

APPROVAL OF YUCCA MOUNTAIN SITE

MAY 1, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.J. Res. 87]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the joint resolution (H.J. Res. 87) approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

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PURPOSE AND SUMMARY

The purpose of H.J. Res. 87 is to approve the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, in accordance with procedures under section 115 of the Nuclear Waste Policy Act of 1982 (NWPA).

BACKGROUND AND NEED FOR LEGISLATION

The nation's high-level radioactive waste inventories primarily consist of spent nuclear fuel from operating and decommissioned commercial nuclear power plants, and spent nuclear fuel and high-level wastes from U.S. government defense activities. Approximately 45,000 metric tons of spent nuclear fuel from past and ongoing commercial nuclear power operations are currently stored at 72 sites throughout the country. An additional 2,000 metric tons of spent nuclear fuel are generated annually by operating nuclear power plants. The total amount of commercial spent nuclear fuel is expected to reach approximately 60,000 metric tons by the year 2010. The U.S. government's high-level radioactive waste inventories are stored at five sites nationwide, and include 2,500 metric tons of spent fuel from U.S. Naval Operations and defense production activities, weapons-usable surplus plutonium, and over 100 million gallons of high-level radioactive wastes from DOE defense production activities.

The NWPA established a system for identifying and selecting a site for permanent disposal of spent nuclear fuel and high-level radioactive waste, and also created the Office of Civilian Radioactive Waste Management (OCRWM) within the Department of Energy (DOE) to carry out the program. Pursuant to the NWPA amendments of 1987, Congress selected the Yucca Mountain site in Nevada as the single site to be characterized by DOE for long-term geologic disposal of the nation's high-level radioactive waste inventories.

The Yucca Mountain site is located in Nevada on the southwest corner of the DOE Nevada Test Site, adjacent to the Nellis Air Force range. DOE's environmental impact statement and site recommendation to the President set forth comprehensive information with respect to the Yucca Mountain site and the current plans for the storage of spent nuclear fuel and high level radioactive waste there. These documents currently envision the disposal of some 70,000 metric tons of spent nuclear fuel and high level radioactive waste deep below the surface of Yucca Mountain in excavated, interconnecting tunnels well above the present day water table. According to DOE, the natural features of the mountain, as well as engineered barriers including the waste packages, will work in concert to isolate radionuclides from the environment for thousands of years. Consistent with his recommendation of the Yucca Mountain site, the Secretary of DOE testified before the Committee that the site location, geologic barriers, and design elements for the repository will protect the health and safety of the public.

According to the DOE Total Life Cycle Cost Report for the Yucca Mountain site, DOE has already spent \$6.7 billion on the repository program, and estimates that approximately \$50 billion will be spent during the lifetime of the Yucca Mountain project. The

NWPA established the Nuclear Waste Fund (the Fund) to pay for the costs of characterizing and developing a permanent repository. The Fund is derived from fees collected from a 1.0 mil per kilowatt-hour assessment on all electricity generated by commercial nuclear power plants, as well as equivalent assessments on quantities of spent fuel or other high level wastes to be disposed of at Yucca Mountain from Federal agencies. In return, the Secretary is required to accept title, subsequently transport, and dispose of a generator's spent fuel and high-level wastes. The NWPA required the Secretary to begin disposal of these wastes not later than January 31, 1998.

In December 1998, pursuant to Congressional direction in the 1997 Energy and Water Development Appropriations Act, the Secretary of Energy determined that Yucca Mountain was viable for further development as a repository site. Following the completion of site characterization activities under section 113 of the NWPA, and a series of hearings held in the State of Nevada required under section 114, on January 10, 2002, the Secretary of Energy recommended the development of the Yucca Mountain site to the President. On February 15, 2002, the President transmitted his recommendation to Congress recommending the Yucca Mountain site, based on his decision that it is qualified for application for a construction authorization for a repository. On April 8, 2002, the Governor of the State of Nevada submitted to the Speaker of the House a notice of disapproval, and a statement of reasons why the Governor disapproved the recommended repository site. Following the State of Nevada's disapproval, section 115 of the Act provides that the site shall be disapproved unless Congress passes a resolution of repository siting approval within 90 legislative days, and this becomes law. The procedures for House consideration of such a resolution are set forth at section 115(e) of the NWPA.

