STATEMENT OF
GENERAL BRENT SCOWCROFT, CO-CHAIRMAN
AND
DR. PER PETERSON, COMMISSIONER
BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR SAFETY
U.S. SENATE
SECOND SESSION, 112TH CONGRESS
JUNE 7, 2012

Introduction

Chairman Carper, Ranking Member Barrasso, distinguished members of the Subcommittee, it is a pleasure to appear before you today to discuss the final recommendations of the Blue Ribbon Commission on America's Nuclear Future.

Before we begin, I would like to pass along Co-Chairman Hamilton's sincerest regrets for not being here with us today. I would like to note that Congressman Hamilton and I were delighted to work with such a talented and dedicated group of fellow Commissioners. We are thankful for the expertise and insights they brought to our endeavors. Their professionalism led to our final report having unanimous approval; a fact, which we believe, speaks to the strength of our recommendations.

As you aware, the Blue Ribbon Commission was formed by the Secretary of Energy at the direction of the President. Our charge was to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle and to recommend a new strategy. We came away from our review frustrated by decades of unmet commitments to the American people, yet confident that we can turn this record around.

Framing the Issue

Mr. Chairman, as we are all too well aware, America's nuclear waste management program is at an impasse. The Administration's decision to halt work on a repository at Yucca Mountain is but the latest indicator of a policy that has been troubled for decades and has now all but completely broken down. The approach laid out under the 1987 Amendments to the Nuclear Waste Policy Act has simply not worked to produce a timely solution for dealing with the nation's most hazardous radioactive materials. The United States has traveled nearly 25 years

down the current path only to come to a point where continuing to rely on the same approach seems destined to bring further controversy, litigation, and protracted delay.

The national interest demands that our nuclear waste program be fixed. Complacency with a failed nuclear waste management system is not an option. With a 65,000 metric ton inventory of spent nuclear fuel spread across the country and growing at over 2000 metric tons per year, the status quo is not acceptable. The need for a new strategy is urgent.

Key Elements of the Blue Ribbon Commission's Recommendations

Mr. Chairman, the strategy we recommend in our final report has eight key elements. We are certain they are all necessary to establish a truly integrated national nuclear waste management system, to create the institutional leadership and wherewithal to get the job done, and to ensure that the United States remains at the forefront of technology developments and international responses to evolving nuclear safety, non-proliferation, and security concerns. We will now discuss those in more detail.

1. **A new, consent-based approach to siting future nuclear waste management facilities.**

   Experience in the United States and in other nations suggests that any attempt to force a top-down, federally mandated solution over the objections of a state or community—far from being more efficient—will take longer, cost more, and have lower odds of ultimate success. By contrast, the approach we recommend is explicitly adaptive, staged, and consent-based. Based on activities in the United States and abroad—including most notably the siting of a disposal facility for transuranic radioactive waste, the Waste Isolation Pilot Plant (WIPP) in New Mexico, and recent positive outcomes in Spain, Finland and Sweden—we believe this type of approach can provide the flexibility and sustain the public trust and confidence needed to see controversial facilities through to completion.

2. **A new organization dedicated solely to implementing the waste management program and empowered with the authority and resources to succeed.**

   The overall record of DOE and of the federal government as a whole has not inspired confidence or trust in our nation's nuclear waste management program. For this and other reasons, the Commission concludes that new institutional leadership is needed. Specifically, we believe a single-purpose, Congressionally-chartered federal corporation is best suited to provide the stability, focus, and credibility needed to get the waste program back on track. For the new organization to succeed, a substantial degree of implementing authority and assured access to funds must be paired with rigorous

financial, technical, and regulatory oversight by Congress and the appropriate government agencies. The Commission concluded that a good gauge of consent is the willingness of affected units of government – host states, tribes, and local communities – to enter into legally binding agreements with the new organization. Thus the capability to negotiate such agreements is a key element of authority that should be provided to the new organization.

