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Office of Nuclear Energy
U.S. Department of Energy,
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Washington, D.C. 20585
<https://www.regulations.gov/>
Docket ID: DOE_FRDOC_0001-3256

RE: Response to RFI on Private Initiatives to Develop Consolidated SNF Storage Facilities. Docket ID: DOE_FRDOC_0001-3256.

Dear Sir or Madam:

Below please find Uranium Watch's comments in response to Response to the Department of Energy's (DOE's) Request For Information (RFI) on Private Initiatives to Develop Consolidated SNF Storage Facilities. 81 Fed. Reg. 74779, October 27, 2016. Docket ID: DOE_FRDOC_0001-3256.

1. GENERAL COMMENTS

1.1. The DOE should have provide information on the opportunity to comment on Private Initiatives to Develop Consolidated SNF Storage Facilities on its Consent-Based Process website.¹ The possibility of transporting and storing irradiated nuclear fuel and high-level nuclear waste at one or more privately owned consolidated storage facility is intimately connected with the DOEs Consent-Based Siting Process. During the various DOE Consent-Based Siting meetings in various towns and cities, question of private fuel storage facilities came up several times. The fact that the DOE did not provide information on the Consent Based Siting website is indicative of the limited DOE perspective on the public involvement process.

1.2. The DOE notices regarding the RFI on Private Initiatives to Develop Consolidated SNF Storage Facilities indicated that commenters could provide comments on the federal regulation website (<https://www.regulations.gov/>), However, the Federal

¹ <https://energy.gov/ne/consent-based-siting>

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Register Notice failed to provide the Docket ID number. Normally, federal agencies provide the appropriate Docket ID number so that one does not have to go searching for Docket ID and place to actually submit ones comments.

1.3. The DOE should have provide information on the two current proposals for Private Consolidated Interim Storage (CIS) operations and provided information on past proposals for such operations. Brief histories of past DOE experiences regarding the proposed Skull Valley, Utah, private fuel storage site on Goshute tribal land would have been extremely helpful to the public, but embarrassing to the DOE.

1.4. The DOE should have provided information regarding the current statutes and regulations associated with the handling and disposition of irradiated nuclear fuel from the nuclear reactor to a federal or private disposal facility. If changes in federal statutes and regulations are required, the DOE should discuss this openly.

1.5. Currently, a privately owned CIS is illegal under the terms of the Nuclear Waste Policy Act, so Uranium Watch does not even know why these questions are being asked by the DOE.

1.6. The DOE should have addressed this issue before, not after, a private company announced its intention to license a private CIS operation or submitted a license application to the Nuclear Regulatory Commission (NRC).

2. INTRODUCTORY COMMENTS

2.1. The federal government must stop the licensing of new nuclear reactors and the production of irradiated nuclear fuel, because the United States does not have a permanent disposal site for nuclear fuel. There is not guarantee, in fact, that the DOE will ever be able to site, construct, and operate a safe geological repository for irradiated nuclear fuel.

2.2. One of the reasons the DOE, NRC, and the nuclear industry are pushing CIS, whether federally or privately owned, is the fact that there is no proposed site for a geological repository, and no guarantee that one will ever materialize. The billions that the DOE wasted on Yucca Mountain and other proposed repository sites is a glaring example of promises made and tax-payer money wasted. Now, with more tax-payer funds being wasted, the DOE is again manipulating the public and inserting private enterprise into an existing government problem and process that the DOE has lost control of.

2.3. The DOE must not fund, nor support, the continued development of nuclear power, including new reactor technology. It is wasteful and irresponsible to continue to fund the production of irradiated nuclear fuel at the same time that there is no permanent repository for irradiated nuclear fuel. The DOE should be doing everything it can to end

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the production of irradiated nuclear fuel and other high and low level radioactive materials and radioactive and hazardous wastes in the United States and globally.

2.4. The DOE must consider a permanent alternative to a deep geologic repository and consider the probability that there is no safe solution to the permanent storage of irradiated nuclear fuel and high-level nuclear waste for the next 10,000 and more years.

2.5. Uranium Watch is opposed to the unnecessary transportation of irradiated nuclear fuel from a reactor site to an interim storage site, to a permanent storage site. It is unsafe to transport this fuel twice, particularly since the DOE has not assured that the canisters that hold the fuel are thick-walled, inspectable, continually monitored, repairable, and safe for transport.

2.6. The DOE must start being honest and start serving the needs of the public, not the needs of the nuclear industry.

2.7. Another entity must be established to handle the disposition of irradiated nuclear fuel and high-level nuclear waste. An agency that promotes nuclear energy, has responsibility for an expanding nuclear weapons program, and has a history of improper handling and disposition of nuclear waste and other egregious actions, should not be in charge of this important program.

3. DOE REQUEST FOR INFORMATION

The DOE is seeking information on Private Initiatives (PIs) for so-called “temporary” storage of irradiated nuclear fuel, whether pilot-scale or larger-scale, as an alternative or in addition to federal facilities sited using a consent based siting process.