Should a resolution of siting approval be enacted, thereby overriding Nevada's disapproval, DOE still cannot begin construction activities until the Nuclear Regulatory Commission (NRC) issues a license for construction authorization to DOE. Pursuant to section 114, NRC has been reviewing DOE's site investigation activities to ensure that adequate information is available for a license application. NRC is responsible for enforcing health and safety standards through the licensing process that includes the application of groundwater protection standards for the Yucca Mountain site previously set by the Environmental Protection Agency. The Act directs NRC to issue a final decision approving or disapproving the application within three years, with a possible 12 month extension. NRC will continue to oversee repository operations after any license is granted. The public will have opportunities during the NRC license review period to review, comment, and request hearings on the license application, and the Commission's decision will be subject to judicial review. Pursuant to NWPA section 114(a)(1)(E), NRC testified that, based on its technical reviews and pre-licensing interaction with DOE, it believes that sufficient information can be available for a license application.

As required by the Act, the President's February 15, 2002 recommendation to Congress was based on the Secretary's recommendation and accompanying comprehensive statement. Section 114 of the NWPA also required the Secretary to submit a final En-

vironmental Impact Assessment that analyzes the impact of the proposed action to transport and dispose of radioactive wastes at Yucca Mountain. The documents are too voluminous for inclusion in this report, but are publicly available through DOE's Internet website. Each of these documents may be obtained electronically at www.ymp.gov/new/secondpage.htm.

HEARINGS

The Subcommittee on Energy and Air Quality held a hearing entitled "A Review of the President's Recommendation to Develop a Nuclear Waste Repository at Yucca Mountain, Nevada" on April 18, 2002. The Subcommittee received testimony from: The Honorable Jim Gibbons, U.S. House of Representatives, The Honorable Shelley Berkley, U.S. House of Representatives, The Honorable John Ensign, U.S. Senate; The Honorable Spencer Abraham, Secretary, U.S. Department of Energy; The Honorable Greta Joy Dicus, Commissioner, U.S. Nuclear Regulatory Commission; The Honorable Jeffrey R. Holmstead, Assistant Administrator for Air and Radiation, U.S. Environmental Protection Agency; Dr. Jared L. Cohon, Chairman, Nuclear Waste Technical Review Board; Mrs. Gary Jones, Director, Natural Resources and Environment Team, U.S. General Accounting Office; The Honorable Laura Chappelle, Chairwoman, Michigan Public Service Commission, on behalf of National Association of Regulatory Utility Commissioners; Mr. Joe F. Colvin, President and CEO, Nuclear Energy Institute; Mr. Jim Dushaw, Director, Utility Department International Brotherhood of Electrical Workers; and, written testimony from Ms. Joan Claybrook, President, Public Citizen.

COMMITTEE CONSIDERATION

On Tuesday, April 23, 2002, the Subcommittee on Energy and Air Quality met in open markup session and approved H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Policy Act of 1982 for Full Committee consideration, without amendment, by a roll call vote of 24 yeas and 2 nays, a quorum being present. On Thursday, April 25, 2002, the Full Committee met in open markup session and ordered H.J. Res. 87 favorably reported to the House by a roll call vote of 41 yeas and 6 nays, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following is the recorded vote on a motion by Mr. Tauzin to order H.J. Res. 87 reported to the House, without amendment, including the names of those members voting for and against.

COMMITTEE ON ENERGY AND COMMERCE -- 107TH CONGRESS
ROLL CALL VOTE # 28

BILL: H. J. Res. 87, Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

AMENDMENT: Motion by Mr. Tauzin to order H. J. Res. 87 reported to the House.

