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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on Energy and Utilities...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (ab = Assembly Bill) (ar = Assembly Resolution) (ajr = Assembly Joint Resolution)
  - (sb = Senate Bill) (sr = Senate Resolution) (sjr = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (December 2012)



- Michael Nejedlo, Two Rivers
- Carol Paplham, Kewaunee
- Anthony Fiala, Kewaunee
- Leon Strutz, Two Rivers
- Thomas Sprang, Two Rivers
- James Knorr, Two Rivers
- Geraldine Ladisch, Kewaunee
- Joseph Ladisch, Kewaunee
- Allen Sprang, Two Rivers
- Kenneth Duleneck, Mishicot
- Ervin Sinkule, Two Rivers
- Sid LaCrasse, Kewaunee
- Shaun Mill, Kewaunee
- Allan Smith, Kewaunee
- Sylvester Parma, Kewaunee
- Marie Gaedtke, Kewaunee
- Larry Walechka, Kewaunee
- Jason Walechka, Kewaunee
- Gene LeClair, Two Rivers
- Rick Barta, Two Rivers
- Roger Murray, Two Rivers
- Lloyd Hlinak, Kewaunee
- Brian Repitz, Kewaunee

Registrations Against

- Forrest Ceel, Menomonee Falls — IBEW Local #2150
- Joel Haubrich, Milwaukee — WE Energies

Registrations for Information Only

- None.

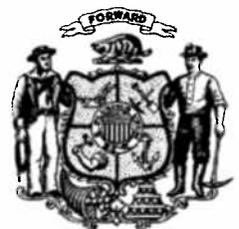
April 22, 2010

Failed to pass pursuant to Senate Joint Resolution 1.

Steven Peters  
Committee Clerk



# WISCONSIN STATE LEGISLATURE





NUCLEAR ENERGY INSTITUTE

Marvin S. Fertel  
PRESIDENT AND CHIEF EXECUTIVE OFFICER

July 8, 2009

The Honorable Steven Chu  
Secretary of Energy  
U.S. Department of Energy  
Forrestal Building 7A-257  
1000 Independence Avenue, S.W.  
Washington, DC 20585

Re: Performance of Annual Fee Adequacy Analysis and Suspension of Payments to Nuclear Waste Fund

Dear Dr. Chu:

The Nuclear Energy Institute (NEI)<sup>1</sup>, on behalf of the commercial nuclear energy industry, is writing to express its deep concern about the federal government's failure to fully carry out the statutory obligation to implement the nuclear waste policy established almost three decades ago in the Nuclear Waste Policy Act of 1982 (NWPA or Act). In light of the Department of Energy's recent decision to terminate the Yucca Mountain repository project, the industry requests that your required annual fee adequacy review fully account for the impact of that termination on program costs, and that you suspend collection of payments to the Nuclear Waste Fund (Fund).

For several years, the industry has advocated that the government and industry implement an integrated strategy for used fuel management and disposal. That strategy includes on-site storage and private or government-sponsored centralized interim storage; research and development leading to the deployment of recycling technology that is safe, environmentally sound, economic, and enhances worldwide nonproliferation efforts; and ultimate disposal of spent nuclear fuel and high-level radioactive waste in a geologic repository. This strategy represents sound public policy and is wholly consistent with principles espoused by the Administration.

DOE has announced its intention to devise a new used nuclear fuel management strategy by convening a national commission to study and recommend alternative approaches—a laudable and potentially productive undertaking that the nuclear industry supports. However, the NWPA remains the law and it is incumbent on the Department to comply with its mandates. Indeed, you explicitly acknowledged the government's responsibility in your June 1, 2009 response to Senator Inhofe:

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<sup>1</sup> NEI is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

"[W]e remain committed to meeting our obligations for managing and ultimately disposing of spent nuclear fuel and high-level radioactive waste."

