



The Honorable Dr. Kathryn Huff
Senior Advisor, Office of the Secretary
U.S. Department of Energy (DOE)

701 East 22nd Street
Suite 110
Lombard, Illinois 60148
Tel: 630.925.1922
Fax: 630.925.1930
E-mail: csgm@csg.org
www.csgmidwest.org

Dear Dr. Huff:

This response to the “Request for Information (RFI) on Using a Consent-Based Siting Process to Identify Federal Interim Storage Facilities” is written on behalf of the members of the [Midwestern Radioactive Materials Transportation Committee \(MRMTC\)](#). Inquiries about this response should be directed to Mitch Arvidson.

Michael H. McCabe
Regional Director

Mitch Arvidson
701 East 22nd Street, Suite 110
Lombard, IL 60148
(630) 925-1922
marvidson@csg.org

Lexington
1776 Avenue of the States
Lexington, Kentucky 40511
Tel: 859.244.8000

Atlanta
P.O. Box 98129
Atlanta, Georgia 30359
Tel: 404.633.1866

New York
22 Cortlandt Street
22nd Floor
New York, New York
10007
Tel: 212.482.2320

Sacramento
1107 9th Street
Suite 730
Sacramento, California 95814
Tel: 916.553.4423

Washington
444 North Capitol Street, NW
Suite 401
Washington, DC 20001
Tel: 202.624.5460

The MRMTC was organized in 1989 and brings the Midwestern states together to identify, prioritize, and work with DOE to resolve regional issues related to the department’s transport of radioactive waste and materials, including spent nuclear fuel (SNF). The committee originally focused on the future shipments planned by the DOE Office of Civilian Radioactive Waste Management (OCRWM). Since 1998, however, the committee has also worked with the DOE Office of Environmental Management (EM) to address shipments of waste resulting from the cleanup of former defense plants. The committee also continues to work closely with the DOE Office of Nuclear Energy (NE) on issues of SNF shipments to one or more interim storage facilities and/or a final repository. Committee members from states on the shipping routes have worked with the DOE to plan several shipping campaigns involving transuranic (TRU) waste and SNF traveling through the Midwest. The committee comprises of representatives from the executive and legislative branches of government in 12 Midwestern states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. The committee is the primary forum through which the Midwestern states have been, and will continue to be, involved in planning and preparing for DOE’s shipments.

The MRMTC is responding to this RFI in order to capture the thoughts, ideas, and suggestions of state government officials who will be responsible for protecting the health and safety of constituents during shipments of SNF that would result from the eventual siting of one or more federal interim storage facilities. Additionally, states have their own regulations and are co-regulators of radioactive materials transportation. Furthermore, state governments are important stakeholders who must be deeply involved in a consent-based siting process.

Since the MRMTC's scope is mostly focused on the transportation of radioactive materials, including SNF, this document will not answer some of the RFI's questions that the committee believes cannot be related to transportation.

Area 1: Consent-Based Siting Process

2. What role should Tribal, State, and local governments and officials play in determining consent for a community to host a federal interim storage facility?

Although the roles of tribal, state, and local government and officials will likely be extensive in determining consent for a community to host one or more federal interim storage facilities, the MRMTC's focus is on the transportation concerns surrounding the consent-based siting process. Within this limited scope, the primary role of these governmental organizations or officials is the protection of the health and safety of their constituents and environment during transportation of SNF to an interim storage facility, and subsequently to a permanent disposal facility at some point in the future. These governmental organizations or officials are also co-regulators of radioactive materials shipments with the federal government. Without reasonable assurance that the health and safety of the community is being made a priority, consent is unlikely at best.

Regional and tribal transportation groups like the MRMTC and the [Tribal Radioactive Materials Transportation Committee \(TRMTC\)](#), along with federal organizations like the [National Transportation Stakeholders Forum \(NTSF\)](#) have been assembled to identify and help resolve issues relating to the transportation of radioactive materials, including SNF, through their jurisdictions. These groups provide a valuable resource for tribal, state, and local governments and officials to take advantage of when assessing the health and safety concerns of their constituents brought about by the transportation of SNF to one or more potential interim storage facilities.

3. What benefits or opportunities could encourage local, State, and Tribal governments to consider engaging with the Department as it works to identify federal interim storage sites?

The Department's continued and enhanced participation with state regional groups (SRG) like the MRMTC, tribal organizations like TRMTC, and national organizations like the NTSF could encourage local, state, and tribal governments to consider engaging with the Department as it works to identify federal interim storage sites. These organizations host meetings regularly that provide a great forum for information sharing and open communication. Through consistent participation in these forums, the Department can develop goodwill and strong professional relationships with important local, state, and tribal government officials who could then be more willing to engage on consent-based siting initiatives.