DISPOSITION: **AGREED TO**, by a roll call vote of 41 yeas to 6 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Tauzin	X			Mr. Dingell	X		
Mr. Bilirakis	X			Mr. Waxman			
Mr. Barton	X			Mr. Markey		X	
Mr. Upton	X			Mr. Hall	X		
Mr. Stearns	X			Mr. Boucher	X		
Mr. Gillmor	X			Mr. Towns	X		
Mr. Greenwood				Mr. Pallone			
Mr. Cox				Mr. Brown	X		
Mr. Deal				Mr. Gordon	X		
Mr. Burr				Mr. Deutsch	X		
Mr. Whitfield	X			Mr. Rush	X		
Mr. Ganske	X			Ms. Eshoo		X	
Mr. Norwood	X			Mr. Stupak	X		
Mrs. Cubin				Mr. Engel	X		
Mr. Shimkus	X			Mr. Sawyer	X		
Mrs. Wilson	X			Mr. Wynn	X		
Mr. Shadegg	X			Mr. Green	X		
Mr. Pickering	X			Ms. McCarthy	X		
Mr. Fossella	X			Mr. Strickland	X		
Mr. Blunt				Ms. DeGette		X	
Mr. Davis				Mr. Barrett	X		
Mr. Bryant	X			Mr. Luther		X	
Mr. Ehrlich	X			Ms. Capps		X	
Mr. Buyer	X			Mr. Doyle	X		
Mr. Radanovich	X			Mr. John			
Mr. Bass	X			Ms. Harman		X	
Mr. Pitts	X						
Ms. Bono	X						
Mr. Walden	X						
Mr. Terry	X						
Mr. Fletcher	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held an oversight hearing and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.J. Res. 87 is to approve the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, in accordance with procedures under section 115 of the Nuclear Waste Policy Act of 1982 (NWPA).

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Policy Act of 1982, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1984:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 30, 2002.

Hon. W.J. "BILLY" TAUZIN,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lisa Cash Driskill (for federal costs) and Elyse Goldman (for the state and local impact).

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

H.J. Res. 87—Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982

Summary: H.J. Res. 87 would provide Congressional approval of the site at Yucca Mountain, Nevada, for the storage of nuclear waste. In accordance with the Nuclear Waste Policy Act (NWPA), such approval would allow the Department of Energy (DOE) to apply for a license with the Nuclear Regulatory Commission to construct a nuclear waste storage facility on the approved site. Enacting H.J. Res. 87 would not alter the contractual relationship between DOE and those electric utilities with nuclear power plants to dispose of nuclear waste in exchange for the payment of annual fees. The resolution would not affect direct spending or receipts, so pay-as-you-go procedures would not apply.

Congressional approval of the Yucca Mountain site is required before DOE can proceed with its plans to spend about \$10 billion over the next several years to develop the Yucca Mountain site and begin receipt of waste in 2010. Based on information from DOE, we estimate that implementing H.J. Res. 87 would require the appropriation of about \$12 billion over the 2003–2012 period, to pay for licensing, construction, and waste transportation activities over that period. All such spending is subject to appropriation.

H.J. Res. 87 could increase the costs that Nevada and some local governments would incur to comply with certain existing federal requirements. The Unfunded Mandates Reform Act (UMRA) is unclear about whether such costs would count as new mandates under UMRA. In any event, CBO estimates that the annual direct costs incurred by state and local governments over the next five years would total significantly less than the threshold established in the law (\$58 million in 2002, adjusted annually for inflation). H.J. Res. 87 contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.J. Res. 87 is shown in the following table. The costs of this legislation fall within budget functions 270 (energy) and 050 (defense).

