



November 16, 2017

The Honorable John Shimkus
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Darrell E. Issa
U.S. House of Representatives
2269 Rayburn House Office Building
Washington, DC 20515

Re: H.R. 3053 regarding Nuclear Waste Policy – Amendments Requested

Dear Representatives Shimkus and Issa:

Surfrider Foundation is a non-profit 501(c)(3) organization that is dedicated to the protection and enjoyment of oceans, waves and beaches through a powerful network. Surfrider Foundation advocates for coastal preservation and sound beach management. Our organization, on behalf of the 500,000 supporters, advocates and members in our network, strongly support federal action to secure a storage plan for the nuclear waste that currently sits just feet from the shoreline at San Onofre Beach. However, this must be done with appropriate environmental review, consent-based siting and assurance of permanent storage. These vital components are currently not provided for under the Nuclear Waste Policy Amendments Act of 2017 (H.R. 3053). We respectfully request that you work to find a solution to this urgent problem and incorporate amendments that address the concerns detailed below.

Surfrider Foundation became engaged on the issue of spent nuclear fuel storage because of the 3.6 million pounds of nuclear waste that has been generated at the San Onofre Nuclear Generating Station (SONGS) and is currently sitting approximately 100 feet from a dynamic coastal shoreline that is susceptible to seismic activity and geological instability. There is currently no permanent storage plan in place for this site, nor for the total 83,000 tons of spent nuclear fuel in the United States with no storage site planned, including other locations like Humboldt Bay and Diablo Canyon that pose a threat to coastal resources. This is simply unacceptable. Congress must take action to secure a location for a geologic repository deep underground that isolates this radioactive storage from the biosphere through a consent-based siting process with a firm timeline attached.

Specifically, we think there are important shortcomings in the current Nuclear Waste Policy Amendments (“NWPA) bill (H.R. 3503) that should be amended. We suggest the following:

- 1) **The Legislation Must Not Allow for Curtailment of Environmental Review.** In section 102 of the NWPA, the bill proposes that the Secretary can determine how to site, construct and operate a facility based on the Section 142(c)(2) exception based on whether “it will be faster and less expensive” to do so. Worryingly, this provision transfers priority from public safety and environmental review to reduced expense and increased expediency. The exception may induce corner-cutting approvals and a lack of environmental review necessary for this especially lethal and environmentally damaging type of waste. Many states have environmental review processes that are stricter than the federal processes; and furthermore, states are often more informed regarding the state resources at stake. For instance, the California Coastal Act is the state implementation of the federal Coastal Zone Management Act, and specifically delineates how coastal resources shall be protected along California’s 1,100-mile coastline. Similarly, the Clean Water Act, Clean Air Act and other important federal laws allow state authority to implement environmental programs through delegated authority, which should not be truncated by the NWPA. Additionally, the U.S. Environmental Protection Agency should be immediately involved with any site screening efforts and storage development criteria.
- 2) **The Legislation Should Require Consent-Based Siting for Spent Nuclear Fuel.** The 8.4 million people of South Orange County and Northern San Diego County who are within a 50-mile radius of the spent nuclear fuel at the San Onofre Nuclear Generating Station never signed on for temporary or permanent storage of spent nuclear fuel. Storage was always contemplated to be offsite, whether it be permanent or interim and then permanent storage. Similarly, this legislation allows for other communities to be victims of siting efforts that lack consent and local buy-in from community and state voices. The bill would impose intergovernmental mandates that preempt state and local regulatory authority over hazardous waste transport and storage.
- 3) **There Must be a National Solution for Spent Nuclear Fuel Storage that Includes a Permanent Storage Location.** In the proposed Section 103(b)(1), the bill allows for the Secretary to enter into on Monitored Retrievable Storage (“MRS”) agreement before the Commission has issued a final repository decision. We do not think this is a wise choice given the uncertainty of establishment of a final resting place for the spent fuel. The permanent storage location should be decided upon in the nationwide plan for spent nuclear fuel storage so that interim storage sites do not become “de

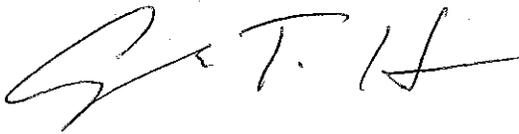
facto” permanent sites for lack of ability to find consensus on a permanent location.

- 4) **There Should be a Specific Timeline for Spent Nuclear Fuel Storage Solutions.** This issue has been delayed for too long without public transparency as to when and where the spent nuclear fuel will be transported and stored in a way that will not jeopardize public safety and environmental integrity. A clear plan is needed with a firm timeline attached.

The decision to leave the nuclear waste on the beach jeopardizes the lives and livelihood of over 8 million people who live in the vicinity of SONGS, as well as the tourists and commuters who use the busy I-5 freeway nearby. This is just one site and one example of the grave threat posed by a lack of a national plan for nuclear waste storage across the country. We call upon Congress to amend the current bill in order to initiate a consent-based siting process with a mandatory timeline and resolution date for when nuclear waste will be permanently removed from San Onofre beach and other unintended temporary storage locations across the country.

Thank you for your time and immediate attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela T. Howe". The signature is fluid and cursive, with the first name being the most prominent.

Angela T. Howe, Esq.
Legal Director
Surfrider Foundation

Cc: Heather Hutt