3.1. *Q: What key factors should be considered to ensure that PIs, as part of the overall integrated nuclear waste management system, would provide a workable solution for interim storage of spent nuclear fuel and high-level waste?*

3.1.1. The interim storage of irradiated nuclear fuel and high level nuclear waste is not a workable solution to the disposition of these waste streams.

3.1.2. An initial sane and responsible step in an overall integrated nuclear waste management system is to stop producing the waste in the first place. Surely, spending taxpayer monies to encourage the production of new waste is irrational and egregiously irresponsible.

3.1.3. Private CISs would not provide a workable solution to interim storage of irradiated nuclear fuel and high-level waste, for the following reasons:

A. There are unresolvable issues regarding which private or public entity would actually have ownership and legal responsibility for the fuel or waste. If a private entity

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owns the fuel and has legal responsibility, it probably will not have the financial and other resources to 1) address a serious accident or release of radioactive material; 2) compensate any workers and citizens (and their families) who may be harmed or killed; 3) provide short and long-term medical care for any harmed by an accident; or 4) otherwise take financial and other responsibilities for the radioactive materials at the site over the, as yet unknown, life of the facility. If nuclear reactors owners cannot maintain adequate private insurance or bonding to cover the consequences of serious nuclear reactor accidents, I don't imagine that any private fuel storage owner would be able to access sufficient insurance for similar consequences. In other words, the public coffers will foot the bill.

B. The NRC has not shown itself to have an adequate regulatory program that is protective of the public health and safety and environment. The NRC has, consistently, tried to keep the public from challenging licensing decisions, makes decisions that benefit the regulated industry, and does not hide its support of the nuclear industry. I live in a community that has a \$1 billion tax-payer funded DOE uranium mill tailings removal project, because of the failures of the Atomic Energy Commission, NRC, and Environmental Protection Agency to properly regulate uranium mills, generally, and the Moab Mill, specifically. The NRC cannot even assure that nuclear waste and nuclear materials are properly packaged, handled, and transported through the Main Street of Moab to the White Mesa Uranium Mill south of Moab. In the past two years, there have been 3 known spills due to inadequate packaging and handling at NRC-regulated sites prior to transport.

C. The development of private fuel storage operations flies in the face of the DOE's consent-based siting process, because, under NRC regulation, the public and other stakeholders do not have to give consent to the private facility.

D. The DOE has not provided sufficient information regarding whether the private storage operator will operate the facility as a contractor to the DOE.

3.2. Q: How could a PI benefit: a. the local community and state or Tribe in which an ISF is sited? b. neighboring communities?

3.2.1. The DOE is asking the wrong questions. It should be asking what the detriments to the local communities, states, tribes, and nearby communities are.

3.2.2. It is apparent that the DOE and industry will try to bribe (though it will not be called that) local governments and communities by promises of jobs, funding for infrastructure, and other perks. The reality will be a facility that will be a constant threat to the health and safety of the community and will require constant community oversight. The various so-called community oversight committees and organizations put together by industry or the federal government do not fulfill the need for independent oversight of any federally regulated undertaking.

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3.2.3. Once money, jobs, and other perks are promised and start rolling in, it is hard for community members to oppose these projects. There is a long history of intimidation and public pressure to keep people quiet in communities near nuclear industry operations. I have seen and experienced this intimidation and pressure in southeast Utah and have heard stories from areas in Colorado and Texas. The DOE and the private storage operator will likely do nothing to protect local individuals from social and economic pressures and retaliation.

3.3. Q: *What type of involvement if any should the Department or other federal agency consider having with the PI and the community regarding organizational, structural, and contractual frameworks and why?*

3.3.1. Commenter does not support private or federally owned CIS operations. If there were such operations, federal inspectors and employees should live as close to the site as possible. The federal agencies must make all documents readily available to the public, and they must not lie or prevaricate.

3.3.2. There must be emergency response planning that is fully funded by the federal government or the private owner/operator.

3.4. Q: *What are the benefits and drawbacks of a PI, compared to a federally-financed capital project resulting in a government-owned contractor-operated (GOCO) interim storage facility?*

3.4.1. The real issue is who, really, is responsible for the operation and who will be financially and otherwise responsible when things go wrong. If using the wrong type of kitty-litter can cause a serious nuclear waste accident at a federally-owned facility that will cost tax-payers at least \$1 billion, the question of who is responsible and who pays for what when things go wrong, as they inevitably will, is a significant issue.

3.4.2. The DOE is asking questions without providing necessary statutory, regulatory, technical, and other information to the public. The DOE makes unacknowledged, unstated, and unsubstantiated assumptions. For starters, the DOE fails to acknowledge that there are serious issues regarding responsibility for the transportation of the waste on our nations highways, railways, and waterways. There is no discussion of the safety of the types of canisters (thin canisters that cannot be properly monitored, inspected, and repaired); fuel storage at reactor sites where spent fuel pools will be dismantled, leaving no means to re-pack the fuel into new canisters and casks); and other serious technical issues that will impact the safety and viability on any temporary or permanent, private or federal, irradiated fuel storage operation.