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law for nuclear waste disposal:						
Budget authority ¹	375	0	0	0	0	0
Estimated outlays	366	48	0	0	0	0
Proposed changes:						
Estimated authorization level	0	527	900	1,100	1,500	2,000
Estimated outlays	0	369	788	1,040	1,380	1,450
Spending under H.J. Res. 87 for nuclear waste disposal:						
Estimated authorization level ¹	375	527	900	1,100	1,500	2,000
Estimated outlays	366	465	788	1,040	1,380	1,850

¹The 2002 level is the amount appropriated for that year.

Basis of estimate: If the Congress enacts H.J. Res. 87, DOE expects that it would apply for a license to construct a storage facility at Yucca Mountain sometime in 2004 and that the site would be

ready to accept nuclear waste in 2010. The Department of Defense and DOE have requested \$527 million for this program for fiscal year 2003. Based on information contained in DOE's May 2001 report, Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program, CBO estimates that implementing the resolution would require the appropriation of about \$6 billion over the 2003–2007 period and about \$12 billion over the 2003–2012 period to prepare the site to dispose of waste. This estimate includes program management, licensing, construction, and transportation of waste to the site.

In accordance with the NWPA, on February 15, 2002, the President recommended to the Congress that Yucca Mountain, Nevada, be used for the storage of nuclear waste. Also in accordance with the NWPA, on April 9, 2002, the Governor of Nevada provided the Congress with a notice of disapproval of the site. Following the Governor's disapproval notice, the Congress is now deciding whether to enact legislation approving the site. Without such legislation, the notice of disapproval would stand, and there would be no further consideration of a nuclear waste storage facility at Yucca Mountain.

Spending on nuclear waster disposal activities would very likely continue in the absence of H.J. Res. 87, but CBO has no basis for estimating the likely level of such spending. If H.J. Res. 87 were not enacted, spending on the nuclear waste program could be higher or lower than shown in the above table, depending on how the program might be restructured. If Yucca Mountain is not used as a nuclear waster repository, such spending might include funding for interim storage, further study of alternative disposal sites, or other program options.

In the May 2001 report, DOE estimates the future cost to conduct the nuclear waste program is about \$50 billion, in constant 2000 dollars, from 2001 through closure and decommissioning of Yucca Mountain in 2119. According to DOE, about \$9 billion has been spent since 1983 studying nuclear waste disposal sites and preparing a recommendation for use of the Yucca Mountain site.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: While the resolution, by itself, would establish no new enforceable duties on state, local, or tribal governments, shipments of nuclear waste to the Yucca Mountain site would increase costs to the state of Nevada for complying with other existing federal requirements. Additional spending by the state would support a number of activities, including emergency communications, emergency response planning and training, inspections, and escort of waste shipments. UMRA is unclear about whether such impacts on other existing federal requirements would count as new mandates under UMRA. In any event, CBO estimates that the annual direct costs incurred by state and local governments over the next five years would total significantly less than the threshold established in the law (\$58 million in 2002, adjusted annually for inflation).

Estimated impact on the private sector: H.J. Res. 87 contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Lisa Cash Driskill; impact on state, local, and tribal governments: Elyse Goldman; impact on the private sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Pursuant to section 115(a) of the NWPA, the text resolution is as follows: "That there hereby is approved the site at Yucca Mountain, Nevada, for a repository, with respect to which a notice of disapproval was submitted by the Governor of the State of Nevada on April 8, 2002." The text of H.J. Res. 87 is taken directly from section 115 of the NWPA, with the three blank spaces in the statutory text filled in as follows: (1) The first blank space is filled with the name of the geographic location of the proposed site of the repository (Yucca Mountain, Nevada); (2) The second blank space is filled with the State Governor submitting the notice of disapproval (the Governor of the State of Nevada); and, (3) The last blank space is filled with the date of submission of the notice of disapproval (April 8, 2002).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

DISSENTING VIEWS OF REPRESENTATIVES MARKEY,
CAPPS, ESHOO, PALLONE, HARMON, AND WAXMAN ON
H.J. RES. 87 APPROVING THE SITE AT YUCCA MOUNTAIN,
NEVADA, FOR THE DEVELOPMENT OF A REPOSITORY FOR
THE DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE
AND SPENT NUCLEAR FUEL

We oppose H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel. The decision to go ahead with licensing Yucca Mountain is premature. There exist too many unresolved scientific, security and safety issues for us to support moving forward at this time.