As discussed in greater detail below, the NWPA requires the Secretary of Energy annually to review whether the one mill per kilowatt-hour fee collected from utilities will provide revenue sufficient to offset the costs of the DOE used nuclear fuel management program. If the annual review reveals that the Fund's balance is either insufficient or in excess of that needed for the program, a fee adjustment is required. Cessation of the Yucca Mountain repository project activities, other than those limited to licensing, compels precisely that action. And, as the fees ultimately are borne by consumers of electricity from the nation's 104 reactors, equitable considerations also compel such an adjustment.

The NWPA established "a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository . . ." (NWPA § 111(b)(1).) The original legislation provided a process for the nomination of at least five sites, and subsequent selection of three of those sites for characterization as candidates for a repository. Under the 1987 amendments to the NWPA, however, DOE was instructed to "provide for an orderly phase-out of site specific activities at all candidate sites other than the Yucca Mountain site." (NWPA § 160(a)(1).) DOE was further directed to carry out "appropriate site characterization activities at the Yucca Mountain site," and "only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of such site for an application to be submitted to the [Nuclear Regulatory] Commission [NRC] for a construction authorization for a repository at such site, and for compliance with the National Environmental Policy Act of 1969." (NWPA §§ 113(a), (c)(1).) Enactment of the 2002 Yucca Mountain Development Act (P. L. No. 107-200, 116 Stat. 735) gave effect to the Presidential recommendation to Congress of Yucca Mountain as the location of the repository and that a license application be submitted to the NRC.

In addition to the direction Congress provided with respect to the programmatic aspects of repository development, the NWPA provides "that the costs of carrying out activities relating to the disposal of...[high level radioactive] waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel." NWPA § 111(b)(4). Payment by the owners and operators of the nation's nuclear power plants for the disposal program is obtained through a one mill per kilowatt-hour fee paid to the federal government and is held in the Nuclear Waste Fund. To date, nuclear utilities, through collections from consumers, have paid or obligated more than \$30 billion to the Fund. The Fund has a current balance of \$22 billion and generates annual interest of just over \$1 billion that is added to the corpus.

The Nuclear Waste Fund fee was established to recoup the government's costs for the program. The statute requires the Secretary to adjust the fee, either upwards or downwards, to achieve full cost recovery of the high level waste repository program. To implement this requirement, the NWPA directs the Secretary annually to review whether collection of the fee will provide sufficient revenues to offset the program costs. (NWPA § 302(a)(4).) That review, the results of which DOE has published in some years in an annual Fee Adequacy Report, necessarily must begin with a determination of the cost of the repository program then in place. Once the comparison between the revenue generated by the fee and the cost of the program has been made, the Secretary is obligated to adjust the fee to ensure the Fund accumulates only the amount necessary to ensure full

The Honorable Steven Chu

July 8, 2009

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cost recovery, and the fee charged utilities covers only that portion of the program costs attributable to disposal of used nuclear fuel from commercial reactors.

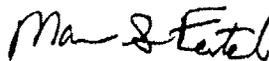
Until recently, the cost of the program reviewed for fee adequacy included the cost of constructing and operating the Yucca Mountain geologic repository. With the passage of the Omnibus Appropriations Act earlier this year, however, funding for Yucca Mountain repository program activities was essentially eliminated, with the exception of that directed to NRC licensing proceedings. More recently, DOE's fiscal 2010 budget request for the Office of Civilian Radioactive Waste Management was submitted to Congress explicitly to implement the Administration's decision to terminate the Yucca Mountain program while developing disposal alternatives.

Although the Department has ceased all of the Yucca Mountain repository program activities except NRC licensing, DOE continues to collect NWF fees at the one mill per kilowatt-hour rate last evaluated in the *Fiscal Year 2007 Civilian Radioactive Waste Management Fee Adequacy Report, July 2008 (DOE/RW-0593)*. This fee continues to be charged to consumers despite the fact that fundamental assumptions underlying that report concerning the repository program no longer apply. Thus, in the absence of the Yucca Mountain repository program, and given that the interest that the NWF accrues is more than enough money to cover the \$196.8 million provided for in fiscal 2010 budget proposal, payments into the Fund should be suspended.

