

Remarks of Washington Attorney General Rob McKenna
Presented to the Blue Ribbon Commission
On America's Nuclear Future

Presented by
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Good morning, Chairmen Hamilton and Scowcroft, and distinguished members of the Blue Ribbon Commission on America's Nuclear Future, I am Mary Sue Wilson, Senior Assistant Attorney General, here today to deliver remarks on behalf of Washington Attorney General Rob McKenna. Thank you for inviting Attorney General McKenna to offer his perspective on the important issues before the Commission.

My remarks will address three subjects. First, I will address the legal framework that governs the issues before the Commission. Second, I will address Washington's interest in the work of the Commission. Third, I will make requests of the Commission on behalf of Attorney General McKenna.

First, as to the legal background:

In 1982, Congress enacted the Nuclear Waste Policy Act (NWPA). The NWPA established a process for addressing the nation's problem of accumulated spent nuclear fuel and high-level waste. When the law was enacted, Congress recognized that prior decades of debate had not succeeded in addressing this problem. In response to these past failures, Congress prescribed a detailed process for identifying a site or sites where high-level waste and spent nuclear fuel could be safely and permanently housed.

Following the process laid out by Congress, the Department of Energy (DOE) thereafter began searching for suitable repository sites. In 1986, DOE, using an "accepted, formal scientific method," ranked the appropriateness of the various sites it had investigated. Yucca Mountain was the highest-ranked site. Congress then amended the NWPA to focus DOE's next round of study

exclusively on the Yucca Mountain site. After fifteen years of additional study, DOE formally recommended to the President that a geologic repository could be safely sited at Yucca Mountain. In July 2002, Congress approved Yucca Mountain as a repository site and directed that DOE pursue the next phase of siting – preparation of a license application to be considered by the Nuclear Regulatory Commission (NRC). DOE submitted the license application in June 2008 and the NRC staff officially docketed the application proceeding in September 2008.

Thus, today – in 2010, 28 years after Congress first acted to address the nation's problem of accumulated spent nuclear fuel and high-level waste, there is only one legal process in place for developing a geologic repository - the process provided by the current NWPA. This process has taken us to the point of a license application pending before the NRC – poised for a decision on the technical merits of the application.

The efforts of this Commission must not disregard the very process Congress put in place to move the nation closer to addressing the problem of accumulated spent nuclear fuel and high-level waste, the very process put in place to move away from the policy debate and move forward with a decision-making process based on the technical merits of a proposed repository.

Second, as to Washington's interest in the work of the Commission:

Washington is home to DOE's Hanford Nuclear Reservation (Hanford), which occupies 586 square miles in south-central Washington. Between 1944 and 1989, the United States produced plutonium at Hanford for use in nuclear weapons. Plutonium production and other activities at Hanford created enormous amounts of radioactive and mixed radioactive and hazardous wastes. Much of this waste remains at Hanford today, still awaiting cleanup and proper disposal.

A large amount of the waste at Hanford will be finally disposed of within the Hanford site. However, certain waste streams are destined for the nation's high level waste repository. These include high-level tank waste, more than 2000 metric tons of spent nuclear fuel associated

with defense production, 1,335 capsules of cesium, 601 capsules of strontium, and approximately 581 metric tons of commercial spent nuclear fuel. Termination (or significant delay) of the Yucca Mountain project would affect the disposition of all these waste forms. A deep geologic repository is vital to the safe, long-term storage of this vitrified high-level waste, cesium and strontium capsules, and spent nuclear fuel.

These are the reasons for Washington's strong interest in both the work of this Blue Ribbon Commission and in DOE's recent efforts to withdraw its licensing application for the Yucca Mountain facility and terminate all Yucca Mountain-related activities. In short, Washington has done its part to support this country's nuclear weapon production activities and has paid and will continue to pay a price in doing so.

Ultimately, the timely success of Washington State's cleanup activities, aimed at preventing further harm to our environment and preventing additional risks to our citizens, depends on the timely availability of a repository for high-level radioactive waste. Study by this Blue Ribbon Commission and actions by DOE should not undermine this goal. To ensure the timely availability of a repository for high-level radioactive waste, the Blue Ribbon Commission must include the Yucca Mountain facility as one of the alternatives it examines. Likewise, DOE must not abandon its application to license the Yucca Mountain facility, so that it remains an option for the national repository for high-level radioactive waste.

Finally, as to Attorney General's request of the Commission:

At this juncture, there is only one legal process in place for developing a geologic repository - that provided by the current NWPA. And, under the NWPA, there is only one entity that may take Yucca Mountain off the table – and that is Congress.

The convening of a Blue Ribbon Commission to examine alternatives to Yucca Mountain and recommend possible amendments to the NWPA cannot substitute for a process already provided by law.

On behalf of the Citizens of the state of Washington, I urge the Commission to recognize the prescriptive scheme established by Congress to address disposition of the nation's high level waste and spent nuclear fuel. I urge the Commission to recognize the 30 year process already implemented pursuant to the NWPA. I urge the Commission to consider the Yucca Mountain facility as among the alternatives for a national repository for high-level waste. It is critical to our citizens that the only alternative thus far identified – the one that has been the subject of millions of pages of study and decades of review and the one that has moved forward under the governing law – remains on the table in order to avoid the otherwise certain delay in cleanup of our nation's nuclear waste.

I also urge DOE to honor the spirit and letter of the June 29, 2010, ruling by the ASLB by not abandoning the NRC licensing proceeding. Until the licensing proceeding produces a decision on the merits of the pending application or until Congress amends the NWPA to provide otherwise, it is critical that DOE's actions not cause unnecessary delay.

Thank you Commissioners for giving of your time and expertise to serve on the Blue Ribbon Commission. Thank you for visiting Washington and seeing first hand why your work is so important to us.