

**NUCLEAR INFORMATION AND RESOURCE SERVICE \* PUBLIC  
CITIZEN \* CITIZEN ALERT \* ALLIANCE FOR NUCLEAR  
ACCOUNTABILITY \* NEVADA NUCLEAR WASTE TASK FORCE  
\* FRIENDS OF THE EARTH \* NATIONAL ENVIRONMENTAL  
TRUST \* SIERRA CLUB**

June 15, 2004

Dear Member of the U.S. House of Representatives Energy and Commerce Committee,

Congressman Joe Barton's bill H.R. 3981, "[t]o reclassify fees paid into the Nuclear Waste Fund as offsetting collections, and for other purposes," is scheduled for a full committee mark up this Wednesday, June 16. As national environmental and consumer organizations, *we urge you to oppose Congressman Barton's irresponsible proposal to take a large part of the Yucca Mountain Project's funding off-budget.* Congress should not take the Yucca Mountain Project off-budget while issues of U.S. Department of Energy (DOE) mismanagement, legal challenges, and key safety issues remain unresolved.

H.R. 3981 would offset the Nuclear Waste Fund fees collected from October 1, 2004 until the end of the fiscal year when "construction is complete for surface facilities for the fully operating repository as described in the license application." The offset amounts are not to exceed the amounts annually appropriated. The bill would amend the Nuclear Waste Policy Act of 1982 to repeal the exemption from annual apportionment of receipts, proceeds, and recoveries realized by the Secretary of Energy, as well as expenditures of amounts from the Fund.

We are alarmed at Congressman Barton's proposal to eliminate congressional oversight of much of the project's funding. Since 1982, nuclear power utility consumers have paid fees to the Nuclear Waste Fund to pay for the long-term management of high-level radioactive waste, including the establishment of a national repository. H.R. 3981 proposes that these fees be paid directly to the DOE, thereby cutting Congress out of decisions regarding how the fees are used.

But DOE is woefully mismanaging the Yucca Mountain Project. To meet the U.S. House of Representatives imposed December 2004 deadline for filing its Yucca Mountain license application to the U.S. Nuclear Regulatory Commission (NRC), DOE would have to deliver all its supporting documents to NRC's Licensing Support Network by June 23, for public access rules require that DOE's documents be posted six months prior to the submission of the license application. But DOE's Inspector General (IG) reported on May 20, 2004 (Report OAS-M-04-04: Audit Report on "Management Controls Over the Licensing Support Network for the Yucca Mountain Repository") that literally millions of documents must still be processed by DOE before they can be delivered to NRC for posting. DOE's IG concluded "[u]nless the Department takes additional action to improve delivery to the NRC for indexing, the availability of the documents to the public could be delayed until as late as May 2005. Ultimately, the inability of the Department to meet the deadline for Network posting could adversely affect the completion of the license application by the House-imposed deadline." (page 3)

In addition, the U.S. Court of Appeals for the District of Columbia Circuit is expected to release its decisions on pending lawsuits brought by environmental and consumer groups and by

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the State of Nevada at any time. The decisions could potentially force a significant reassessment of the Yucca Mountain Project that could cause years of delays, and perhaps even permanently derail it.

The U.S. Nuclear Waste Technical Review Board (NWTRB), mandated by Congress and appointed by the President to oversee DOE's technical work at Yucca, reported last November ("Board Technical Report on Localized Corrosion") that the current repository design is deficient, and if not changed would likely result in corrosion of the waste burial containers, release of radioactivity, and contamination of the drinking water supply relatively rapidly.

***Given the serious fundamental questions that remain regarding the suitability of the site to safely and permanently isolate high-level radioactive waste, the impending judicial decisions, and DOE's on-going mismanagement, maintaining Congressional oversight of how the Nuclear Waste Fund is spent is critical. We urge you to oppose taking the Yucca Mountain Project off-budget by voting against H.R. 3981.***

Sincerely,

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