In conclusion, because the assumptions previously used in the Department's fee adequacy analysis are no longer valid, the Nuclear Energy Institute, on behalf of the commercial nuclear energy industry, hereby requests that: (1) you promptly perform the annual review of the adequacy of the Nuclear Waste Fund fee to account for the present status and cost of the program; and (2) because the interest on the corpus of the NWF is more than sufficient to cover current Yucca Mountain program activities, you immediately suspend collection of payments to the NWF.

Thank you for your attention to this important matter. I would appreciate the opportunity to meet with you to discuss DOE's timely resolution of the industry's requests.

Sincerely,



Marvin S. Fertel

cc: The Honorable Dan Poneman  
The Honorable Kristina Johnson  
The Honorable Scott Blake Harris  
Mr. Rod O'Connor  
Mr. Dan Utech

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The New York Times

## Green Inc.

Energy, the Environment and the Bottom Line

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JULY 10, 2009, 8:02 AM

### Utilities Seek to Halt Nuclear Waste Fee

By MATTHEW L. WALD

The nuclear industry is contemplating something akin to a rent strike.

Since the early 1980s, utilities have been paying the Energy Department a fee of one tenth of a cent per kilowatt-hour generated in reactors, to pay for a nuclear waste repository. In exchange for the payments, the department signed contracts promising to take the wastes beginning in 1997.

That, however, has not happened, and the goal is getting further away, with the Obama administration having declared that it won't use the Yucca Mountain facility — the planned destination for the waste.

Now the power-generation industry wants to stop paying the fee — which would amount to about \$769 million for 2009. Some \$29.6 billion has already been paid though the end of last year, according to a Bloomberg report.

The law requires the energy secretary to determine every year the “adequacy” of the fee, the industry's trade group, the Nuclear Energy Institute, pointed out in a letter on Thursday.

It is now well beyond adequate, according to utilities, since the government is spending very little money on the project.

Power companies have already won court decisions that allow them to collect damages, now likely to run well over \$20 billion, from the federal government, for their extra costs — including building temporary steel-and-concrete silos, in which old fuel can be stored for decades.

(The Nuclear Regulatory Commission is also preparing to vote on a new policy for waste that would consider such storage adequate for the next few decades, and would permit new reactors to be built even without a long-term plan for waste disposal.)

The states may fall in line behind the utilities and against Washington. On Thursday, the association representing state utility regulators also sent a letter to the energy secretary, backing the utilities' request to suspend the fees.

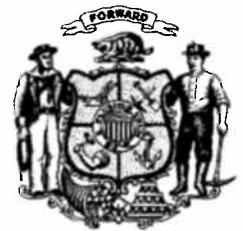
“There is no clearly defined program for disposal of spent nuclear fuel and high-level radioactive waste,” wrote Frederick Butler, the president of the National Association of Regulatory Utility Commissioners.

~~Noting that President Obama has promised a commission to explore options for the waste, the~~  
letter added, "If we are going to pause to reconsider disposal options, we feel it is also appropriate to pause the fee payments."

On Thursday, a department spokeswoman, Stephanie Mueller, said that a "blue ribbon" commission that Dr. Chu promised to create to study the waste problem would also examine how much the utilities should be paying. The commission itself has not been established yet.



# WISCONSIN STATE LEGISLATURE



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The New York Times

## Green Inc.

Energy, the Environment and the Bottom Line

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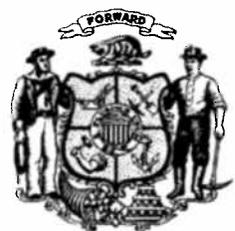
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# WISCONSIN STATE LEGISLATURE





September 15, 2009

The Honorable James Soletski  
Chair, Assembly Committee on Energy and Utilities  
Wisconsin State Capitol  
Madison, Wisconsin 53708

Dear Chairman Soletski:

I would like to provide you with some of our concerns regarding AB 309, relating to dry cask storage of spent fuel from nuclear power plants and granting rule-making authority.

The Citizens Utility Board is a member-supported, nonprofit organization that advocates for reliable and affordable utility service. CUB represents the interests of residential, farm, and small business customers of electric, natural gas, and telecommunication utilities before the Legislature, regulatory agencies, and the courts.

