

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

09-892-HLW-CAB04
Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell

In the Matter of)	February 4, 2010
)	
U.S. DEPARTMENT OF ENERGY)	Docket No. 63-001-HLW
)	
(High Level Waste Repository)	
Construction Authorization Application))	

**THE DEPARTMENT OF ENERGY'S ANSWERS TO THE BOARD'S QUESTIONS
AT THE JANUARY 27, 2010 CASE MANAGEMENT CONFERENCE**

The U.S. Department of Energy (DOE) provides the following information in response to the Board's questions at the January 27, 2010 Case Management Conference. The recitation of the questions reflects DOE's understanding of what the Board requested.

1. Provide the content of the President's Fiscal Year 2011 budget as it relates to the Yucca Mountain licensing proceeding and the planning assumptions regarding the operation of DOE's LSN collection for the remainder of Fiscal Year 2010 and Fiscal Year 2011.

The Administration's budget request, released February 1, 2010, states that DOE "will discontinue its application to the U.S. Nuclear Regulatory Commission for a license to construct a high-level waste geologic repository at Yucca Mountain" in 2010 and that "[a]ll funding for development of the Yucca Mountain facility and the Office of Civilian Radioactive Waste Management will be eliminated by the end of FY 2010." DOE Fiscal Year 2011 Congressional Budget Request, Volume 7 (February 2010) [Budget Request] at 176 (attached hereto). The

budget request does not specifically mention the operation of DOE's LSN collection. However, it states that DOE will conduct "preservation and archiving of project records" *Id.* at 185. It also states that DOE "is committed to preserving core scientific knowledge and expertise resident in government and national laboratory personnel" *Id.* at 177. In keeping with the budget request, DOE will continue to comply with LSN requirements during the remainder of the licensing proceeding and will preserve and archive its project records thereafter in compliance with federal requirements and consistent with DOE's objective of preserving the core scientific knowledge from the Yucca Mountain project.

2. Does DOE have any plans to request OMB to reprogram Fiscal Year 2010 funds away from any activity needed to support licensing?

As stated in the Administration's Fiscal Year 2011 President's Budget, DOE intends to discontinue its Yucca Mountain license application in Fiscal Year 2010. DOE will use remaining funding in FY 2010 to bring the Yucca Mountain Project and the Office of Civilian Radioactive Waste Management to an orderly close. DOE will take the budgetary steps necessary to effectuate those directions.

3. Does DOE have any plans to alter the organizational structure for OCRWM insofar as it concerns responsibilities for DOE's LSN collection?

DOE will merge into the Office of Nuclear Energy the "core functions and staff [of the Office of Civilian Radioactive Waste Management (OCRWM)] to support efforts under the Nuclear Waste Policy Act to meet the obligations of the Government" Budget Request at 194. The budget request does not specifically address responsibilities for DOE's LSN collection, but any such responsibilities would continue under the Office of Nuclear Energy.

4. For each of the four components of DOE's LSN collection (Record Information System/Records Processing Center, E-mail, E-File, and Paper), answer the following questions.

- a. Number of documents and pages in DOE's LSN collection.**
- b. Percentage of DOE's LSN collection.**
- c. Format in DOE's LSN Collection.**
- d. Native format.**
- e. Percentage of native format that is in PDF.**
- f. Retention schedule of native format.**
- g. Whether the native format is suitable for Federal Record Material.**

The answers to these questions for each of the four components of DOE's LSN collection are in the chart provided as Attachment A. Altogether, DOE's LSN collection currently contains approximately 3.65 million documents. Those documents comprise approximately 34 million electronic image files (one page per file). Most of the images (87.4%) are in black & white and are TIFF files. The balance (12.6%) are in color or grey scale and are JPEG files. In addition to the image files, the text of each document is represented by an HTML file, and for all documents, associated meta-data (i.e., title, authors, etc.) are represented by an XML file. There is one HTML and one XML file for each document.

5. Is the RIS collection in any way linked to the LSN accession number?

There is not an electronic link between the RIS and DOE's LSN collection. However, the header information for a document in the RIS identifies its LSN accession number if a copy of that document is part of DOE's LSN collection.

6. Does DOE currently have any plans to archive its LSN document collection?

DOE will archive its LSN collection in a manner that complies with the Federal Records Act and with National Archives and Records Administration (NARA) guidance, and that is consistent with budget authorization. DOE has assembled a team of DOE personnel to develop

expeditiously a plan to archive its LSN collection. DOE will keep the Board timely and fully apprised of its plans. DOE will provide the Board a status report on its archiving plan by no later than February 19, 2010.

a. Does DOE intend to archive its LSN collection in a readily retrievable format?

DOE will work with NARA to ensure that the format of its archived LSN records comply with retrievability requirements of the Federal Records Act and NARA regulations.

b. What are the principal components or features of that archiving plan?

DOE has not yet decided on the specific components or features of its archiving plan but is working expeditiously to do so and, as noted above, will provide a status report by February 19, 2010. DOE also will provide the Board with a copy of the plan promptly upon its completion.

c. What format will DOE use to archive documents in its LSN collection that are not currently in PDF format?