3. Access to the funds nuclear utility ratepayers are providing for the purpose of nuclear waste management.

Nuclear utilities are assessed a fee on every kilowatt-hour of nuclear-generated electricity in exchange for the federal government's contractual commitment to begin accepting commercial spent fuel beginning by January 31, 1998. Fee revenues go to the government's Nuclear Waste Fund, which was established for the sole purpose of covering the cost of disposing of civilian nuclear waste and ensuring that the waste program would not have to compete with other funding priorities. The Fund does not work as intended. A series of Executive Branch and Congressional actions has made annual fee revenues - approximately $750 million per year - and the unspent $27 billion balance in the Fund effectively inaccessible to the waste program. Instead, the waste program is subject to exactly the budget constraints and uncertainties that the Fund was created to avoid. This situation must be remedied immediately to allow the program to succeed. The Commission sent a letter to the President, dated December 11, 2011, discussing this particular recommendation in detail, and we will submit it as part of this hearing's record.

4. Prompt efforts to develop one or more geologic disposal facilities.

The conclusion that disposal is needed and that deep geologic disposal is the scientifically preferred approach has been reached by every expert panel that has looked at the issue and by every other country that is pursuing a nuclear waste management program. Moreover, all spent fuel reprocessing or recycle options either already available or under active development at this time still generate waste streams that require a permanent disposal solution.

We simply note that regardless what happens with Yucca Mountain, the U.S. inventory of spent nuclear fuel exceeds the amount that can be legally emplaced at this site until a second repository is in operation. So under current law, the United States will need to find a new disposal site even if Yucca Mountain goes forward. We believe the approach

set forth here provides the best strategy for assuring continued progress, regardless of the fate of Yucca Mountain.

As a key element of consent-based siting, the Commission believes that before any new disposal site is selected, a new, site-independent safety standard should be developed. So the Commission has recommended that the Environmental Protection Agency and Nuclear Regulatory Commission begin working together to define an appropriate process for developing a generic disposal facility safety standard and associated implementing regulations.

5. Prompt efforts to develop one or more consolidated storage facilities.

Developing consolidated storage capacity would allow the federal government to begin the orderly transfer of spent fuel from reactor sites to safe and secure centralized facilities independent of the schedule for operating a permanent repository. The arguments in favor of consolidated storage are strongest for "stranded" spent fuel from shutdown plant sites; of which there are ten across the country. Stranded fuel should be first in line for transfer to a consolidated facility so that these plant sites can be completely decommissioned and put to other beneficial uses. The availability of consolidated storage will also provide valuable flexibility in the nuclear waste management system that could achieve meaningful cost savings, can provide back-up storage in the event that spent fuel needs to be moved quickly from a reactor site, and would provide an excellent platform for ongoing R&D to better understand how the storage systems currently in use at both commercial and DOE sites perform over time. We support the efforts of Senators Feinstein and Alexander with their proposed legislation regarding a pilot storage program for high level nuclear waste and spent nuclear fuel as it incorporates several key recommendations of the Blue Ribbon Commission and is a positive step toward the goal of creating an integrated nuclear waste management program in the United States. Our letter of support dated April 23, 2012, will be submitted for the record.

6. Prompt efforts to prepare for the eventual large-scale transport of spent nuclear fuel and high-level waste to consolidated storage and disposal facilities when such facilities become available.

The current system of standards and regulations governing the transport of spent fuel and other nuclear materials appears to have functioned well, and the safety record for

past shipments of these types of materials is excellent. That being said, greater transport demands for nuclear materials are likely to raise new public concerns.

The Commission believes that state, tribal and local officials should be extensively involved in transportation planning and should be given the resources necessary to discharge their roles and obligations in this arena. Historically, some programs have treated transportation planning as an afterthought. No successful programs have done so.

7. **Support for advances in nuclear energy technology and for workforce development.**

   Advances in nuclear energy technology have the potential to deliver an array of benefits across a wide range of energy policy goals. The Commission believes these benefits—in light of the environmental and energy security challenges the United States and the world will confront this century—justify sustained public- and private-sector support for RD&D on both existing light-water reactor technology and advanced reactor and fuel cycle technologies.