3.5. Q: *What assurances to the Government do you think would be appropriate, to ensure that SNF stored at a private ISF, would be managed effectively so as to contain costs to the Government?*

3.5.1. The DOE has not explained the applicable statutes and regulations that apply to the federal management of a private CIS operation. It is unclear how, exactly, the government has responsibility for the costs, what type of costs the DOE is referring to, who is responsible for those costs, and so on. The NRC already has a regulatory program applicable to private CIS operations, so it is unclear how the DOE will or will not be involved and what the projected governmental costs are. Without this information, there is no way to provide an informed response to this question.

3.5.2. If controlling costs means controlling the federal responsibility for accidents or other unforeseen events, there is no way that the federal government can provide the necessary assurances that costs will not escalate. The government cannot assure that irradiated nuclear fuel can be safely transported twice and safely stored at a privately owned facility. The NRC and DOE have not shown that they are capable of the technical and regulatory program oversight that will protect public health and safety and the environment for such a hazardous operation. The DOE can't even take responsibility for the health and environmental impacts from abandoned uranium mines associated with the weapons programs. Since there are still hundreds of such mines in my area, why should I or anyone else believe that the federal government can effectively manage and contain costs, except cutting costs and denying responsibility.

3.5.3. The government is not really interested in containing costs by anyone, because the government does not have a good handle of the technical requirements for canisters and casks that will be stored, sometimes under problematic environmental conditions for several years; transported (one or more times); stored for lengthy periods of time at temporary or permanent storage facilities; and then (perhaps) placed in a permanent geological disposal facility where the fuel will remain for tens of thousands of years. Currently, thin-walled canisters that cannot be inspected or repaired are being used for fuel when it is removed from the spent fuel pools. The use of these canisters is an accident waiting to happen. The deterioration of these canisters and inevitable breach will be very costly to the government, including a loss of credibility, and to the affected workers and communities. Dealing with the real technical issues at the beginning, rather than delaying for the next generation to address, will be a great way to curtail costs.

3.6. *Q. What possibilities are there with respect to business models for a PI, and what are the benefits and disadvantages of those models?*

3.6.1. The DOE should have provided information regarding what the DOE is referring to with respect "business models" for a private CIS. Since one existing entity has already submitted an application to the NRC for a private CIS operation and another expects to submit such an application, the DOE could provide more of an explanation of why this is an important question and how "business models" are being looked at by the DOE.

3.7. *Q: How could a PI manage liabilities that might arise during the storage period?*

3.71. Again, the DOE does not provide sufficient information. What exactly are the kinds of liabilities that might arise during the unknown time frame of the storage period? What are the financial costs associated with these liabilities? How will the regulatory frame reduce or exacerbate those liabilities? Who, exactly, will be responsible for the fuel through ownership or contract relationships? Who will be responsible for liabilities that are associated with the transportation of the fuel, including transportation damage; leaks and deterioration of the canisters or casks because of inadequate design, construction, or handling of the fuel, canister, or cask; and other possible accident scenarios. Since Holtec plans to have its own storage facility, at least they should be responsible for their own shabby canisters.

3.8. Q: *What state/local/tribal authorizations/approvals would be needed?*

3.8.1. The DOE should be aware that currently there do not appear to be any special state, local, or tribal authorizations or approvals for a private CIS, beyond the land use codes, state siting requirements, and existing tribal approval processes. An NRC license does not require the consent of the community. Knowing how the NRC has minimized and ignored community input on uranium mill licenses and licensing decisions, I do not foresee any special considerations under an NRC licensing program for state, local, or tribal approvals.

3.8.2. If the DOE is referring to state, local, and tribal authorizations and approvals associated with DOE involvement with a specific private CIS operation, then the DOE should be more explicit in this respect.

3.9. Q: *How can the Government continue to explore or implement the PI concept in a fair, open and transparent manner going forward?*

3.9.1. The DOE must provide more information on how the “government” will relate to a private CIS. By “government,” is the DOE referring to any government agency, the NRC, the DOE? And, what are the current statutory and regulatory roles for government agencies in private CIS licensing and operation. Are new statutes and rules being contemplated? Without knowing what, exactly, the DOE is talking about, it is impossible to provide informed comments.

3.9.2. The “government” must provide all information regarding these matters, and place them in one, accessible website (with links to other sites, data, and information). The “government” must include communities on transportation routes in the “consent-based” processes. The “government” must provide a full accounting of the long-term safety of the canisters that could be transported, stored, and placed in permanent storage.

3.10. Q: *What, if any, supporting agreements might be expected between the Government and the host state/tribe/local community associated with a PI?*

3.10.1. Again, the DOE has not provided any information about the relationship between “government” entities and a private CIS facility. So, one does not know what sort of legal responsibilities the DOE or other government entity will have that might lead to agreements with local, state, or tribal entities. Agreements between government entities are not just a PR gimmick. There must be a reason and a legal basis. The DOE has not explained the legal basis for any such agreements.

Sincerely,

Sarah Fields
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Uranium Watch