DOE understands, based on its reading of NARA guidance, that the file format of its current LSN collection would be acceptable to NARA. DOE further understands that NARA would not require the conversion of those files to PDF and that the files would remain accessible in their current format. DOE, however, is conferring with NARA and will address this further in its next report.

In addition, DOE understands that NARA would permit archiving of DOE's LSN collection in essentially its present structure. Regardless, DOE is investigating the feasibility of restructuring the directory structure of its LSN collection to allow each document in that collection to be archived as single file, rather than being stored page by

page in separate files and being assembled “on the fly,” as the LSN currently operates, or in PDF format. This too is the subject of DOE’s consultation with NARA.

d. Will DOE share its archiving plan with the LSNA and the Licensing Support Network Advisory Review Committee?

DOE will consult with the LSNA regarding its plan for archiving its LSN collection and will share its plan with the LSNA as well. DOE is not certain that consultation with the LSN Advisory Review Committee would be effective. The LSN Advisory Review Committee was constituted to provide advice on the functioning of the LSN in the context of the licensing proceeding. *See* 10 CFR 2.1011(e). The archiving of DOE’s LSN collection following termination of the licensing proceeding would seem to be outside the Committee’s scope of responsibility and expertise. Also, the Committee has not met for some years, and it may not be in a position to provide advice as expeditiously as DOE would like for the development of its archiving plan.

e. What are the “when”, “how”, “where” and cost of DOE’s archiving plan?

DOE will provide these specifics when it reports to the Board on its archiving plan.

f. How long it would take to complete.

The time needed to archive DOE’s LSN collection depends on the specifics of its archiving plan. When DOE has finalized those plans, it will provide the Board with a time estimate.

Respectfully submitted,

U.S. DEPARTMENT OF ENERGY

By Original Signed by Michael R. Shebelskie

Donald P. Irwin
Michael R. Shebelskie
HUNTON & WILLIAMS LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Scott Blake Harris
Sean A. Lev
James Bennett McRae
U.S. DEPARTMENT OF ENERGY
Office of General Counsel
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Counsel for the U.S. Department of Energy

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell

_____)	
In the Matter of)	Docket No. 63-001
U.S. DEPARTMENT OF ENERGY)	ASLBP No. 09-892-HLW-CAB04
(High-Level Waste Repository))	February 4, 2010
_____)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the **THE DEPARTMENT OF ENERGY'S ANSWER TO BOARD QUESTIONS AT THE JANUARY 27, 2010 CASE MANAGEMENT CONFERENCE** have been served on the following persons on this 4th day of February 2010 through the Nuclear Regulatory Commission's Electronic Information Exchange.

CAB 04

Atomic Safety and Licensing Board Panel

Thomas S. Moore, Chair

E-mail: tsm2@nrc.gov

Paul S. Ryerson

E-mail: psr1@nrc.gov

Richard E. Wardwell

E-mail: rew@nrc.gov

Parties Served

Adams, Marta
Andersen, Robert M.
Bailey, Annie
Barlow, Gregory
Baughman, Mike
Bauser, Michael A.
Belete, Elene
Bell, Kevin W.
Berkey, Curtis
Beutel, Theodore
Bollwerk III, G. Paul

E-mail Addresses

madams@ag.nv.gov
robert.andersen@akerman.com
baileys@lcturbonet.com
lcda@lcturbonet.com
bigboff@aol.com
mab@nei.org
ebelete@jsslw.com
kwbell@energy.state.ca.us
curtis.berkey@abwwlaw.com
tbeutel@eurekanv.org
gpb@nrc.gov

Borski, Laurie	lborski@nuclearlawyer.com
Brooks, Felicia M.	fbrooks@ndnlaw.com
Bupp, Margaret	mjb5@nrc.gov
Carter, Lorraine	lcarter@captionreporters.com
Cereghino, Stephen	stephen_cereghino@ymp.gov
Choate, Zoie	zchoate@co.nye.nv.us
Colburn, Ross	rcolburn@ndnlaw.com
Cottingham, Anne	awc@nei.org
Crosland, Martha S.	Martha.Crosland@hq.doe.gov
Curran, Diane	dcurran@harmoncurran.com
Damele, Ronald	rdamele@eurekanv.org
Dinunzio, Nicholas	Nicholas.Dinunzio@hq.doe.gov
Dobie, Julie	jdobie@gklaw.com
Dreher, Michael	michael.dreher@nrc.gov
Dudley, Sherry	sdudley@co.nye.nv.us
Durbin, Susan	susan.durbin@doj.ca.gov
Elk, Shane	sthinelk@ndnlaw.com
Eredia, Sally	seredia@ndnlaw.com
Fitzpatrick, Charles J.	cfitzpatrick@nuclearlawyer.com
Francis, Karin	kxf4@nrc.gov
Fraser, Matthew	mfraser@harmoncurran.com
Frishman, Steve	steve.frishman@gmail.com
Giitter, Rebecca	rll@nrc.gov
Gilman, Joseph	jsg1@nrc.gov
Ginsberg, Ellen C.	ecg@nei.org
Golshan, K. G.	kg.golshan@nrc.gov
Gores, Jennifer A.	jgores@armstrongteasdale.com
Graser, Daniel J.	djg2@nrc.gov
Gutierrez, Jocelyn	Jocelyn.Gutierrez@ymp.gov
Hanna, Robert S.	rshanna@bsglaw.net
Harrington, Arthur J.	aharring@gklaw.com
Harris, Scott Blake	Scott.Harris@hq.doe.gov
Hawkins, E. Roy	erh@nrc.gov
Hearing Docket	hearingdocket@nrc.gov
Heinzen, Steven A.	sheinzen@gklaw.com
Hembacher, Brian	brian.hembacher@doj.ca.gov
Horin, William	whorin@winston.com
Houck, Darcie L.	dhouck@ndnlaw.com
James, Gregory L. Esq.	gjames@earthlink.net
Johnson, Abigail	eurekanrc@gmail.com
Kahn, Zachary	zxk1@nrc.gov
Klevatorick, Phil	klevatorick@co.clark.nv.us
Larimore, Patricia	plarimore@talisman-intl.com
Lawrence, John W.	jlawrence@nuclearlawyer.com
Leigh, Rovianna	rleigh@abbwlaw.com
Lembke, Alisa	alembke@inyocounty.us

