



ALLIANCE FOR NUCLEAR RESPONSIBILITY

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VIA EMAIL

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Attn: Rulemaking.Comments@nrc.gov

re: Docket ID No. NRC–2012–0246

Comments of the Alliance for Nuclear Responsibility in response to the Waste Confidence Draft Generic Environmental Impact Statement (DGEIS)

The following letter summarizes and supplements the comments of the Alliance for Nuclear Responsibility (A4NR) that have already become part of the public record in the above captioned matter via the spoken comments of A4NR representatives at public meetings and on NRC sponsored Waste Confidence conference calls.

1. The GEIS is noticeably deficient in ascribing fiscal responsibility for the long term maintenance and safeguarding of the ISFSI.

A “text” search of the entire GEIS document for the word “fiscal” brought up only the phrase “fiscal year.” The word “responsibility” brought results only associated with the subject of “environmental responsibility.” The words “fiduciary,” and “ratepayer” brought *no* results. The GEIS provides multiple categories and scenarios for potential costs, but no discussion of mechanisms for paying for these expenses. In fact, the GEIS assumes that somehow the utility that is in possession of an NRC license for the ISFSI remains financially liable:

The Commission found that spent fuel would be managed safely because, under either a possession-only 10 CFR Part 50 license or a 10 CFR Part 72 license, the utility would remain under the NRC’s regulatory control and, thus, NRC inspections and oversight of storage facilities would continue (49 FR 34658; 55 FR 38472). In 1990, when extended storage at the reactor site seemed more probable, the Commission noted that 10 CFR Part 72 allowed for license renewals and that the NRC was considering issuance of a general 10 CFR Part 72 license under which spent fuel could be stored in NRC-certified casks (55 FR 38472). The Commission reasoned that these regulations would provide additional NRC supervision of spent fuel management. [emphasis added]

AND

Similar to short-term storage, **a small number of workers (30–35) would continue to maintain and monitor the storage of spent fuel in the at-reactor ISFSI.** The ISFSI workforce requirements would remain unchanged from the period of nuclear reactor operations. Because there would be no need for any additional at-reactor ISFSI operations workers during the long-term timeframe. [emphasis added]

First, how can the NRC assume the utility in question will remain solvent or fiscally whole for a period of up to 160 years after cessation of energy production at a nuclear facility? Bankruptcy in the energy producing field is not an unknown occurrence and a protracted proceeding could take decades, involving federal intervention (SEC), litigation among insurance companies, and host of widely unpredictable variables. During all this time, *some entity* must be responsible for paying the cost of labor and materiel needed for upkeep and security. Does the NRC assume that the federal government will cover this expense, and if so, can they point to the enabling legislation?

Further, since this action could be taking place decades after the cessation of energy production—*without* revenue from the nuclear power plant—where does the NRC GEIS assume the money to pay for these ongoing activities will come from? How would a for-profit utility justify the outgoing expense to shareholders for a non-revenue producing obligation? How would a public utilities commission justify charging then-current (and future) ratepayers to store and maintain waste stockpiles decades after the last original ratepayers received any benefits? According to the GEIS, the licensee remains responsible for local property tax liabilities during long term storage. From what source would the utility pay this obligation given that the facility had long since abandoned any revenue generation? And if these local tax liabilities are not—or can not—be paid, what then happens to the infrastructure and institutions in the local host municipalities that were supported by that tax collection?

2. Assumptions about long term “Institutional controls” are haphazard at best.

The GEIS at (1-14) is captioned:

Institutional controls would be in place.

Institutional controls, i.e., the continued regulation of spent nuclear fuel, will continue. This assumption avoids unreasonable speculation regarding what might happen in the future regarding Federal actions to provide for the safe storage of spent fuel. **Although government agencies and regulatory safety approaches can be expected to change over long periods of time into the future,** the history of radiation protection has generally been towards ensuring increased safety as knowledge of radiation and effectiveness of safety measures has improved. **For the purpose of the analyses in this draft GEIS, the NRC assumes that regulatory control of radiation safety will remain at the same level of regulatory control as currently exists today.** [emphasis added]

Such assumptions about the long term stability of regulatory control and institutional succession are baseless for an agenda that has a presumed time span upwards of 160 years. 160 years ago, in the United States, there was a “peculiar *institution*” of *slavery*, the enforcement of which was codified in law and justified in the Constitution. To a large segment of the U.S population for which an entire economy was dependent, this was largely viewed as not just viable, but justified and unchanging. And yet, this *institution* and the population which was dependent—or subject—to it, was completely overturned in a span of time less than the current licensed life of a radioactive waste cask.

To summarize, the GEIS may be more adroit in analyzing and solving technical challenges, but in terms of analyzing and answering to the political and administrative challenges posed, is poised to create one of the greatest “unfunded mandates” in U.S. history—a challenge will not be solved by simply ignoring its existence.