AB 309 would require public utilities to pay a municipality \$250,000 for each year the utility uses dry cask storage for storing nuclear waste in the municipality. The utility must also pay \$40,000 annually to the municipality for each dry cask. In addition, the utility must pay a county \$150,000 each year dry casks are located in the county.

CUB is concerned that providing payments to municipalities and counties will encourage local governments to store nuclear waste, for which there is no safe method of disposal in the U.S. or any country. Since this proposal would allow local governments to benefit financially from storing nuclear waste, local governments may be more inclined to support the use of nuclear power, which remains one of the most expensive ways to generate electricity. In addition, nuclear waste from a nuclear power reactor remains deadly radioactive for hundreds of thousands of years. We believe it would not be good policy to provide local units of government with incentives that would make them more supportive of a technology which imposes excessive costs and risks to society.

AB 309 would also impose additional fees on electricity ratepayers that receive some of their electricity from nuclear reactors, including ratepayers of We Energies, Wisconsin Power & Light, Wisconsin Public Service Corp., and Xcel Energy. Nuclear power users already pay fees

(over)

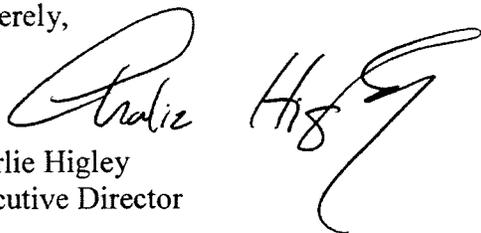
to the federal Nuclear Waste Fund for waste disposal.<sup>1</sup> Public utilities that must make the payments will include these costs in rates, or in their contracts for providing power, making electricity more expensive. Therefore, AB 309 would require ratepayers to pay additional money to cover the payments to local units of government.

President Barack Obama has said that the proposed high-level waste repository at Yucca Mountain in Nevada is no longer an option for disposing of nuclear waste. Thus, for more than half-a-century, the nuclear industry and the federal government have failed to find a solution for disposing of high level radioactive waste generated by nuclear power plants. As a result, nuclear plants in Wisconsin that continue creating nuclear waste have become disposal sites by default. However, these nuclear plants were never designed to provide long-term protection from the hazards of radioactive waste: their spent fuel pools and dry casks were not designed for long-term storage of nuclear waste. Given these risks, we believe it is unwise to create incentives to encourage local governments to host disposal sites for nuclear waste.

In summary, CUB believes that AB 309 would provide incentives for local governments to host disposal sites for nuclear waste, even though these incentives would increase electricity rates and create additional risks to the health and safety of the public.

Thank you for your consideration of these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charlie Higley', written in a cursive style.

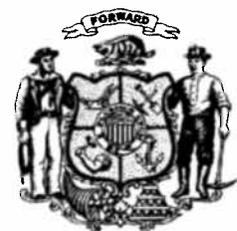
Charlie Higley  
Executive Director

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<sup>1</sup> People who use nuclear power pay 0.1 cents per kilowatt hour to the Nuclear Waste Fund. According to the Public Service Commission of Wisconsin, as of September 30, 2008, Wisconsin ratepayers have paid about \$400 million into the fund, and that amount has accumulated interest of about \$294 million, for a total of \$694 million.



WISCONSIN STATE LEGISLATURE



15 September 2009

Good afternoon -- My name is Thomas P Sheley and I live in the Town of Two Creeks Wisconsin (12211 Lakeshore Road, Two Rivers Wisconsin 54241).

In May 2008, I retired from employment after 38 years within the Operations department at the Point Beach Nuclear Plant (Reactor Operator for 6 years, Control Room Supervisor for 8 years, Shift Manager for 13 years and finally 11 years as Operations Corrective action / Operating Experience Supervisor).

I understand the hazards of fissionable material and resulting nuclear waste, in that I have been personally involved with the receiving, utilization and eventual temporary storage of fuel elements used at the Point Beach power plant.

Over the years I have followed the governments' efforts at trying to establish a permanent national repository for spent fuel in the Nevada desert along with the resistance presented by the citizens of that great state -- "Not in my backyard".