Lenehan, Daniel	<u>daniel.lenehan@nrc.gov</u>
Lev, Sean	<u>sean.lev@hq.doe.gov</u>
Lewis, Linda	<u>linda.lewis@nrc.gov</u>
List, Robert F.	<u>rlist@armstrongteasdale.com</u>
Loveland, Bryce	<u>bloveland@jsslaw.com</u>
Lynch, Susan	<u>slynch1761@gmail.com</u>
Maerten, Daniel	<u>Daniel.Maerten@caci.com</u>
Malsch, Martin G.	<u>mmalsch@nuclearlawyer.com</u>
Martin, Circe	<u>ogcmailcenter@nrc.gov</u>
Martinez, Melanie	<u>wpnucwst2@mwpower.net</u>
Mathias, Linda	<u>yuccainfo@mineralcountynv.org</u>
McRae, Ben	<u>Ben.McRae@hq.doe.gov</u>
Mercado, Michele	<u>michele.mercado@doj.ca.gov</u>
Miras-Wilson, Rachel	<u>rwilson@winston.com</u>
Montesi, Susan	<u>smontesi@nuclearlawyer.com</u>
Moore, Thomas S.	<u>tsm2@nrc.gov</u>
Mueller, Edwin	<u>muellered@msn.com</u>
Murphy, Malachy	<u>mrmurphy@chamberscable.com</u>
Nezhad, Cyrus	<u>Cyrus.Nezhad@hq.doe.gov</u>
Niegemann, Brian	<u>bniegemann@ndnlaw.com</u>
OCAA Mail Center	<u>OCAAMAIL@nrc.gov</u>
Pak, Christina	<u>Christina.Pak@hq.doe.gov</u>
Peebles, John M.	<u>jpeebles@ndnlaw.com</u>
Peterson, William	<u>paengineer@juno.com</u>
Pitchford, Loreen, LSN Coordinator	<u>lpitchford@comcast.net</u>
Pitts, Jason	<u>jayson@idtservices.com</u>
Poland, Douglas M.	<u>dpoland@gklaw.com</u>
Putzu, Frank	<u>frank.putzu@navy.mil</u>
Renfro, Hanna	<u>hrenfro@gklaw.com</u>
Repka, David A.	<u>drepka@winston.com</u>
Rhoan, Robert	<u>rrhoan@ndnlaw.com</u>
Robbins, Alan	<u>arobbins@jsslaw.com</u>
Roby, Debra	<u>droby@jsslaw.com</u>
Rosenthal, Alan S.	<u>rsnthl@nrc.gov</u> ; <u>axr@nrc.gov</u>
Rotman, Matthew	<u>matthew.rotman@nrc.gov</u>
Ryan, Tom	<u>Tom.Ryan@nrc.gov</u>
Ryerson, Paul S.	<u>psr1@nrc.gov</u>
Schwartz, Jacqueline	<u>jschwartz@gklaw.com</u>
Sears, Richard	<u>rwsears@wpcda.org</u>
Silberg, Jay E.	<u>jay.silberg@pillsburylaw.com</u>
Silvia, Andrea L.	<u>alc1@nrc.gov</u>
Simkins, Connie	<u>jcciac@co.lincoln.nv.us</u>
Simon, Mike	<u>wpnucast1@mwpower.net</u>
Sisco, Carlos L.	<u>csisco@winston.com</u>
Sommer, Josephine	<u>Josephine.Sommer@ymp.gov</u>
Sullivan, Timothy E.	<u>timothy.sullivan@doj.ca.gov</u>

Tucker, Katherine
VanNiel, Jeffrey D.
Vazquez, Tameka
Vibert, Elizabeth A.
Walsh, Timothy J.
Wardwell, Richard E.
Webb, Maria
Whipple, Bret
Williams, Scott
Young, Mitzi A.
Zabarte, Ian
Zobler, Marian L.

