

To: Members of the SONGS Community Engagement Panel (CEP)

From: David G. Victor, CEP Chairman

Re: Federal Legislation and the Problem of Removing the Spent Nuclear Fuel from San Onofre

Date: 21 March 2016

As we have discussed many times at CEP meetings, we in the communities surrounding SONGS have a keen interest in removing the spent fuel from the site. As the option of Yucca Mountain has stalled, spent fuel has been backing up at sites around the country with no place for permanent disposal. The idea of consolidated interim storage (CIS) could be a solution.

While in DC 3-4 March on other business I spent some time on Capitol Hill to learn more about the options for new federal legislation that could improve the prospects for CIS. I also made the case for CIS based on what we have been hearing and discussing at CEP meetings. As you know, the politics of this are complex and difficult in part because CIS is seen as a rival for Yucca mountain, and many important politicians have adopted a “Yucca only” approach to spent fuel storage. It is important that whenever we talk about CIS we portray this as a complement to Yucca Mountain and a complement to other long-term permanent disposal options, such as deep borehole technologies that are currently being tested.

My sense from the meetings is that Yucca and CIS are, indeed, complements. Even if Yucca were to go ahead it might not be accepting fuel until 2030 and the offloading process would move slowly.¹ The CIS facilities being planned in West Texas and in New Mexico could be ready almost a decade earlier and could accept storage canisters more quickly since they would not need to remove the fuel from the canisters and repackage it for permanent disposal. At our next CEP meeting I have asked Edison to brief us on when the SONGS fuel will be ready to move and also on some of the technical and political issues that will arise with transportation of that fuel from here to one or more of the CIS sites. **In short, we continue to have a huge interest in making CIS a reality. And the politics at the federal level may be lining up in helpful ways.**

In the House, my meetings focused on H.R. 3643 (“Interim Consolidated Storage Act”) and the goal of increasing co-sponsorship of that bill. At CEP meetings many of us have expressed support for H.R. 3643, but not to the exclusion of other potential legislative options that might also emerge in Washington. I met with Mimi

¹ DOE has not established a specific date, but the 2030 estimate is based on an old (2008) DOE report and the assumption that Yucca process might “restart” in 2017. If Yucca were further delayed the 2030 date would be pushed out further.

Walters (D-CA, district 45) and her staff. She has not co-sponsored the bill but is now looking at it closely. I also met with staff from Duncan Hunter (R-CA) and also Tony Cardenas (D-CA). As I see it, we have a keen interest in getting as many co-sponsors as possible for two reasons. First, we are trying to create an echo chamber about the need for CIS so that we can raise the odds that CIS will make its way into actual passed legislation in the next Congress. (The current Congress won't get much done officially on this topic, especially in an election year.) Second, we need to signal to the Republican leadership in the House that there is broad support for CIS and that CIS can go forward in a way that does not undermine their favored policy: pushing for Yucca. I note that the likely new chairman of the House Energy and Commerce Committee, John Shimkus (R-IL), has been an ardent advocate for Yucca Mountain and appears to be unwilling to look at options other than Yucca. That's a problem for us since that Committee handles these sorts of bills. This week he faced a primary challenger—the first in 20 years—from a far right candidate and won only 60% of the vote. That could make Rep. Shimkus, whom I have not met, an even more passionate supporter of Yucca Mountain. Large co-sponsorship of the H.R. 3643 especially from his fellow Republicans, could help create some political space for CIS in the House.

I attach a copy of a summary of H.R. 3643 that was prepared by Edison. Edison's help in setting up these meetings was vital—I would not have seen as many people nor had as focused a dialogue without their support.

In the Senate, I met with staff from Sen. Feinstein (D-CA) and the majority (Republican) staff from the Senate Energy and Water Appropriations Subcommittee (chaired by Sen. Alexander (R-TN). Senators Feinstein and Alexander are co-sponsors of legislation that would take a more comprehensive approach to spent fuel storage than reflected in the House bill. (The other two co-sponsors are Sen. Murkowski, R-AK, and Sen. Cantwell, D-WA. They are Chair and Ranking Member of the Senate Energy Committee, respectively, and thus quite important to our efforts.) Attached is a summary of that Bill, which is known as S.854. In addition, Sen. Alexander intends to include an interim storage pilot program in the FY17 Appropriations Bill, as has been done in the past. As a practical matter, that pilot project appropriation has not had any real impact on CIS but should be seen as an effort to keep the issue alive.

The Senate Appropriations Committee had been planning hearings on the future of nuclear power in March—and it was expected that S.854 would come up in that context. Those hearings got bumped from the calendar. The Senate Energy Committee may hold hearings on related issues in the fall, but with the election season the number of working days left in the year has shrunk. Their staffs are now aware of what we have been doing in the CEP and I am hopeful they will ask one of the CEP members to testify when they get to the hearings stage. Among other things, we need to signal the deep support for CIS and we also need to articulate why decommissioned plants should be first in line to send their fuel.

With the Senate staff I also discussed hearings that they were holding the following week with DOE Secretary Moniz. During those hearings he would be asked (and was asked) how far DOE could move with CIS in the absence of new legislation. I attach a copy of the transcript from those hearings with the relevant parts highlighted. The main point is that DOE doesn't know how far it can go; it is possible they could push along a CIS program without any new federal law. However, there are some major uncertainties about assignment of liability and also funding for CIS activities that could be crucial to resolve with new legislation. For the moment, new legislation is not essential since these CIS sites are still working with the NRC to obtain licenses, and DOE is supporting that process. But over the next couple years the absence of legislation looks likely to be an obstacle.

We will have an update on this topic at every CEP meeting for the foreseeable future. In tandem, it continues to be important to show political support for the concept of CIS and for local communities to pass resolutions in support of the concept.²

On April 26th DOE will be hosting an event in Sacramento to discuss what "consent" means for CIS.

² At this stage, it is my view that it is premature to offer detailed support for any particular bill to the exclusion of others. The current House bill is very short and focused mainly on creating the authority for DOE to use CIS, without all the other important details such as funding and transportation. The Senate bill is much more comprehensive, but it also is thin in important areas—notably transportation. What matters now is keeping the concept alive and getting something comprehensive passed soon.