8. **Active U.S. leadership in international efforts to address safety, non-proliferation, and security concerns.**

   As more nations consider pursuing nuclear energy or expanding their nuclear programs, U.S. leadership is urgently needed on issues of safety, non-proliferation, and security and counter-terrorism. From the U.S. perspective, two points are particularly important: First, with so many players in the international nuclear technology and policy arena, the United States will increasingly have to lead by engagement and by example. Second, the United States cannot exercise effective leadership on issues related to the back end of the nuclear fuel cycle so long as its own program is in disarray; effective domestic policies are needed to support America's international agenda.

Tying It Together

In conclusion, the problem of nuclear waste may be unique in the sense that there is wide agreement about the outlines of the solution. Simply put, we know what we have to do, we know we have to do it, and we even know how to do it.

We believe the conditions for progress are arguably more promising than they have been in some time. But we will only know if we start, which is what we urge the Administration and Congress to do, without further delay.

Thank you for having us here today, and we look forward to your questions.

BLUE RIBBON COMMISSION
ON AMERICA'S NUCLEAR FUTURE

April 23, 2012

Senator Dianne Feinstein, Chairman
Senate Committee on Appropriations
Subcommittee on Energy
and Water Development
184 Dirksen Senate Office Building
Washington, DC 20510

Senator Lamar Alexander, Ranking Member
Senate Committee on Appropriations
Subcommittee on Energy
and Water Development
184 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Feinstein and Alexander:

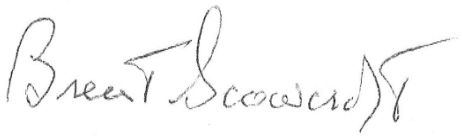
Thank you for your leadership and dedication to solving one of our nation's most complex problems. Your proposed legislation regarding a pilot storage program for high level nuclear waste and spent nuclear fuel incorporates several key recommendations of the Blue Ribbon Commission on America's Nuclear Future and is a positive step toward the goal of creating an integrated nuclear waste management program in the United States.

As you know, our Commission recommended a consent-based approach to siting new nuclear waste management facilities, including facilities for consolidated interim storage of spent nuclear fuel. We are pleased to see that your proposed legislation incorporates these recommendations. Looking forward, we are hopeful that the process you call for in your legislation can be carried out by a new nuclear waste management organization that is independent from the Department of Energy, has assured access to the nuclear waste fee and fund, and can provide the stability, focus, continuity and credibility that are essential to get the nation's nuclear waste program back on track.

A serious lack of trust exists today in the federal government's ability to meet its nuclear waste cleanup obligations. The longer our country fails to solve the nuclear waste problem, the greater the trust deficit becomes – with the U.S. government continuing to fail in its legal and moral obligation to take spent nuclear fuel and defense high level waste while the future of nuclear power as an option for electrical generation in this country is seriously jeopardized. We believe your efforts, along with those of Senators Bingaman and Murkowski with whom you have been working closely on this matter, can begin to restore trust in our country's ability to tackle difficult problems in an effective, bi-partisan manner.

With best regards,





Lee H. Hamilton
Co-Chairman

Brent Scowcroft
Co-Chairman

December 12, 2011

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

At your direction, the Secretary of Energy established the Blue Ribbon Commission on America's Nuclear Future to review policies for managing the back end of the nuclear fuel cycle and recommend a new strategy. We are pleased to be serving as Co-Chairmen of the Commission, and we are writing to you to highlight an important action we strongly believe should be reflected in your Fiscal Year 2013 baseline budget projections.

In our draft report to the Secretary, issued in July of this year, the Commission recommends several actions that should be taken to get the nuclear waste management program back on track. High on our list of recommendations are actions that can and should be taken soon to provide assured access to utility waste disposal fees for their intended purpose. Unless action is taken in the near-term to fix the way these fees are treated in the federal budget, the nuclear waste strategy we recommend cannot succeed.