Katie.Tucker@nrc.gov
nbrjdv@gmail.com
purpose_driven@yahoo.com
VibertE@co.clark.nv.us
timothy.walsh@pillsburylaw.com
rew@nrc.gov
maria.webb@pillsburylaw.com
bretwhipple@lcturbonet.com
swilliams@abbwlaw.com
may@nrc.gov
mrizabarte@gmail.com
mlz@nrc.gov

U.S. DEPARTMENT OF ENERGY

By [Electronically Signed by Stephanie E. Meharg](#)

Donald P. Irwin
Michael R. Shebelskie
HUNTON & WILLIAMS LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

James Bennett McRae
U.S. DEPARTMENT OF ENERGY
Office of General Counsel
Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Counsel for the U.S. Department of Energy

ATTACHMENT A

DOE LSN Collection
(as of 1/27/10)

Component	# of Documents on LSN	% of Total Documents	# of Pages on LSN	% of Total Pages	Format in DOE's LSN Collection	Native Format	% in Native Format that is in PDF	Retention Schedule of Native Format	Format for Federal Record Material?
Record Information System; Record Processing Center	1,228,349	34%	13,770,493	40%	TIFF for black and white files; JPEG for color files	TIFF, with a small number (<13,000 documents) in PDF	<1% of documents	End of project plus 25 years	Yes
Email (includes attachments to emails)	1,620,903	44%	15,258,658	45%	TIFF for black and white files; JPEG for color files	Emails are primarily in Lotus Notes, with a small percentage in other formats; attachments to emails are in a wide variety of native formats (e.g., Word, Excel, PowerPoint, etc.)	Emails (0%); email attachments (6%)	End of project plus 25 years	Yes

Component	# of Documents on LSN	% of Total Documents	# of Pages on LSN	% of Total Pages	Format in DOE's LSN Collection	Native Format	% in Native Format that is in PDF	Retention Schedule of Native Format	Format for Federal Record Material?
Paper	700,633	19%	3,286,719	10%	TIFF for black and white files; JPEG for color files	paper	0%	N/A	Yes
E-Files	96,469	3%	1,884,402	5%	TIFF for black and white files; JPEG for color files	E-files are in a wide variety of native formats (e.g., Word, Excel, PowerPoint, etc.	14%	N/A	Yes

ATTACHMENT B



DOE/CF-0053
Volume 7

Department of Energy

FY 2011 Congressional

Budget Request



Nuclear Energy

Defense Nuclear Waste Disposal

Nuclear Waste Disposal



Nuclear Waste Disposal

Table of Contents

	Page
Appropriation Language	173
Overview	175
Funding by Site	179
Repository Program	183
Transportation	187
Program Management and Integration.....	189
Program Direction.....	193
Congressionally Directed Projects.....	199

Nuclear Waste Disposal

[For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended (the "NWPAA"), \$98,400,000, to remain available until expended, and to be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 2.54 percent shall be provided to the Office of the Attorney General of the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the NWPAA: *Provided further*, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the NWPAA, 0.51 percent shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of the NWPAA: *Provided further*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 4.57 percent shall be provided to affected units of local government, as defined in the NWPAA, to conduct appropriate activities and participate in licensing activities under Section 116(c) of the NWPAA: *Provided further*, That of the amounts provided to affected units of local government, 7.5 percent of the funds provided for the affected units of local government shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada affected units of local government: *Provided further*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 0.25 percent shall be provided to the affected federally-recognized Indian tribes, as defined in the NWPAA, solely for expenditures, other than salaries and expenses of tribal employees, to conduct appropriate activities and participate in licensing activities under section 118(b) of the NWPAA: *Provided further*, That notwithstanding the provisions of chapters 65 and 75 of title 31, United States Code, the Department shall have no monitoring, auditing or other oversight rights or responsibilities over amounts provided to affected units of local government: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Office of the Attorney General by direct payment and to units of local government - Account Number: 019-20-5227 Nuclear Waste Disposal (APPROPRIATIONS) (Department of Energy - Energy Programs) Page: 1 Agency: Department of Energy Printed: 2:41 PM Friday, January 22 Bureau: Energy Programs For General Counsel Review by direct payment: *Provided further*, That 4.57 percent of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities shall be provided to Nye County, Nevada, as payment equal to taxes under section 116(c)(3) of the NWPAA: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Office of the Attorney General of the State of Nevada, each affected federally-recognized Indian tribe, and each of the affected units of local government shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the NWPAA and this Act: *Provided further*, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action, except for normal and recognized executive-legislative communications, on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the NWPAA, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended: *Provided further*, That of the funds made available in this Act for Nuclear Waste Disposal, \$5,000,000 shall be provided to create a Blue Ribbon Commission to consider all alternatives for nuclear waste disposal: *Provided further*, That no funds provided in this Act or any previous Act may be used to pursue repayment or collection of funds provided in any fiscal year to affected units of local government for oversight activities that had been previously approved by the Department of Energy, or to withhold payment of any such funds.] (*Energy and Water Development and Related Agencies Appropriations Act, 2010.*)

Explanation of Change

All Nuclear Waste Disposal project funding has been eliminated due to the termination of the Yucca Mountain Project and the Office of Civilian Radioactive Waste Management.

