

California Attorney General Bill Lockyer
Connecticut Attorney General Richard Blumenthal
Illinois Attorney General Lisa Madigan
Maine Attorney General G. Steven Rowe
Minnesota Attorney General Mike Hatch
New Hampshire Attorney General Kelly A. Ayotte
New Jersey Acting Attorney General Anne Milgram
New York Attorney General Eliot Spitzer
Vermont Attorney General William H. Sorrell
Wisconsin Attorney General Peggy A. Lautenschlager

September 7, 2006

The Honorable Pete Domenici
Chairman
Subcommittee on Energy and Water, and Related Agencies
Committee on Appropriations
328 Hart Office Building
Washington, DC 20510

The Honorable Harry Reid
Ranking Minority Member
Subcommittee on Energy and Water, and Related Agencies
Committee on Appropriations
528 Hart Senate Office Building
Washington, DC 20510

Dear Senators Domenici and Reid:

The Attorneys General of Illinois, California, Connecticut, Maine, Minnesota, New Hampshire, New Jersey, New York, Vermont, and Wisconsin are deeply concerned by the proposal for interim storage of nuclear waste contained in H.R. 5427, the FY 2007 Energy and Water Appropriations bill. We are mindful of the complex problems and delay that have dogged efforts to establish a permanent repository for the nation's nuclear waste. However, we do not believe the appropriate solution lies giving DOE fast-tracked and unchecked power to designate nuclear waste storage sites over states' objections.

We are particularly troubled by the following aspects of the Consolidation and Preparation proposal embodied in H.R. 5427:

- *DOE authority would override state and local siting law.* The proposal is silent concerning the role of state and local laws governing siting and licensing of the storage facilities, and hence could well be interpreted to

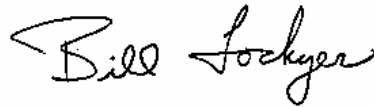
override all such laws. DOE is being given the authority to ignore not only governors' recommendations and objections concerning the siting of a state or regional facility, but potentially any siting criteria and permitting restrictions that state and local governments would otherwise apply. DOE could assert the right to require virtually any parcel in a state offered by a willing seller to be used as a nuclear waste storage facility even if zoning laws, environmental laws (e.g., state endangered species or wetlands programs), or environmental justice siting provisions otherwise precluded such use.

- *Hasty timetable precludes proper analysis.* The proposal provides DOE only 9 months to choose sites for the storage facilities, and a total of only 3.5 years for licensing of the facilities. This is simply not enough time to fully and carefully evaluate the significant and complex safety, environmental, and transportation issues that would attend a massive effort to relocate the large amount of radioactive waste currently being stored at nuclear facilities across the country.
- *Dangers associated with transportation remain unaddressed.* In a February 2006 report, the National Academy of Sciences identified a number of issues that must be further studied before large-scale shipments of radioactive waste commence. These include security from terrorist threats, crash-testing of packages under severe accident conditions, and the likelihood and impact of long-duration fires. The proposal would, given its truncated time frame, effectively require that shipments commence before any of these issues are sufficiently evaluated. The proposal does not contain even basic measures to address the major transportation safety issues entailed in moving nuclear waste, such as emergency response preparation, accident prevention, security, and public education.
- *NEPA review is improperly limited.* The proposal prohibits consideration in the environmental impact statement of any impact of waste storage beyond the 25-year license period. Given the delays that have attended construction of the proposed permanent repository at Yucca Mountain, we believe this limitation is unacceptable, and poses significant long-term risks to any host state. A thoroughgoing environmental analysis should take into consideration the possibility that no permanent repository will have been designated at the time the licenses expire that is capable of handling all of the nation's nuclear waste – which will greatly exceed the capacity of Yucca Mountain in 25 years. As an overall matter, the NEPA provisions in the proposal are so lacking in clarity that they might well be interpreted to eliminate meaningful NEPA review entirely. For instance, while subsection (f) states that licensure shall be considered a major federal action requiring NEPA review, subsection (g) states that “the construction and use of a

facility licensed by the Commission” shall be considered preliminary decisional activity *not* subject to NEPA review. Also, it is at best unclear whether the NEPA process would allow for consideration of alternative sites, a critical component of any NEPA evaluation.

Overall, we are greatly concerned that the proposal is being advanced through the appropriations process, thus precluding any formal opportunity for state input regarding it. No hearings were held or comment opportunity provided prior to markup. A matter as important, complex, and inherently controversial as storage of the nation’s nuclear waste deserves a full and open public debate, allowing states, interested stakeholders and the public to voice their concerns. We urge you to reject the provisions contained in Section 313 of H.R. 5427 and refer the matter to the appropriate authorizing committee.

Very truly yours,

A handwritten signature in black ink that reads "Bill Lockyer". The signature is fluid and cursive, with the first name "Bill" and last name "Lockyer" clearly legible.

BILL LOCKYER
Attorney General of California

A handwritten signature in black ink that reads "Richard Blumenthal". The signature is written in a cursive style, with the first name "Richard" and last name "Blumenthal" clearly legible.

RICHARD BLUMENTHAL
Attorney General of Connecticut

A handwritten signature in black ink that reads "Lisa Madigan". The signature is written in a cursive style, with the first name "Lisa" and last name "Madigan" clearly legible.

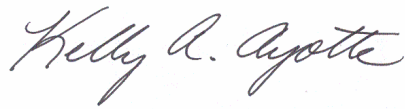
LISA MADIGAN
Attorney General of Illinois

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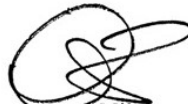
G. STEVEN ROWE
Attorney General of Maine

A handwritten signature in blue ink that reads "Mike Hatch". The signature is written in a cursive style, with the first name "Mike" and last name "Hatch" clearly legible.

MIKE HATCH
Attorney General of Minnesota



KELLY A. AYOTTE
Attorney General of New Hampshire



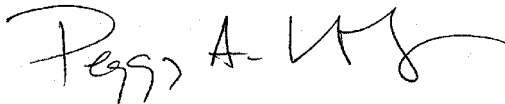
ANNE MILGRAM
Acting Attorney General
State of New Jersey



ELIOT SPITZER
Attorney General of New York



WILLIAM H. SORRELL
Attorney General of Vermont



PEGGY A. LAUTENSCHLAGER
Attorney General of Wisconsin

cc: Attached list