Furthermore, the Department's funding of organizations like the MRMTC allows for continued state-level collaboration with the Department. Funding also allows for state government stakeholders to attend meetings, exercises, trainings, and conferences they would not otherwise be able to attend. This deepens the knowledge and understanding of radioactive materials and their transportation throughout the nation and could allow for more fact-based, informed engagement on consent-based siting initiatives.

4. What are barriers or impediments to successful siting of federal interim storage facilities using a consent-based process and how could they be addressed?

The National Academy of Sciences' (NAS) 2006 report [*Going the Distance? The Safe Transport of Spent Nuclear Fuel and High-Level Radioactive Waste in the United States*](#) concluded that there are “no fundamental technical barriers to the safe transport of spent nuclear fuel and high-level radioactive waste in the United States.” However, the report did recognize that “social and institutional challenges” for a large-scale SNF transportation campaign will need to be addressed prior to the campaign’s genesis. The MRMTC believes that the consent-based siting process will, without question, be closely tied to the transportation of SNF and a subset of stakeholders will attempt to envelope their perceived risk(s) of SNF transportation into the consent-based process, which could prove as a siting impediment.

Although it is understandable and expected for stakeholders to have concerns about SNF transportation, this should not be coupled with consent-based siting as it may lead to the misconception that transportation is consent-based. Federal laws and regulations governing transportation of hazardous materials, including SNF, unequivocally identifies the authority provided to local and state entities for regulating hazardous materials transportation. As such, the DOE should strive to clearly delineate and demarcate the boundaries of the consent-based siting process to ensure that transportation, though an important part of the waste management system, is outside of a consent-based process.

The [*Blue Ribbon Commission on America’s Nuclear Future Report to the Secretary of Energy*](#) stated, “Collaboration through the SRGs has proved important, not only because states have primary responsibility for protecting the health and safety of their citizens, but because they share (and sometimes disagree about) common concerns. Bringing corridor jurisdictions together under the auspices of these groups allows issues to be identified and resolved by all parties.” Further, the NAS’ report recommended that “DOE should continue to ensure systematic involvement of states and tribal governments in decisions about routing and scheduling for current spent fuel shipments.” The MRMTC agrees that SNF transportation has been, and will continue to be, conducted safely and securely and that states, as co-regulators of radioactive materials transportation, play an important role in the process. The MRMTC believes DOE’s continued support and engagement with the SRGs will continue to provide a conduit to stakeholders at the state and local levels in order to adjudicate, to the extent practical, social and institutional challenges for the transportation of SNF within their jurisdictions.

6. What organizations or communities should the Department consider partnering with to develop a consent-based approach to siting?

The Department should consider continuing and deepening its partnership with SRGs like the MRMTC, tribal organizations like TRMTC, and national organizations like the NTSF to develop a consent-based approach to siting.

Furthermore, the Department should consider partnering with some of the parent organizations to these groups. For example, the MRMTC is staffed by the Council of State Governments (CSG) Midwest, which also staffs the [*Midwestern Legislative Conference \(MLC\)*](#). The MLC is a nonpartisan association of all legislators representing 11 states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska,

North Dakota, Ohio, South Dakota, and Wisconsin. The purpose of the MLC is to foster cooperation among the region's policymakers through the consideration of common problems, the exchange of information and ideas, the sharing of knowledge, and the pursuit of collaborative efforts to improve state government. Few, if any, other venues provide as great of an opportunity to communicate with state policymakers as the MLC does.

7. What other issues, including those raised in the Draft Consent-Based Siting Process, should the Department consider in implementing a consent-based siting process?

The initial public engagement phase of the Department's consent-based siting initiative included "Continuing interactions with the National Transportation Stakeholders Forum (NTSF) and several ad hoc working groups associated with NTSF, the Transportation Core Group, state and regional groups, and the Tribal Caucus." The MRMTC believes that these interactions should continue, and we stand ready to lend our support as the siting process continues.

Area 2: Removing Barriers to Meaningful Participation

2. What resources might be needed to ensure potentially interested communities have adequate opportunities for information sharing, expert assistance, and meaningful participation in the consent-based siting process?

SRGs like the MRMTC, tribal organizations like TRMTC, and national organizations like the NTSF consist of state, tribal, and federal representatives with expertise in the transportation of radioactive materials. They should be considered a primary resource for not only interested communities, but for communities potentially impacted by the transport of SNF, to address consent-based siting transportation questions and concerns. Through organizational websites, publicly accessible documents, and regular meetings, these groups provide a wealth of information and expert assistance to communities that should allow for more meaningful participation in the consent-based siting process.