**Nuclear Waste Disposal and Defense Nuclear Waste Disposal
Office of Civilian Radioactive Waste Management (OCRWM)**

Overview

Appropriation Summary by Program

	FY 2009 Current Appropriation	FY 2010 Current Recovery Act Appropriation	FY 2010 Request	FY 2011 Request
Nuclear Waste Disposal				
Repository Program	40,252	0	17,700	0
Transportation	2,100	0	0	0
Program Management & Integration	26,200	0	10,700	0
Program Direction	74,983	0	70,000	0
Congressionally Directed	1,855	0	0	0
Total, Nuclear Waste Disposal	145,390	0	98,400	0
Defense Nuclear Waste Disposal				
Repository Program	143,000	0	98,400	0
Total, Defense Nuclear Waste Disposal	143,000	0	98,400	0
Total, Nuclear Waste Disposal and Defense Nuclear Waste Disposal	288,390	0	196,800	0

The Nuclear Waste Disposal Account was established as part of the Nuclear Waste Policy Act of 1982 (P.L. 97-425), as amended, to provide funding to implement Federal policy for disposal of commercial spent nuclear fuel and high-level radioactive waste by the Office of Civilian Radioactive Waste Management. The Administration has determined that developing a repository at Yucca Mountain, Nevada, is not a workable option and has decided to terminate the Office of Civilian Radioactive Waste Management. The Nation needs a different solution for nuclear waste disposal. As a result, in 2010, the Department will discontinue its application to the U.S. Nuclear Regulatory Commission for a license to construct a high-level waste geologic repository at Yucca Mountain and establish a Blue Ribbon Commission to inform the Administration as it develops a new strategy for nuclear waste management and disposal. All funding for development of the Yucca Mountain facility and the Office of Civilian Radioactive Waste Management will be eliminated by the end of FY 2010. The Administration remains committed to fulfilling its obligations under the Nuclear Waste Policy Act. Ongoing responsibilities under the Act, including administration of the Nuclear Waste Fund and the Standard Contract, will continue under the Office of Nuclear Energy, which will lead future waste management activities.

Mission

The mission of OCRWM was to manage and dispose of spent nuclear fuel (SNF) and high-level radioactive waste (HLW) in a manner that protects public health, safety, and the environment; enhances national and energy security; and merits public confidence.

Yucca Mountain Repository Project

The President identified the Yucca Mountain Project in the Terminations and Reductions section of the fiscal year (FY) 2010 Congressional Budget Request submitted to Congress in May 2009. Since that time, the Department of Energy has been evaluating a range of options for bringing the project to an orderly close. In FY 2010, the Department of Energy will withdraw from consideration by the Nuclear Regulatory Commission the license application for construction of a geologic repository at Yucca Mountain, Nevada, in accordance with applicable regulatory requirements.

In FY 2010, the Office of Civilian Radioactive Waste Management will prepare the Yucca Mountain site for stewardship and remediation. The Department will work closely with state and federal agencies to develop and implement a remediation plan for the site that adheres to all applicable statutes and regulations. The Office of Environmental Management (EM) staff will support remediation planning for the Yucca Mountain repository site.

Per the Office of Nuclear Energy's FY 2011 budget request, that organization will develop and execute a research and development program that will address critical scientific and technical issues associated with the long-term management and disposal of used nuclear fuel. The Office of Nuclear Energy will support the work of the Blue Ribbon Commission and the development of an integrated approach to waste management options.

Transportation

Transportation planning and procurement activities were ceased in FY 2009

Program Direction and Management

Nuclear Waste Disposal1

Defense Nuclear Waste Disposal1

Overview

FY 2011 Congressional Budget

The Office of Civilian Radioactive Waste Management will also be eliminated in FY 2010. Critical functions under the Nuclear Waste Policy Act, including management of the Standard Contract with utilities and administration of the Nuclear Waste Fund will be the responsibility of the Office of Nuclear Energy. The Department is committed to preserving core scientific knowledge and expertise resident in government and national laboratory personnel and applying it to developing a different approach to used fuel management. The Department will make every effort to utilize the expertise and experience of current Office of Civilian Radioactive Waste Management personnel, consistent with federal statutes, regulations, and union agreements.

