



United States  
General Accounting Office  
Washington, D.C. 20548

Resources, Community, and  
Economic Development Division

B-260582

March 1, 1995

The Honorable Paul David Wellstone  
United States Senate

Dear Senator Wellstone:

Your January 30, 1995, letter asked us to comment on a proposal to the President by you and other Senators for an independent review of the management of all nuclear waste. You requested, however, that we limit our comments to a potential review of the management of highly radioactive waste and spent nuclear fuel. You asked if we agree that a review such as that proposed to the President is needed and, if not, how your proposal should be changed. You also requested that we provide detailed suggestions for the makeup of a potential independent review entity and the scope of such a review. Because of the limited time available to respond to your request, we are relying primarily on our past work to answer your questions.

In summary, for some time it has been our view that an independent review of the Department of Energy's (DOE) civilian radioactive waste program is needed. Such a review could ensure that the Congress has the best possible information as a basis for evaluating the performance of the program, making future funding decisions, and making changes to the program, such as the changes proposed in several recently introduced bills. The body conducting the review should have the requisite expertise, clear access to DOE's records, and a mechanism to provide public access to the body's findings and recommendations. Also, such a review could be most effective if the review body was truly independent of DOE. Given the limitations of the Secretary of Energy's initiatives made in response to calls for an independent review, the review may need to be chartered at a very high level, perhaps by the Congress. Appropriate entities that might be considered to perform such a review could include a special congressional committee, a presidential commission, or the National Academy of Public Administration.

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BACKGROUND

In December 1992, we reported that although a decade had passed since the Congress established the repository program for the disposal of nuclear waste and several billion dollars had been spent, siting a repository seemed as distant as it did when the act was first passed.<sup>1</sup> In May 1993, we reported that at its then current pace, the investigation of the Yucca Mountain, Nevada, site as a potential repository would take 5 to 13 years longer--or to between 2006 and 2014--and cost more than DOE had projected.<sup>2</sup> Concerned about the escalating cost of the program and its slow pace and fragmented direction, we recommended that the Congress defer consideration of a DOE proposal to change the method for funding the program until, among other things, an independent review of the program was conducted. In a September 1994 report, we stated that initiatives by the Secretary of Energy to accommodate calls for an independent review, while an important step, had been too narrow in scope and lacked the depth of analysis needed to adequately address the larger program issues.<sup>3</sup> Accordingly, we reiterated our call for an independent review, concluding that without such a review of the disposal program and its policies, millions--if not billions--of dollars could be wasted in implementing the program over the next several decades.

Congressional committees and individual Members of Congress have recognized, in growing numbers, that changes are needed in the nuclear waste disposal program to ensure that the funds appropriated for it are spent wisely. Last year, 39 Members of Congress called for a presidential commission to review the waste program. Other Members have proposed legislation to change the program.

INDEPENDENT REVIEW CHARACTERISTICS

On the basis of our September 1994 report, we agree that making a review of the disposal program truly independent

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<sup>1</sup>Energy Issues: Transition Series (GAO/OCG-93-13TR, Dec. 1992).

<sup>2</sup>Nuclear Waste: Yucca Mountain Project Behind Schedule and Facing Major Scientific Uncertainties (GAO/RCED-93-124, May 21, 1993).

<sup>3</sup>Nuclear Waste: Comprehensive Review of the Disposal Program Is Needed (GAO/RCED-94-299, Sept. 27, 1994).

from DOE could go a long way toward strengthening the credibility of such a review. Probably the most important criterion for ensuring that a review body's findings and recommendations have credibility, and therefore maximum usefulness to decision makers, is for its members to be viewed as objective and without a vested interest in the outcome of the review. This raises questions about who should charter the review and who should serve on the review body.

We are encouraged that your proposal for a presidential commission recognizes that an effective review must be chartered by someone other than those who implement the program under review. As we have previously reported, initiatives by the Secretary of Energy to accommodate calls for an independent review of the civilian nuclear waste program had been too narrow in scope and lacked the depth necessary to examine the larger program issues. We agree that a presidential commission is one possible option for performing an independent review. Such a review could also be chartered by the Congress and could be performed by entities such as a special congressional committee or the National Academy of Public Administration.

Moreover, we believe the chartering organization should strive to ensure that the members of the review body do not have perceived or actual biases in performing their roles. Although it is crucial that all stakeholders in the nuclear waste debate have an opportunity to be heard in an open forum, we would caution against making stakeholders members of the review body because of their built-in biases.

In addition, selecting review body members with strong credentials in organizational theory and public policy and administration could greatly enhance the body's ability to deal with the wide-ranging policy issues raised in the nuclear waste debate. For example, one issue focuses on what management and organizational structure is best suited to implement the waste program.

We also agree with your proposal that an independent review body should operate in full public view and be responsive to the public. Specifically, we agree that the review body should open all meetings to the public; engage in an extensive public hearing process, including consideration of and response to all public comments; make available to the public information in its possession; and issue a comprehensive report containing its evaluation of the current program, including any recommendations for change. Its report should also include any issues that it believes

the Congress needs to consider in guiding the future pace and direction of the program. In keeping with the openness criterion and to enable the review body to better perform its mission, providing that body with access to DOE's records of the program's performance is also important.

