

March 22, 2000

NUCLEAR WASTE POLICY AMENDMENTS ACT OF 2000

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Statement of HON. RON PAUL OF TEXAS

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- Mr. Speaker, while nuclear power has conferred a considerable benefit upon power users in this country, today, we confront the symptoms of a federal government run Constitutionally amok which requires our serious attention. As a Congress, we are faced with the decision of whether to further ignore the federal government's constitutional limits and ultimately confront additional future symptoms of such action or acknowledge the necessary consequences of such an extra-Constitutional activity and act to correct the initial "enumerated powers doctrine" transgression.

- In 1982, the federal government entered into an agreement with nuclear power industry to take possession of their nuclear waste and properly dispose of it in 1998. It should be noted that it is now March 2000 and the federal government has quite simply breached its contract. More importantly, it should be noted that the federal government had no authority to enter such an agreement in the first place. These facts, of course, did nothing to prevent the federal government from collecting from utility companies and their customers tax revenues for placement in a trust fund to accomplish their illegitimate and unfulfilled promise. Lack of constitutional authority also did nothing to stop the federal government from squandering more than \$6 billion of that trust fund without having collected one gram of nuclear waste.

- Today we are faced with yet another bill which provides mandates for which neither constitutional authority exists nor for which there is any reason to believe that such mandates will be observed by the Department of Energy any more than the previously legislated mandates have been observed. Additionally, this bill further expands the authority of the constitutionally- illegitimate Environmental Protection Agency (EPA) and further involves the EPA in the process which could only exponentially increase the difficulty and time required to actually accomplish the legislation's stated purpose.

- These facts stated, we nevertheless remain faced with the current status quo requiring a solution. The initial question which must necessarily be asked and answered is "whether one constitutionally illegitimate action by the federal government may ever be used to justify the second?" The answer to this question must always be answered in the negative. This does not mean, however, that those whose taxes have been illegitimately taken should receive nothing in return -- quite the contrary. Numerous breach of contract lawsuits have been filed against the federal government for which a quick remedies must be effectuated. Not only must the ill-taken revenues be returned to the non-breaching parties but attorneys fees and damages imposed upon the non-breaching parties should be awarded them as well. Perhaps, even more should be done, however, as this "contract" can, in many ways, be likened to the car thief who knowingly sells a stolen car to an unsuspecting customer inasmuch as the federal government promised to deliver something for which they themselves have usurped (stolen) from the state authorities and, hence, have no legitimate right to offer.

- Of course, returning the trust fund money including interest and damages to ratepayers and utilities companies quite obviously does not dispose of the hazardous waste. Waste disposal and public safety, though, remains a power of the state governments under the tenth amendment to the U.S. Constitution which specifies that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people. The public safety and police power have long been held to be state law matters and most appropriately so.

- While citizens of those forty-nine states exclusive of Nevada may believe that Nevada is a fine place to dispose of one's waste, one must never concede the principle of states right guaranteed by the Constitution nor forget that, in so doing, the next choice of the federal government may be to deposit equally dangerous or harmful materials in the rangeland of Texas. Enlisting the aid of the federal government to impose one's waste on citizens of another state while efficacious for the dumper is thus neither prudent, Constitutional, nor particularly pleasant for the dumpee.

- It should not be lost on those interested in this issue that the federal government actually encouraged development of this industry to a degree the market would have never "contemplated" by artificially and, again, illegitimately, imposing a federal cap on damages in liability suits. In order to fully weigh the benefits and costs of nuclear power, external costs must be internalized rather than ignored.