The 1982 Nuclear Waste Policy Act originally directed the Department of Energy to consider five, geologically different sites and to eventually select two repositories—one east of the Mississippi and one west. However, in 1987, the act was amended for political, not scientific, reasons so that Yucca Mountain was the only site that could be studied. H.J. Res. 87 continues the pattern of trumping science with politics, which will inevitably endanger the health and safety of the nation, not just the citizens of Nevada.

The science behind Yucca Mountain fails to assure the safety of the site. The independent government Nuclear Waste Technical Review Board recently graded the technical basis for DOE's recommendation as "weak to moderate," and said, "The Board has limited confidence in current performance estimates generated by the DOE's performance assessment model." The International Atomic Energy Agency/Nuclear Energy Agency review of DOE scientific and technical work found that "in general, the level of understanding of the hydro-geology of the site * * * is low, unclear and insufficient to support an assessment of the realistic performance." Furthermore, a recent General Accounting Office report revealed that the Nuclear Regulatory Commission (NRC) has indicated there are 293 complex technical issues that the DOE must resolve before it can submit a license application to the NRC. Bechtel has indicated that at least 10 of the 293 technical issues will not even be resolved until 2004. Some specific concerns include:

- According to the GAO report, NRC's Advisory Committee on nuclear waste has raised concerns about the models that DOE is using to predict how water and radionuclides might travel through the repository and therefore how quickly radioactivity would be released into the environment. The Advisory Committee believes that DOE has used inconsistent assumptions and assumptions that are not supported by experimental evidence.

- A 1999 Lawrence Livermore National Laboratory study contradicted the assumption that plutonium could not migrate in the natural environment by showing that plutonium had migrated at the Nevada Test Site in less than 50 years.

- A Los Alamos National Laboratory study demonstrated that chlorine—36 “fingerprints” of above ground nuclear testing have been found in the interior of Yucca Mountain, suggesting that water from the surface has migrated 1000 feet to the repository level of the mountain within 50 years.

- The DOE has only 2 years worth of corrosion data for the canister allow yet they are extrapolating this data to 10,000 years.

- The Nuclear Waste Technical Review Board notes that the DOE has not updated its work on radiation exposure to reflect new information on how fast the radioactive elements are transported. This casts doubts onto their claims that Yucca Mountain would meet the Environmental Protection Agency standard.

- According to the Nuclear Waste Technical Review Board, the repository could get as hot as 350 degrees Fahrenheit, but the DOE has little data about corrosion of the waste canisters over 244 degrees and none above 275 degrees. Higher temperatures would most likely speed up corrosion of the canisters—but DOE has not even bothered to check.

In order to transport the tens of thousands of tons of highly radioactive nuclear materials and wastes to the potentially flawed Yucca Mountain repository, the waste would have to be moved through the majority of the contiguous 48 states. Based on DOE estimates, a nuclear waste shipment would have to leave a site somewhere in America every 4 hours for 24 years. Proponents of this resolution suggest that it is the solution to having dangerous nuclear waste at reactors in close proximity to communities. What they fail to admit is that reactors would still have waste on site—the very waste that is “too hot to handle” and that poses the greatest threat to public health. As long as spent nuclear fuel is created at reactors, it will have to be stored onsite for 5 years as it cools. Moreover, Yucca Mountain will only hold about 60% of the total civilian and military waste that will need to be stored. At some point, Yucca Mountain will be full and these reactors will have to store the waste onsite permanently. We will still have waste at all 103 operating nuclear reactors nationwide, and then we will add to that the thousands of tons on the road, in barges and on rails. We do not believe that this enhances the security of our constituents; in fact, it may well threaten their security. We all know that accidents happen and the shipment of nuclear waste is not immune from the laws of probability as the following points illustrate:

- In the past 50 years, there have been an estimated 3,000 shipments of high-level nuclear waste, and 72 accidents. Within the first 2 years of Yucca opening, the number of shipments would exceed that of the past 50 years. Probability would dictate therefore that there will be 72 accidents in the first two years the waste is on the road.