I have watched the public utility of WE Energies and now the current private owner Nextera Energy as they have fretted over the situation of the lack of a national reprocessing facility and or short / long term storage option.

Point Beach was designed to provide an energy resource for our state. That original approved US Atomic Energy Commission design included a reduction in risk to those living in the area by having the spent fuel removed and reprocessed (FYI about 96% of the material within a fuel assembly is recyclable). SO --- With that original design feature not being applied; every year an unanticipated risk potential has increased with the stockpiling of high level waste that politically "no one wants in their backyard", yet the residents of our section of the state are required to put up with.

I strongly encourage the passage of AB 309 (Dry Fuel Storage Bill) to compensate those residents that today and tomorrow are expected to have to put up with the ever increasing risk in their back yard.

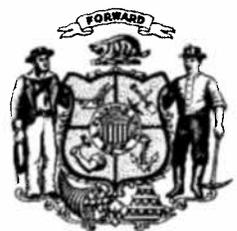
I do not consider this bill request to be a precedent setting issue in as much as the design and promises of the 1960's to the town residents and public service commission has not been fulfilled or properly amended.

Thank You

Thomas P Sheley  
920-755-2133  
[dsheley@lakefield.net](mailto:dsheley@lakefield.net)



# WISCONSIN STATE LEGISLATURE





## John Muir Chapter

Sierra Club - John Muir Chapter  
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201  
Telephone: (608) 256-0565 Fax: (608) 256-4562  
<http://wisconsin.sierraclub.org>

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### In Opposition to AB 401/SB 273 Creation of Renewable Resource Credits for Solar Light Pipes

Before the Assembly Committee on Energy and Utilities and

By Caryl Terrell, Sierra Club Legislative Committee Chair

September 15, 2009

The Sierra Club does not support Assembly Bill 401/ Senate Bill 273 which undermines the State definition of renewable energy by creating renewable resource credits (RRCs) for direct solar applications such as solar light pipe technology. The Sierra Club opposes any change to the current Renewable Portfolio Standard, RPS, that would allow efficiency and conservation to count towards our renewable energy goals. Efficiency mandates should be separate in order to create more jobs and more reductions in greenhouse gases in Wisconsin.

The Sierra Club strongly supports clean energy companies and expanding clean energy job opportunities in Wisconsin. We support innovative energy efficient lighting manufacturers such as Orion Energy Systems of Manitowoc and Rudd Lighting of Racine. Energy efficiency is the cheapest, cleanest and smartest strategy for controlling energy costs, stimulating Wisconsin jobs that cannot be out-sourced and controlling emissions of greenhouse gases.

The purpose of AB 401/SB 273 is to allow solar light pipes, such as Orion manufactures, to count as renewable energy sources and add these new items to the current Renewable Portfolio Standard, RPS, (s.196.378, Wis. Stats.).

Direct solar applications such as solar light pipe technology do not generate electricity. They are excellent efficiency and energy conservation technologies and should be supported as such. Within Chapter 196, the use of "renewable energy" and "renewable resource" must be consistent with the definitions of these words. Solar light pipe technology is not appropriately covered by the statutory definition, s. 196.378 Renewable resources. (1) DEFINITIONS. (fg) "Renewable energy" means electricity derived from a renewable resource.

Such a change will actually result in LESS investment and jobs in critical local, renewable energy sources that currently qualify under Wisconsin's RPS, like solar, wind, and biomass. There are more optimal ways to incentivize the innovative products described in AB 401 and SB 273 other than undermining Wisconsin's renewable energy standards. The State Energy Program - Recovery Act (SEP-ARRA) - Clean Energy Business Loan Program, promoted by the Wisconsin Office of Energy Independence and administered by the Department of Commerce, incentivizes advanced energy efficient lighting products (<http://commerce.wi.gov/BD/BD-SEP-ARRA.html>).

This issue was discussed by the Governor's Global Warming Task Force. Their recommendation reads:  
"Enhanced Renewable Portfolio Standard (RPS)

The definitions of renewable energy and renewable resources in the existing RPS law would be expanded to include the thermal portion of Wisconsin co-generation projects fired with biomass, as well

as biogas produced in Wisconsin that is put in the natural gas pipeline system, solar water heating and other verifiable renewable applications that displace fossil fuel use."