Funds for the disposal of spent nuclear fuel from commercial power reactors are collected regularly through the assessment of a nuclear waste fee on nuclear-generated electricity as a *quid pro quo* payment in exchange for the federal government's contractual commitment to begin accepting commercial spent fuel for disposal beginning by January 31, 1998. These fee payments, which total approximately $750 million per year, go to the government's Nuclear Waste Fund, which was established for the sole purpose of covering the cost of disposing of civilian nuclear waste and ensuring that the waste program would not have to compete with other funding priorities.

As we have learned through our investigation, the Nuclear Waste Fund does not work as intended. A series of Executive Branch and Congressional actions has made annual fee revenues and the unspent $26 billion balance in the Fund effectively inaccessible to the nuclear waste management program. Instead, the waste program must compete for federal funding each year and is therefore subject to exactly the budget constraints and uncertainties that the Fund was created to avoid. This situation must be remedied to allow the program to succeed.

In the meantime, with the federal government having failed to meet its contractual obligation to begin receiving spent fuel beginning in 1998, nuclear utilities have successfully sued the government for failure to perform and are receiving damage payments from the federal Judgment Fund. The government estimates its liability will grow to $16 billion by 2020 and will increase by several hundred million dollars per year thereafter until it begins accepting spent fuel for disposal.

We have recommended that your Administration offer to amend the standard nuclear waste contract with nuclear utilities, which you are authorized to do under current law, so that utilities remit only the portion of the annual nuclear waste fee that is appropriated for waste management each year. The rest of the funding would be placed in a trust account, held by a qualified third-party institution, to be available when needed. At the same time, we have recommended that the Office of Management and Budget work with the Congressional budget committees and the Congressional Budget Office to change the budgetary treatment of annual fee receipts so that these receipts can directly offset appropriations for the waste program.

These actions are vital to enabling key subsequent actions the Commission recommends. Therefore, we respectfully request that you act promptly to implement these changes in your Fiscal Year 2013 budget proposal. We have heard repeatedly from those following our work that they expect our recommendations to lead to prompt action on the nuclear waste issue; we firmly believe that implementing our funding recommendations is an essential first step.

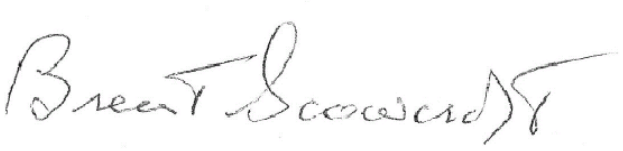
We recognize that our recommendations, if adopted, would mean the nuclear waste fee receipts could no longer be counted against the federal budget deficit and that the result will be a negative impact of approximately $750 million on annual budget calculations. We appreciate that any budgetary actions that increase the size of the deficit are especially difficult to take in the present fiscal climate. However, it is clear that the federal government is contractually bound to use these funds to provide for ultimate disposal of spent nuclear fuel. In our view, a failure to correct the funding problem does the federal budget no favors in a context where taxpayers remain liable for mounting damages, compensated through the Judgment Fund, for the federal government's continued inability to deliver on its waste management obligations.

In preparing our draft proposal we consulted with former Office of Management and Budget and Congressional budget staff, and our proposal enjoys the support of both the National Association of Regulatory Utility Commissioners, representing the ratepayers, and the Nuclear Energy Institute, representing the nuclear utilities. We should note that the federal government's failure to deliver on its statutory obligations with respect to commercial spent fuel disposal has prompted these organizations to pursue legal action against the government aimed at suspending entirely the collection of fees until such time as a new waste management plan for the country has been finalized.

We believe our recommended actions are essential to the future success of the nuclear waste management program and we urge you to reflect our recommendations in your Fiscal Year 2013 budget proposal.

With best regards,





Lee H. Hamilton
Co-Chairman

Brent Scowcroft
Co-Chairman

cc: Secretary Steven Chu