FUNDAMENTAL ISSUES DEFINE SCOPE OF REVIEW

As we reported in September 1994, the scope of a comprehensive, independent review of the waste program should be largely defined by such fundamental issues as the interim storage of waste until a repository is operational, program funding, the development and regulation of a repository for waste disposal, and the program's organization and management structure. Recent bills submitted in the Congress, if enacted, would make fundamental changes related to these issues. For example, some bills would clearly make providing funding for interim storage of waste, rather than development of a repository for permanent disposal of waste, the program's top priority.


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To answer your questions, we relied primarily on our past reviews of the disposal program and other relevant studies (see enclosure I) and our ongoing review of the emerging issues that affect the program. As agreed with your office, we did not obtain DOE's comments on this letter.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this letter until 7 days after the date of this letter. At that time, we will send copies to the appropriate congressional committees; the Secretary of Energy; and the Director, Office of Management and Budget. We will also make copies available to others on request.

Please call me at (202) 512-3841 if you or your staff have any questions.

Sincerely yours,

  
for Victor S. Rezendes  
Director, Energy and  
Science Issues

RELATED STUDIESGAO PRODUCTS

Nuclear Waste: DOE's Management and Organization of the Nevada Repository Project (GAO/RCED-95-27, Dec. 23, 1994).

Nuclear Waste: Comprehensive Review of the Disposal Program Is Needed (GAO/RCED-94-299, Sept. 27, 1994).

Independent Evaluation (GAO/RCED-94-258R, July 27, 1994).

Nuclear Waste: Yucca Mountain Project Management and Funding Issues (GAO/T-RCED-93-58, July 1, 1993).

Nuclear Waste: Yucca Mountain Project Behind Schedule and Facing Major Scientific Uncertainties (GAO/RCED-93-124, May 21, 1993).

Energy Issues: Transition Series (GAO/OCG-93-13TR, Dec. 1992).

Nuclear Waste: Status of Actions to Improve DOE User-Fee Assessments (GAO/RCED-92-165, June 10, 1992).

Nuclear Waste: DOE's Repository Site Investigations, a Long and Difficult Task (GAO/RCED-92-73, May 27, 1992).

Nuclear Waste: Development of Casks for Transporting Spent Fuel Needs Modification (GAO/RCED-92-56, Mar. 13, 1992).

Nuclear Waste: Operation of Monitored Retrievable Storage Facility Is Unlikely by 1998 (GAO/RCED-91-194, Sept. 24, 1991).

Nuclear Waste: Changes Needed in DOE User-Fee Assessments (GAO/T-RCED-91-52, May 8, 1991).

Nuclear Waste: DOE Expenditures on the Yucca Mountain Project (GAO/T-RCED-91-37, Apr. 18, 1991).

Nuclear Waste: Changes Needed in DOE User-Fee Assessments to Avoid Funding Shortfall (GAO/RCED-90-65, June 7, 1990).

Nuclear Waste: DOE Should Base Disposal Fee Assessment on Realistic Inflation Rate (GAO/RCED-88-129, July 22, 1988).

Key Elements of Effective Independent Oversight of DOE's Nuclear Facilities (GAO/T-RCED-88-6, Oct. 22, 1987).

OTHER PRODUCTS

Nuclear Waste Technical Review Board Report to the U.S. Congress and the Secretary of Energy, January to December 1993. (May 1994).

Thurber, James A. Report on Selected Published Works and Written Comments Regarding the Office of Civilian Radioactive Waste Management Program, 1989-1993. Center for Congressional and Presidential Studies, School of Public Affairs, The American University (Mar. 1, 1994).

Letter Report to Congress and the Secretary of Energy. Nuclear Waste Technical Review Board (Feb. 1994).

Underground Exploration and Testing at Yucca Mountain: A Report to Congress and the Secretary of Energy. Nuclear Waste Technical Review Board (Oct. 1993).

NWTRB Special Report to Congress and the Secretary of Energy. Nuclear Waste Technical Review Board (Mar. 1993).

Sixth Report to the U.S. Congress and the U.S. Secretary of Energy. Nuclear Waste Technical Review Board (Dec. 1992).

Report on the Eighth Review of the Yucca Mountain Project, U.S. Department of Energy. Edison Electric Institute (Nov. 1992).

Fifth Report to the U.S. Congress and the U.S. Secretary of Energy. Nuclear Waste Technical Review Board (June 3, 1992).

Nuclear Waste: Is There a Need for Federal Interim Storage? Monitored Retrievable Storage Review Commission (Nov. 1, 1989).

Managing the Nation's Commercial High-Level Radioactive Waste. Office of Technology Assessment (OTA-0-171, Mar. 1985).

Managing Nuclear Waste - A Better Idea. Secretary of Energy's Advisory Panel on Alternative Means of Financing and Managing Radioactive Waste Facilities (Dec. 15, 1984).

Building the Institutional Capacity for Managing Commercial High-Level Radioactive Waste. A Report of a Panel of the National Academy of Public Administration (May 1982).

Managing Commercial High-Level Radioactive Waste. Office of Technology Assessment (OTA-0-172, Apr. 1982).

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