- According to DOE’s accident reports, there have been 72 “incidents” involving nuclear waste shipments since 1949. Four of these accidents involved “accidental radioactive material contamination beyond the vehicle;” four involved radiation contamination confined to the vehicle; and 49 involved accidental container surface contamination.

- The drop test used to test whether the casks can survive a crash reportedly used a crash speed of only 35 miles per hour—

when the trucks will be driving 65–70 miles per hour on their way to Las Vegas.

- The puncture test used to certify casks reportedly tests only a 40-inch drop of a cask onto a spike—surely, if a truck transporting the casks was forced off a bridge the drop would be far greater than that.

Accidents are not the only worry. From admissions made by Al Qaeda operatives to diagrams of nuclear reactors found in caves of Afghanistan, we know that terrorists are trying desperately to build dirty bombs or homemade nuclear weapons. The Transportation Security Division at DOE, which is responsible for transporting nuclear weapons, failed 6 out of 7 of its security force-on-force exercises. And when DOE recently requested \$18 million to “increase security personnel and equipment to bolster protection for nuclear weapons shipments within the country, to include engineered container modifications that significantly increase security for U.S. nuclear warheads,” the White House said no. If we cannot be assured that the nuclear weapons are safe and secure or that DOE will even have the necessary resources, how can we be sure about the security of the thousands of shipments of nuclear waste that will be sent through hundreds of communities in America?

In light of the scientific and transportation uncertainties, the decision to move forward with Yucca Mountain is premature. Under section 114(a)(1) of the Nuclear Waste Policy Act of 1982, the Secretary’s recommendation is supposed to be based “on the record of information developed by the Secretary under Section 113 and this section, including the information described in subparagraph (A) through subparagraph (G),” which include providing an explanation of the relationship between the packaged waste and the geologic medium of the site and providing a final environmental impact statement. The GAO recently criticized DOE for embarking on this reckless course, questioning the “prudence and practicality” of making the recommendation at this time. Although all the technical and scientific issues will not be resolved until at least 2004, the recommendation is being made now. This assures that the necessary approvals will eventually materialize since it will be too late and too expensive to do anything else. With 293 outstanding technical issues to resolve with the NRC and the other scientific questions mentioned earlier, we do not believe the Secretary has met the requirements of the Nuclear Waste Policy Act. The Secretary claims they will be answered in the future. But allowing the license application to go forward at this point is like allowing a medical student to treat patients after claiming that he will complete his medical training over the next few years.

Proponents of Yucca Mountain point to the amount of money already invested in the project. They claim that voting against this resolution would take the process back to square one. But they are wrong. If this resolution failed, DOE could continue to do site characterization work and come back to Congress when they have actually answered the science questions and could assure the security of the shipments and we would vote on it again. Defeat of the resolution does not stop this work, since the only specific provision of the Nuclear Waste Policy Act of 1982 that deals with this is Sec.

113, which stops such work only if DOE determines Yucca Mountain is not suitable.

The decision on H.R. Res. 87 will last for 10,000 years. We need more technical information before we, as policymakers, can decide if the benefits of Yucca Mountain outweigh the danger to our constituents, the citizens of Nevada and future generations, who may suffer from our rash decision.

We respectfully dissent.

EDWARD J. MARKEY.
ANNA G. ESHOO.
JANE HARMAN.
LOIS CAPPES.
FRANK PALLONE.
HENRY A. WAXMAN.