3. How could the Department maximize opportunities for mutual learning and collaboration with potentially interested communities?

In 1989, the DOE established a cooperative agreement with the four SRGs for the purpose of working with the states on planning for shipments of SNF to Yucca Mountain. Since that time, the states and DOE have continued to work collaboratively on multiple DOE transportation programs including, but not limited to, Yucca Mountain, the Foreign Research Reactor Spent Nuclear Fuel Acceptance Program, and the Waste Isolation Pilot Plant (WIPP).

In 2010, the DOE created the NTSF. As stated in its Charter, the NTSF "is the mechanism through which DOE engages at a national level with states, Tribes, federal agencies and other interested stakeholders about the Department's shipments of radioactive waste and materials, as well as occasional high-visibility shipments that are nonradioactive. The purpose of the NTSF is to bring transparency, openness, and accountability to DOE's offsite transportation activities through collaboration with state and tribal governments. DOE will work through existing agreements and networks to ensure federal, state, and tribal government participation." As a result of DOE's active engagement with states and Tribes,

stakeholders have been able to work directly with the DOE and other federal agencies to address concerns, provide programmatic and regulatory input, and help identify emergent issues.

Another important program that continues to help local stakeholders to learn and prepare for DOE radioactive material shipments is DOE's Transportation Emergency Preparedness Program (TEPP). The TEPP provides technical assistance to state and tribal governments in obtaining a greater understanding of radiological risks, identifying planning deficiencies, updating plans, training first responders, and simulating and testing the system for strengths and needed improvements. TEPP was developed through the collaborative work of DOE and the Transportation Working Group, a predecessor to the NTSF.

Again, the MRMTC agrees that SNF transportation has been, and will continue to be, conducted safely and securely and that states, as co-regulators of transportation, play an important role in the process. The MRMTC believes DOE's continued support and engagement with the SRGs will continue to provide a conduit to stakeholders at the state and local levels in order to adjudicate, to the extent practical, the social and institutional challenges for the transportation of SNF within their jurisdictions.

4. How might the Department more effectively engage with local, State, and Tribal governments on consent-based siting of federal interim storage facilities?

See answer to Area 1's third question.

5. What information do communities, governments, or other stakeholders need to engage with the Department on consent-based siting of federal interim storage facilities?

The transportation of SNF will impact many communities through which the SNF must pass to reach the federal interim storage facilities. Advanced communication to affected communities along with educational material on radiation and the safe history of transporting radioactive material will be critical. Training opportunities for local first responders will help alleviate concerns.

Area 3: Interim Storage as Part of a Waste Management System

4. What other issues should the Department consider in developing a waste management system?

With interim storage being just one piece of the overall integrated waste management system, the Department will obviously need to consider all aspects of the management system. The component of an overall waste management system that will impact the largest number of individuals and communities is the transportation piece. Movement of these materials to and, eventually, from an interim storage facility to a permanent disposal site will likely be a high profile and contentious undertaking.

While consent may be given by a host community for the placement of an interim storage facility, buy-in from non-host communities potentially impacted by the transportation of these materials may prove to be difficult. Particularly, if there is not an obvious economic benefit to the impacted communities. As stated earlier, the MRMTC believes that SNF transportation does not need to receive consent from



every community along the transportation route. However, the Department should strive to inform and communicate with these communities ahead of shipments.

Transportation planning discussions should occur early on in the consent-based siting process to identify potential issues and to help avoid costly delays later due to unforeseen tribal, state, or local community concerns. SRGs and tribal organizations like the MRMTC and TRMTC have pre-established connections with the state, tribal, and local communities, as well as knowledge of the relevant regulations, established routes, transportation infrastructure, inspection and escort requirements, and emergency response capabilities that should be utilized by the Department to help facilitate these transportation related discussions.

In summary, the MRMTC believes that the best way for the DOE to address the transportation aspects of a consent-based siting process to identify federal interim storage facilities is to participate in, and fund, SRGs like the MRMTC, tribal groups like TRMTC, and national organizations like the NTSF. Additionally, the MRMTC stresses the importance of consultation and communication with state governments about radioactive materials shipments, including SNF. State governments are co-regulators of these shipments, and they are responsible for the health and safety of their constituents. While consultation and communication are important and recommended, the MRMTC believes that consent from all communities along shipping routes is neither required, nor should be sought, for radioactive materials shipping campaigns.

Sincerely,

Michael Snee

Michael Snee, Co-Chair

CSG Midwestern Radioactive Materials

Transportation Committee

Rodney Pitchford

Rodney Pitchford, Co-Chair

CSG Midwestern Radioactive Materials

Transportation Committee