United States Senate
WASHINGTON, DC 20510

April 29, 2009

The Honorable Steven Chu
Secretary
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

Dear Secretary Chu:

Since the first National Academy of Science (NAS) study in 1957, deep geologic disposal has been viewed as the safest approach to disposal of nuclear waste. In 1983, the Nuclear Waste Policy Act (NWPA) was signed into law providing for the siting and development of a repository for our nation's used nuclear fuel and nuclear waste culminating in the recommendation of the Yucca Mountain site. In accordance with that law, electricity consumers have contributed $30 billion for the disposal of civilian spent fuel and taxpayers have paid $3.5 billion for the disposal of the nuclear waste legacy of the Cold War. Courts have affirmed the federal government's obligation to dispose of spent fuel. Taxpayers face up to $11 billion in liability costs if the Department of Energy begins accepting used fuel and nuclear waste in 2020 and an additional $500 million with each passing year of delay. At present, the nuclear industry has nearly 60,000 metric tons of civilian used fuel awaiting disposal in addition to 20,500 metric tons of defense waste stored at Department of Energy facilities.

Since the 1950s, 55 studies have been conducted by the NAS, in addition to numerous studies conducted in our National Labs and in international scientific bodies, as to the options and alternatives to nuclear waste disposal. Additionally, the NWPA, as amended, established the Nuclear Waste Technical Review Board (NWTRB, a standing blue ribbon commission) to evaluate the scientific data and technical aspects of the Yucca Mountain Project. Over $7.7 billion has been spent researching Yucca Mountain as a potential repository site and neither the NAS, the NWTRB, nor any of our National Labs involved in conducting studies and evaluating data have concluded that there is any evidence to disqualify Yucca Mountain as a repository. As recently as August 2008, all ten National Lab directors, including you, signed a letter on the essential role of nuclear energy which advocated continuing the licensing of a geologic repository at Yucca Mountain.

This scientific work resulted in a license application exceeding 8,600 pages and was successfully docketed with the Nuclear Regulatory Commission. The Commission, the independent agency with the expertise and responsibility to assess the safety of a potential repository at Yucca Mountain, will spend over four years evaluating the application. The Commission only commenced its review last September.

Given this history, President Obama's memoranda that science will guide public policy and his commitment to an unprecedented level of openness, we find it difficult to reconcile your statement that Yucca Mountain is "not an option" made after only 6 weeks in office.

Please respond to the questions and provide the information requested in the attachment by June 1, 2009. We are eager to gain a better understanding of the basis for your decision and the process that was followed to arrive at that conclusion. Thank you in advance for your timely response on this matter.

Sincerely,

James M. Inhofe

David Vitter

Jim DeMint

Sam Brownback

John McCain

Thad Cochran

Richard C. Shelby

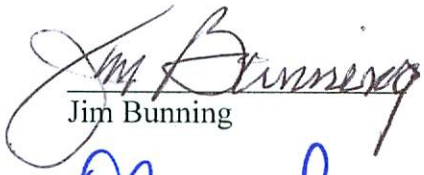
Mike Crapo

Jeff Sessions

James E. Risch



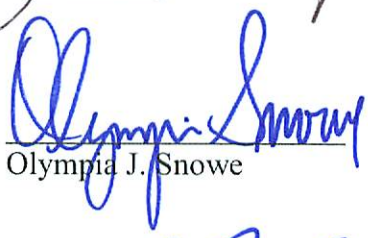
Michael B. Enzi



Jim Bunning



Christopher S. Bond



Olympia J. Snowe



John Barrasso



Michael Johanns



Jon Kyl

Questions

1. What is the reason for your decision that Yucca Mountain is "not an option?"

2. What was the legal basis for the determination that Yucca Mountain is "not an option?" Who provided that legal advice?

3. Have you discovered, in a few short weeks, research that discredits the scientific work produced by the National Academy of Science, the Nuclear Waste Technical Review Board or any of the National Labs?

4. Are you aware of any conclusions by the Nuclear Regulatory Commission that would preclude completion of the license review?

5. Did you consult with the Secretary of the Navy regarding possible disruption to spent nuclear fuel defueling operations and storage plans? If so, what was the response?

6. Your decision may cause delays in the clean-up of DOE former weapons complex sites. Did you consult with the relevant governors regarding DOE's potential non-compliance with its commitments under state agreements?

7. What significant findings do you anticipate a new blue ribbon panel to unearth that have not been previously considered?

Please provide the following information:

- Record of Decision in support of your conclusion that Yucca Mountain is "not an option";
- A detailed list of the scientists who briefed you on the technical and scientific aspects of Yucca Mountain which lead to your conclusion that it is no longer an option, including their scientific and technical qualifications along with any materials they used to brief you;
- A list of all those who provided legal counsel to support your decision including the dates, locations and attendees for these briefings; and
- A description of the public involvement process conducted in support of your decision.