Facilities Maintenance and Repair

The FY 2011 maintenance and repair budget request reflects the termination of the program

Direct-Funded Maintenance and Repair

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Repository Project	1,360	900	0
Total, Direct-Funded Maintenance and Repair	1,360	900	0

**Nuclear Waste Disposal and Defense Nuclear Waste Disposal
Office of Civilian Radioactive Waste Management (OCRWM)**

Funding by Site by Program

	(dollars in thousands)		
	FY 2009	FY 2010	FY 2011
NNSA Service Center			
Program Direction	1,000	500	0
Total, NNSA Service Center	1,000	500	0
Oak Ridge National Laboratory			
Program Direction	0	500	0
Total, Oak Ridge National Laboratory	0	500	0
Sandia National Laboratory			
Repository Project	47,000	40,000	0
Total, Sandia National Laboratory	47,000	40,000	0
Washington Headquarters			
Program Direction	44,590	50,000	0
Program Management and integration	11,700	4,500	0
Repository Project	14,855	10,200	0
Transportation System	1,000	0	0
Total, Washington Headquarters	72,145	64,700	0
Repository Project Office			
Program Direction	29,393	19,000	0
Program Management and Integration	14,500	6,200	0
Repository Project	123,252	64,900	0
Transportation	1,100	0	0
Total, Repository Project Office	168,245	91,100	0
Total, Nuclear Waste Disposal and Defense Nuclear Waste Disposal	288,390	196,800	0

Nuclear Waste Disposal
Office of Civilian Radioactive Waste Management (OCRWM)

Funding by Site by Program

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
NNSA Service Center			
Program Direction	1,000	500	0
Total, NNSA Service Center	1,000	500	0
Oak Ridge National Laboratory			
Program Direction	0	500	0
Total, Oak Ridge National Laboratory	0	500	0
Washington Headquarters			
Program Direction	44,590	50,000	0
Program Management and Integration	11,700	4,500	0
Repository Project	14,855	10,200	0
Transportation Project	1,000	0	0
Total, Washington Headquarters	72,145	64,700	0
Repository Project Office			
Program Direction	29,393	19,000	0
Program Management and Integration	14,500	6,200	0
Repository Project	27,252	7,500	0
Transportation Project	1,100	0	0
Total, Repository Project Office	72,245	32,700	0
Total, Nuclear Waste Disposal	145,390	98,400	0

**Defense Nuclear Waste Disposal
Office of Civilian Radioactive Waste Management (OCRWM)**

Funding by Site by Program

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Sandia National Laboratory			
Repository Project	47,000	40,000	0
Total, Sandia National Laboratory	47,000	40,000	0
Repository Project Office			
Repository Project	96,000	58,400	0
Total, Repository Project Office	96,000	58,400	0
Total, Defense Nuclear Waste Disposal	143,000	98,400	0

Major Changes or Shifts by Site

In FY 2011, there is no work at OCRWM-related sites due to the termination of the Yucca Mountain Project and the Office of Civilian Radioactive Waste Management.

Site Description

Oak Ridge National Laboratory

In support of the Yucca Mountain Project and the OCRWM Program Direction budget element, the Oak Ridge Office administered disbursement of funds and contracts/agreements with the OCRWM Management and Operations (M&O) contractor, support services contracts and all other financial contract agreements associated directly with the OCRWM Program.

No funds are provided in FY 2011

Sandia National Laboratory

The Sandia National Laboratories-New Mexico (SNL) site located in Albuquerque, New Mexico, is a research and development facility and has been the lead laboratory supporting the Yucca Mountain Project.

Funding to SNL is eliminated due to the termination of the Yucca Mountain Project and the Office of Civilian Radioactive Waste Management. Follow on work to explore waste management and disposal alternatives to the Yucca Mountain repository will be supported by the Office of Nuclear Energy.

Repository Project Office in Nevada

No funding will be provided for the Yucca Mountain Repository Project in Las Vegas, Nevada. Leases will be cancelled in FY 2010.

**Nuclear Waste Disposal and Defense Nuclear Waste Disposal
Office of Civilian Radioactive Waste Management (OCRWM)**

Repository Program

Funding Profile by Subprogram

	FY 2009 Current Appropriation	FY 2010 Current Recovery Act Appropriation	FY 2010 Request	FY 2011 Request
Repository Program				
Repository Project	183,252	0	116,100	0
Transportation	2,100	0	0	0
Program Management & Integration	26,200	0	10,700	0
Congressionally Directed Projects	1,855	0	0	0
Subtotal, Repository Program	213,407	0	126,800	0
Program Direction	74,983	0	70,000	0
Total. Repository Program	288,390	0	196,800	0

Repository Project

Funding Schedule by Activity

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Repository Project			
License	73,000	86,500	0
Safety Analysis	53,478	0	0
Balance of Plant Infrastructure	4,207	2,000	0
Project Support	52,567	27,600	0
Total, Repository Project	183,252	116,100	0

Mission

The mission of the Office of Civilian Radioactive Waste Management (OCRWM) was to manage and dispose of Spent Nuclear Fuel (SNF) and High Level Radioactive Waste (HLW) in a manner that protects public health and safety and the environment; enhances national security; and merits public confidence.

Repository Project

With the FY 2010 President's Budget Request, the Administration announced the termination of the Yucca Mountain Project. All funding for Project has been eliminated due to the withdrawal of the License Application. The Yucca Mountain Project and the Office of Civilian Radioactive Waste Management will be terminated by the end of FY 2010.

