

**Richard B. Stewart**

**Outline of Presentation to Blue Ribbon Commission November 15, 2010**

The history of nuclear waste law and policy provides important lessons that should inform the Commission's inquiry and its recommendations. In conjunction with our work with CRESA, my wife Jane Stewart and I recently completed a book, *Fuel Cycle to Nowhere, Failure and Success in U.S. Nuclear Waste Law and Policy*, which provides the first comprehensive account of the subject. The key lessons from our study, summarized in an article that I have submitted to the Commission, include the following:

1. Given the continuing uncertainties regarding Yucca Mountain or potential expansion of WIPP's mission, the federal government should move forward expeditiously to site an additional HLW/SNF repository and proceed to develop it if these alternatives are not available.
2. The government should also site and construct at least one consolidated interim storage facility for SNF from decommissioned nuclear reactors and also potentially for SNF from operating reactors. This step should be taken regardless of any decision on reprocessing. Such a facility could be located at an existing DOE site. The government should also support rather than oppose development of private consolidated storage facilities, if appropriately sited and regulated.
3. Future siting efforts need to learn from the success of WIPP and the failure of Yucca. Forcing a site on a state doesn't work; a collaboration that gives states and local communities a real say can work. Our book details some of the key requirements to make collaboration work.
4. SNF stored at reactors should be moved into dry casks as promptly as feasible.
5. The government and Congress should work together to resolve the government's NWPA liabilities for SNF and establish a sound system for secure future financing of SNF storage and disposal, including financing for steps 1, 2, 4, and 8.. The arrangements should make the government and the nuclear power industry partners in SNF management and disposition rather than adversaries.
6. The existing federal scheme for low level waste disposal regulation has failed. Reform --either wholesale or incremental --is needed, especially to deal with the Class B and C disposal capacity problem. GTCC classification and disposal also needs to be addressed
7. Our existing system of waste classification and regulation is patchwork and often dysfunctional, resulting in unwarranted regulatory burdens in some cases and inadequate protection in others. We need to transition to a system that is risk-informed and performance based. To implement this goal, the existing legal and regulatory distinctions between civilian and defense wastes should be reexamined
8. New institutional forms should adopted to address waste issues, one to site disposal and storage facilities and another to manage SNF. The latter could well take a hybrid public-private form.
9. Amendments to the NWPA and other existing legislation to accomplish the steps listed above should be developed and recommended.