

**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

May 7, 2009

The Honorable Steven Chu  
Secretary  
Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Dear Secretary Chu:

On April 22, 2009, you testified before the House Committee on Energy and Commerce in connection with its legislative hearings on the American Clean Energy and Security Act of 2009. During your testimony, you stated that the Administration would support a nuclear title in the climate legislation and that the Administration believes that nuclear power has to be “restarted” and must be part of the future energy mix in this country.

Yet you and the Administration are on record as seeking to abandon construction of a deep-underground repository for the nation’s nuclear waste at Yucca Mountain, Nevada. This repository, designated by statute to be located at the Yucca Mountain site and to be the nation’s first permanent nuclear waste repository, is essential for the revitalization and expansion of nuclear power in the United States. And after over 25 years of scientific and technical study and Congressional review, there are no other alternative sites provided for under the law.

According to your press spokesperson, you believe “nuclear waste storage at Yucca Mountain is not an option, period.” At a House Science and Technology Committee hearing in March, you stated that “conditions changed” with regard to Yucca Mountain and that DOE independently is seeking a blue-ribbon panel to take a “fresh look” at nuclear waste and disposal. And your opposition has been reinforced by the Administration’s just released FY 2010 Budget, which states that all Department of Energy (DOE) funding for Yucca Mountain development “has been eliminated,” except to allow DOE to respond to the Nuclear Regulatory Commission’s (NRC) technical questions related to its current review of the DOE Yucca Mountain license application.

Turning away from Yucca Mountain may have significant adverse consequences for the nation and the American taxpayer. For example, the Federal government’s total potential liability from delays in accepting used fuel and nuclear waste could be significantly higher than the past estimates of \$11 billion if Yucca Mountain is no longer an option. The Administration’s position that Yucca Mountain is not an option also raises significant regulatory and legal issues that may not only adversely affect the licensing and development of new nuclear plants, but also

may impact existing operating nuclear plants. The position also raises significant issues for the U.S. Navy and DOE sites, including for the Hanford, Savannah River, Idaho and other DOE sites where spent nuclear fuel and/or high-level radioactive waste is currently being stored pending permanent disposal.

We write to reconcile your testimony in support of “restarting” nuclear power in connection with clean energy policy with the Administration’s actions that risk materially delaying the expansion of nuclear energy in this nation. In light of current climate policy debates, it is critical that we understand the Administration’s actual plans in this regard. We would appreciate your providing responses to the following:

1. What is the scientific or technical basis, if any, for your decision that the proposed Yucca Mountain repository is “not an option”?
2. How does your decision comport with the Department of Energy’s (DOE) statutory obligations under the Nuclear Waste Policy Act of 1982, as amended?
3. Under what legal authority would a blue ribbon panel re-evaluate options for nuclear waste disposal be established?
4. With regard to the proposed blue ribbon panel:
  - a. How would the panel be established?
  - b. What would be the process for appointing persons to serve on the panel?
  - c. What would be the composition of the panel?
  - d. What would be the scope of its review?
5. Prior to your public statements that Yucca Mountain repository is “not an option,” was any analysis performed of the potential taxpayer liabilities associated with such a decision?
6. Please provide all documents relating to any legal, technical, or scientific analyses that formed the basis for your decision to re-evaluate nuclear waste disposal alternatives to the proposed Yucca Mountain repository, including, but not limited to, evaluations and recommendations that led you to determine that Yucca Mountain was “not an option.”
7. What was the process for making your decision that Yucca Mountain repository is “not an option”? Please describe and identify when and with whom you consulted, including, but not limited to, a description and identification of attendees at any public meetings, any Administration meetings, and any consultations with States affected by the decision.
8. In reaching your determination that the Yucca Mountain repository is no longer an option, did you consult with or receive any briefings from the Nuclear Waste Technical Review Board, DOE laboratory directors or personnel, or any DOE scientists or technical personnel who performed work on the Yucca Mountain project? Please describe when

and with whom you consulted, including, but not limited to, a description and identification of attendees at any meetings.

9. Have you shared your rationale for determining that the Yucca Mountain repository is “not an option” with the Nuclear Waste Technical Review Board or the Nuclear Regulatory Commission?
10. Have you or your staff prepared any analyses of the potential impact that failing to pursue the Yucca Mountain repository may have on the construction of new nuclear plants, which are essential to providing clean and reliable energy in the future? If so, please provide any such analyses.
11. How do you believe the Administration’s decision to scale back the Yucca Mountain project will affect DOE’s responsibility to develop, construct, and operate repositories for disposal of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act of 1982, the Nuclear Waste Policy Amendments Act of 1987, and the Energy Policy Act of 1992?
12. If a repository at Yucca Mountain is not pursued, what does the Administration propose to do with the billions of dollars that have been collected from ratepayers for the Nuclear Waste Fund?

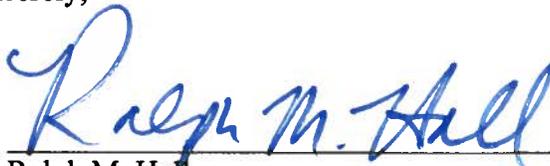
Please provide the written responses and documents requested by no later than two weeks from the date of this letter. We would respectfully request, if the Department withholds any documents or information in response to this letter, that a Vaughn Index or log of the withheld items be attached to the response. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Should you have any questions please contact Mr. Peter Spencer of the Minority Energy and Commerce Committee staff at (202) 225-3641, and Ms. Elizabeth Chapel or Mr. Tom Hammond of the Minority Science and Technology Committee staff at (202) 225-6371.

Sincerely,



Joe Barton  
Ranking Member  
Committee on Energy and Commerce



Ralph M. Hall  
Ranking Member  
Committee on Science and Technology



---

Greg Walden  
Ranking Member  
Subcommittee on Oversight  
and Investigations  
Committee on Energy and Commerce



---

Paul C. Broun  
Ranking Member  
Subcommittee on Investigations  
and Oversight  
Committee on Science and Technology

Enclosure

cc: The Honorable Henry Waxman, Chairman  
Committee on Energy and Commerce

The Honorable Bart Stupak, Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce

The Honorable Bart Gordon, Chairman  
Committee on Science and Technology

The Honorable Brad Miller, Chairman  
Subcommittee on Investigations and Oversight  
Committee on Science and Technology