The Yucca Mountain site occupies part of the Nevada Test Site as well as lands managed by the Bureau of Land Management (BLM) and the United States Air Force. DOE will engage BLM, the Air Force, and the State of Nevada, which has regulatory authority over certain aspects of the site, to determine the appropriate level of remediation necessary at the site. The Office of Environmental Management will support remediation planning.

Detailed Justification

(dollars in thousands)

FY 2009	FY 2010	FY 2011
---------	---------	---------

Licensing Support

73,000 **86,500** **0**

In FY 2010, the Department of Energy will withdraw from consideration by the Nuclear Regulatory Commission the license application for construction of a geologic repository at Yucca Mountain, Nevada, in accordance with applicable regulatory requirements. The Department will conduct lease cancellation, contract termination, preservation and archiving of project records, and any necessary personnel separation activities.

Safety Analyses and Assessments

53,478 **0** **0**

Safety Analyses and Assessments work ended in FY 2009 with the transition from technical evaluation of the license application to administrative hearings.

Balance of Plant Infrastructure

4,207 **2,000** **0**

Design work associated with development of the geologic repository at Yucca Mountain will be cancelled in 2010. Remaining funds in this area will be dedicated to preparing the repository site for stewardship and remediation.

Project Support

49,667 **27,600** **0**

Financial Assistance:

The Department is meeting its obligation for financial assistance in FY 2010. No funding is requested in FY 2011 due to termination of the Yucca Mountain Project.

Total, Repository Project

183,252 **116,100** **0**

Explanation of Funding Changes

FY 2011 vs. FY 2010 (\$000)

License

The decrease is due to the withdrawal of the License Application and the termination of the Yucca Mountain Project.

-86,500

Balance of Plant Infrastructure

The decrease is due to the withdrawal of the License Application and the termination of the Yucca Mountain Project.

-2,000

Project Support

The decrease is due to the withdrawal of the License Application and the termination of the Yucca Mountain Project.

-27,600

Total Funding Change, Repository Project

-116,100

Transportation

Funding Schedule by Activity

(dollars in thousands)

	<i>FY 2009</i>	FY 2010	FY 2011
Transportation			
National Transportation			
Institutional Planning, Policy and Analysis	0	0	0
Stakeholder Relations	0	0	0
180(c) Grants	0	0	0
Nat'l Trans Institutional	1,100	0	0
Corporate Management	0	0	0
Nat'l Trans Management	1,000	0	0
Total National Transportation	2,100	0	0
Nevada Transportation			
Nevada Rail	0	0	0
National Environmental Policy Act (NEPA)	0	0	0
Total Nevada Transportation	0	0	0
Total Transportation	2,100	0	0

Description

The mission of the transportation program was to develop and manage a safe, secure, and efficient transportation system for shipping Spent Nuclear Fuel (SNF) and High-Level Waste (HLW) from locations throughout the United States to a location for effective management and disposal.

National Transportation

In FY 2011, there will be no activities due to the termination of the Office of Civilian Radioactive Waste Management.

Nevada Transportation

In FY 2011, there will be no activities due to the termination of the Office of Civilian Radioactive Waste Management.

Detailed Justification

(dollars in thousands)

FY 2009	FY 2010	FY 2011
---------	---------	---------

National Transportation

No funding is requested for activities within this budget element in FY 2011

▪ National Transportation Institutional	1,100	0	0
National Transportation Management	1,000	0	0
Total, National Transportation	2,100	0	0

Nevada Transportation

No funding is requested for activities within this budget element in FY 2011

▪ Nevada Rail	0	0	0
▪ Nevada Rail Environmental Impact Statement (EIS)	0	0	0
Total, Nevada Transportation	0	0	0
Total, Transportation	2,100	0	0

Explanation of Funding Changes

National Transportation	FY 2011 vs. FY 2010 (\$000)	0
Nevada Transportation		0
Total Funding Change, Transportation		0

Program Management and Integration

Funding Schedule by Activity

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Quality Assurance.....	10,000	6,970	0
Program Management			
Program Management and Control.....	500	30	0
Information Management.....	4,000	0	0
Human Resources and Education.....	500	500	0
Total. Program Management	5,000	530	0
Safeguards and Security.....	5,000	3,000	0
Waste Acceptance.....	4,000	0	0
System Analysis and Strategy Development			
Fee Adequacy Assessment.....	200	200	0
System Configuration Management.....	0	0	0
Total. System Analysis and Strategy Development	200	200	0
Science and Technology; and International			
International Program and Coordination.....	2,000	0	0
Science and Technology, and International	0	0	0
Total, Science and Technology and International	2,000	0	0
Total, Program Management & Integration	26,200	10,700	0

Description

All Program Management and Integration activities will cease due to the planned elimination of the Office of Civilian Radioactive Waste Management. Ongoing responsibilities under the Nuclear Waste Policy Act, including administration of the Nuclear Waste Fund and the Standard Contract, will continue under the Office of Nuclear Energy, which will lead future waste management activities.

