

**Statement of Christopher A. Kouts
Before the Committee on Energy and Commerce
Subcommittee on the Environment and the Economy
U.S. House of Representatives
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Mr. Chairman and Members of the Subcommittee, I am Christopher A. Kouts, former Principal Deputy Director and Acting Director of the Department of Energy's (DOE) Office of Civilian Radioactive Waste Management (OCRWM). I appreciate the invitation to appear before the Subcommittee to provide my perspective on the recently released Government Accountability Office (GAO) Report entitled "Effects of a Termination of the Yucca Mountain Repository Program and Lessons Learned," and the Administration's decision to terminate the Yucca Mountain Project and OCRWM.

As background, for 25 years, I served in various technical and management positions in virtually every program area within OCRWM. In those positions I was responsible for disposal, interim storage, nuclear waste transportation, systems analysis, strategic and contingency planning activities, as well as activities related to the management of the Standard Contract with nuclear utilities and the ongoing Spent Fuel litigation. I became the Principal Deputy Director of the program in 2007 and was the Acting Director from January 2009 until I retired in early 2010, after 35 years of Federal Service.

I served proudly in the program under the leadership of every Administration since 1985 and I fully support that policy making is solely in the realm of those appointed by the President in office at the time. My testimony should be viewed from the perspective of an

individual who lived through the experiences of the program, during virtually its entire existence, and observed how the program and its surrounding policy environment evolved over many years.

While serving in the program, I was reminded on a daily basis of the formidable challenges that were given to the program by the Nuclear Waste Policy Act, as amended, (the Act) in fulfilling the mission to manage and dispose of this Nation's commercial spent fuel and defense related high-level radioactive waste. As impatient as those who followed the program have been over the years with its progress, I believe that any new attempt to establish disposal or interim storage facilities, outside the confines of the Act, will be met by many new and likely more vexing challenges, regardless of the organization or entity that is established to administer the effort.

Why will any "new" effort be more problematic? The answer to that question lies partly in the advances society has experienced in instant communication and information flow.

When the program proceeded through the facility siting process in the 1980's for two repositories and an interim storage facility, the internet was not in place. E-mail was not available to the general public, nor did the social media of today exist. The 24/7 news cycle we now live in will create many opportunities for those opposed to such facilities to spread rumors and disinformation. As a result, the credibility of any new process will be severely challenged from its inception.

In addition, the State of Nevada has given a clear blueprint to those opposed to such facilities: delay, delay, delay. The State of Nevada sued DOE and the Federal Government over every step forward it took, including the siting process, Environmental Protection Agency (EPA) standards, Nuclear Regulatory Commission (NRC) regulations, water permits, the DOE site recommendation, Environmental Impact Statements, etc. Only one of those lawsuits was successful and resulted in the partial remand of the EPA Standard for Yucca Mountain and subsequent further delay. The State also used its Congressional delegation to influence reductions to the program's budget as well as to affect how the program performed its daily business.

Accordingly, the timeframe of "decades" noted in the GAO report for a new repository is nothing more than notional, and does not appear to stem from a comprehensive evaluation of the program's past experience nor the changes that have occurred since the 1980's.

Although some of the findings and recommendations of the GAO report have merit others are questionable and, in some cases have already been tried. The report suggests that an independent entity outside of the Federal Government could be more successful. The "grass is always greener" adage applies here. It is my belief that any new siting process will be "political" regardless of the entity that is conducting it. It is also my belief the Congress should have the final word on facility siting and that ultimately any siting decision will be a political decision, informed by thorough technical evaluation, just as in the case of Yucca Mountain.

It is difficult to understand the GAO report's so-called "benefit" of terminating the Yucca Mountain Project to afford DOE the "opportunity" to explore other approaches. DOE has no authority to undertake new approaches outside the confines of the Act and history has shown that legislative initiatives regarding these materials will be a multi-year and extremely contentious enterprise. The original Act was a compromise between those desiring interim storage of these materials and those desiring disposal. My sense is that any new legislative examination of these issues will bring out similar perspectives and the consensus needed to develop a new policy path will not come easily or quickly.

Because the development of Yucca Mountain has been such a contentious and protracted process, it is being suggested that only consensual siting of these facilities should be pursued. I would submit to the Subcommittee that the U.S. and international experience in this area proves otherwise. In my discussions over the years with the Directors of repository programs abroad, they have consistently expressed their concerns that, due to the very long timeframes repository programs take to develop, any political consensus at the beginning can evaporate with one election, just as it has in the U.S. with Yucca Mountain. At the end of the day, implementing a repository program requires steady, consistent, national leadership.

In closing, beside its questioned legality, the Administration's decision to terminate the Yucca Mountain Project is disturbing because Yucca Mountain has not failed any technical or regulatory test. The site has not failed in the NRC licensing process. The thousands of scientists and engineers and others that worked on the project over the years

believe, as I believe, that the site would meet the stringent regulations of the EPA and the NRC and assure that these materials would not adversely impact future generations and the environment. Given the substantial investment this Nation has made in the site and in the policy that has been supported by every prior Administration since 1982, I believe the Nation deserves a final and definitive answer regarding Yucca Mountain from the NRC licensing process.

Thank you for this opportunity to discuss these issues, and I would be pleased to answer any questions the Subcommittee may have at this time.