Page 25 second paragraph under Enhanced RPS, Wisconsin's Strategy for Reducing Global Warming, Final report of the Governor's Global Warming Task Force, July 2008

[http://dnr.wi.gov/environmentprotect/gtfgw/documents/Final\\_Report.pdf](http://dnr.wi.gov/environmentprotect/gtfgw/documents/Final_Report.pdf)

The Task Force also recommended that

"there should be no limit on these of renewable resource credits to meet the revised standards in this Proposal, so long as the underlying resource for the RRC qualifies as a "renewable resource" under Wisconsin law." Page 112, [http://dnr.wi.gov/environmentprotect/gtfgw/documents/Final\\_Report.pdf](http://dnr.wi.gov/environmentprotect/gtfgw/documents/Final_Report.pdf)

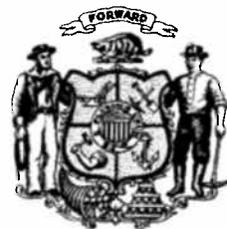
These bills allow use of RECs derived from light pipe technology for up to four years. Thus these bills will actually result in LESS investment and jobs in Wisconsin.

We look forward to seeing a more comprehensive bill that will implement all of the Governor's Global Warming Task Force's recommendations soon. We urge you not to support AB 401/SB 273.

Thank you for this opportunity to state the Sierra Club's position.



# WISCONSIN STATE LEGISLATURE





**Written Testimony of Representative Garey Bies  
Assembly Committee on Energy and Utilities  
Assembly Bill 309 – Storage of Spent Nuclear Fuel**

Good afternoon Chairperson Soletski and committee members, I appreciate the opportunity to submit my testimony in support of Assembly Bill 309, relating to the storage of spent nuclear fuel.

I have introduced this legislation on behalf of the Town of Carlton. The Town of Carlton first came to me when they learned that it was the intent of Dominion, the company that operates the Kewaunee nuclear power station, to store spent nuclear fuel onsite utilizing a dry storage system. The Town requested that I draft legislation that would require compensation be provided to a municipality that has a nuclear utility within its boundaries that stores spent nuclear fuel onsite using a dry cask storage system.

It should be noted that the Town's intent is to not have spent nuclear fuel stored within the boundaries of their municipality.

Assembly Bill 309 is very straight forward bill. The bill requires a public utility to pay a municipality \$250,000 a year and a county \$150,000 a year if it uses dry cask storage to store spent nuclear fuel. The utility must also pay the municipality \$40,000 per dry cask used to store spent nuclear fuel.

Granted, these dollar amounts are high, but the town believes it is just compensation for the storage of nuclear fuel within their municipality. It also should be noted that any and all payments to the municipality stop when the nuclear fuel is removed from the town.

I would also like to point out that the long term storage of spent nuclear fuel was to occur at the national repository known as Yucca Mountain. Billions of dollars have been spent on the construction of the Yucca Mountain repository and yet it remains unclear when, if ever, the repository will begin to receive the spent fuel. Companies have been paying into the Nuclear Waste Fund to pay for Yucca Mountain and seeing as how the Town of Carlton will now serve as Yucca Mountain for Dominion, it seems fitting that compensation be made.

In attendance today are many from communities that have a nuclear power plant within their boundaries. I hope you will listen to their testimony for more on how these nuclear power plants and the long-term storage of spent nuclear fuel will affect them.

Thank you for the opportunity to testify before you today and I respectfully request your support of SB 38 in committee.

*First for Wisconsin!*

**Capitol:** P.O. 8952, Madison, WI 53708-8952 • (608) 266-5350 • Fax: (608) 282-3601  
Toll-Free: (888) 482-0001 • Rep.Bies@legis.wi.gov  
[www.legis.state.wi.us/assembly/asm01/news/](http://www.legis.state.wi.us/assembly/asm01/news/)

**Home:** 2520 Settlement Road, Sister Bay, WI 54234 • (920) 854-2811