession of spent nuclear fuel and assigned the Department of Energy (DOE) the responsibility to manage spent nuclear fuel from commercial reactors.

Then in 1987, Congress decided to designate Yucca Mountain as the sole candidate for a permanent geologic repository, without engaging in a consent-based process, and over Nevadans’ objections. More recent private storage efforts in New Mexico and Texas have not advanced due to a similar lack of consent. As a result, the 90,000 metric tons of existing spent nuclear fuel is being stored indefinitely at over 70 sites in more than 30 states, without the consent of the communities in which they are located.

To say that this current situation is not ideal would be an understatement.

¹ DOE, <https://www.energy.gov/sites/default/files/2023-05/Consent-Based%20Siting%20Process%20Report-0424%203.pdf>

Because the federal government was unable to fulfill its responsibility to begin disposing of spent nuclear fuel beginning in January 1998, the federal government has been found to be in partial breach of its contract with owners of commercial nuclear power reactors and must use taxpayer dollars to pay for damages of this breach. The latest Nuclear Waste Fund Audit Report by the DOE Inspector General (DOE-OIG-24-02) notes that this partial breach has cost taxpayers \$10.6 billion through September 30, 2023, and that the remaining additional liabilities will total \$34.1 billion. These funds add to the federal deficit without benefit of budget or appropriations considerations.

This breach also leaves communities like my own to serve as de facto interim storage sites, without their consent. The decommissioning San Onofre Nuclear Generating Station (SONGS) in my district currently stores more than 3.5 million pounds of spent nuclear fuel just 100 feet from the Pacific Ocean, near active fault lines, surrounded by highly populated areas and on Marine Corps Base Camp Pendleton. Since I took office in 2019, one of my top priorities has been moving the spent nuclear fuel from SONGS as quickly and safely as possible.

Part of this work has included working with colleagues to secure funding for DOE to restart a federal, consent-based consolidated interim storage program. In April 2023, DOE released its comprehensive outline for a 10- to 15-year plan to successfully site and store spent fuel using a consent-based siting process.² This process is designed to work with local governments that want to host a site in a way that is inclusive, community-driven, phased, and adaptive. We have seen how a lack of consent has historically stopped projects – both public and private – so I am optimistic that this new, consent-based approach can break the current stalemate on the development of federal management capacity for spent nuclear fuel.

While it is encouraging that for the first time in more than a decade the government is finally progressing towards fulfilling its obligation to take title to this waste, we still have a long way to go towards a comprehensive, integrated waste management system. The Government Accountability Office (GAO) has found that “a variety of actions are needed to move ahead, including authorization of a new effort to determine where a disposal facility should be located and the development of a management strategy,” and that “Congress needs to take action to break the impasse over a permanent solution for commercial spent nuclear fuel.”³

While we do not yet know the ultimate sites for consolidated interim storage and a permanent repository, we *do* know the consent-based path that we must take to successfully site these facilities. We also have the benefit of years of thought and expert development of a bipartisan path forward for how we successfully manage our nuclear future.⁴ And, we can now look to the examples set by other countries, such as Finland, Sweden, and Canada, and how their work prioritized consent and was led by single purpose organizations.

² DOE, <https://www.energy.gov/sites/default/files/2023-05/Consent-Based%20Siting%20Process%20Report-0424%203.pdf>

³ GAO, <https://www.gao.gov/products/gao-21-603>

⁴ DOE, <https://www.energy.gov/ne/articles/blue-ribbon-commission-americas-nuclear-future-report-secretary-energy>

It is clear to me, and I hope to you as well, that Congress must act. Particularly at a time when we are considering promoting further nuclear energy development, we must also consider the technology's full life span, including its long-term impact and environmental risks. Anything short of addressing the spent fuel problem is irresponsible and could result in a future, preventable crisis.

In the immediate term, we must continue to provide funding, on a bipartisan basis, to DOE's integrated waste management work, and ensure that annual funding is commensurate with the Department's needs throughout the process. We must also provide DOE with clear direction to develop a total system plan for the management of spent nuclear fuel, and to build capacity and execute upon this plan.

We must also amend existing law to grant the federal government the authority to site, construct and operate a consolidated interim storage site and ultimately a new geological repository, and direct that these processes be based in consent, as agreed upon by the host communities themselves. We must also work with potential host communities and states to identify benefits they can receive in exchange for their volunteering to store this waste. Further, we ought to ensure that we make progress on siting a repository in tandem with a consolidated interim storage facility, so as to provide interim storage host communities with the assurance that they will not become permanent storage sites by default. We may even consider creating a new single-purpose, autonomous organization insulated from the political process and with access to reliable and adequate funding, to handle these tasks.

Communities across the country, including my own, have waited patiently for action on this matter. It is past time that we end the continued stalemate that is wasteful of taxpayer resources. The path ahead will not be easy and will require many difficult conversations. But I am committed to seeing this through, and I hope to work with you and your staff to finally fulfill the federal government's responsibility to manage spent nuclear fuel.

Sincerely,

A handwritten signature in black ink that reads "Mike Levin". The signature is written in a cursive style and is positioned above a horizontal line.

Mike Levin
United States Representative