Contracts for goods and services with the Office of Civilian Radioactive Waste Management will be terminated, excluding the Standard Contract for disposal services with utilities. Current contracts include the management and operations contract for the repository, quality assurance support services, management and technical support services, information technology services, document and records management, security services, administrative services, and legal services. Many of these contracts will require advance notice of termination during which costs incurred will be reimbursed. Further, DOE is responsible for the costs associated with the management and operations contractor's defined benefit pension plan; upon program termination, the Department will fulfill its responsibilities and ensure that current and future retirees receive their benefits in accordance with the plan.

Detailed Justification

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Quality Assurance	10,000	6,970	0
All funding for Quality Assurance has been eliminated due to the withdrawal of the License Application and the termination of the Yucca Mountain Project.			
Program Management	5,000	530	0
All funding for Program Management has been eliminated due to the withdrawal of the License Application, termination of the Yucca Mountain Project, and termination of the Office of Civilian Radioactive Waste Management.			
▪ Program Management and Control	500	30	0
All funding for Program Management and Control has been eliminated due to the withdrawal of the License Application, termination of the Yucca Mountain Project, and termination of the Office of Civilian Radioactive Waste Management.			
▪ Information Management	4,000	0	0
▪ Human Resources and Education	500	500	0
All funding for Human Resources has been eliminated due to the termination of the Office of Civilian Radioactive Waste Management.			
Total Program Management	5,000	530	0
Safeguards and Security	5,000	3,000	0
All funding for Safeguards and Security has been eliminated due to the withdrawal of the License Application, termination of the Yucca Mountain Project, and termination of the Office of Civilian Radioactive Waste Management.			
Waste Acceptance	4,000	0	0
Other DOE offices will continue to support the implementation of the Standard Disposal Contract and any amendments; negotiating and implementing new reactor waste disposal contracts for the new generation of nuclear reactors; validate and disseminate SNF discharge/storage data; review and validate fee payments; negotiate and implement settlements of litigation relating the delay in beginning waste acceptance; and negotiate and implement modifications to individual contracts that are beneficial to the Government and the individual utility (Purchaser).			
In addition to supporting the settlement negotiations and review process, the Department will continue to provide support to the Department of Justice for litigation through the collection of large volumes of discovery materials and will continue to provide depositions and testimony.			
System Analysis and Strategy Development	200	200	0

Nuclear Waste Disposal
 Defense Nuclear Waste Disposal
 Program Management

FY 2011 Congressional Budget

Fee Adequacy Assessment	200	200	0
The functions for the Fee Adequacy Assessment efforts will be transferred from the Office of Civilian Radioactive Waste Management to support future plans within the Department to implement the Nuclear Waste Policy Act.			
▪ System Configuration Management	0	0	0
Total, System Analysis and Strategy Development	200	200	0
The functions for the System Analysis efforts will be transferred from the Office of Civilian Radioactive Waste Management to support future plans within the Department to implement the Nuclear Waste Policy Act.			
Science and Technology, and International	2,000	0	0
All funding for Science and Technology, and International has been eliminated due to termination of the Office of Civilian Radioactive Waste Management. International activities related to the management and disposition of spent nuclear fuel and high level radioactive waste will be supported by the Office of Nuclear Energy.			
International Program and Coordination	2,000	0	0
▪ Science and Technology	0	0	0
Total, Science and Technology, and International	2,000	0	0
Total Program Management & Integration	26,200	10,700	0

Explanation of Funding Changes

	FY 2011 vs. FY 2010 (\$000)
Quality Assurance The decrease is due to the withdrawal of the License Application and the termination of the Yucca Mountain Project.	-6,970
Program Management The decrease is due to the withdrawal of the License Application and the termination of the Office of Civilian Radioactive Waste Management.	-530
Safeguards and Security The decrease is due to the termination of the termination of the Repository Project and the Office of Civilian Radioactive Waste Management	-3,000
Total Funding Change, Program Management and Integration	<hr/> -10,700

**Program Direction
Funding Profile by Category**

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Office of Repository Development			
Salaries and Benefits	25,066	26,883	0
Travel	800	685	0
Information Technology	8,900	8,700	0
Support Services	4,540	3,500	0
Other Related Expenses	1,810	1,810	0
Total, Office of Repository Development	41,116	41,578	0
Full-Time Equivalents	175	175	0
Service Center Support			
Salaries and Benefits	1,000	1,000	0
Total, Service Center Support	1,000	1,000	0
Full-Time Equivalents	3	3	0
Headquarters			
Management & Operational Support			
Salaries and Benefits	14,844	14,617	0
Travel	700	300	0
Information Technology	3,800	3,800	0
Support Services	6,433	2,600	0
Other Related Expenses	190	190	0
Working Capital Fund	2,500	2,500	0
	28,467	24,007	0
Other Matrix Support			
Salaries and Benefits	4,375	3,400	0
Travel	25	15	0
Total, Headquarters	32,867	27,422	0
Full-Time Equivalents	118	118	0
Total, Program Direction	74,983	70,000	0
Full-Time Equivalents	296	296	0

Description

The Administration has determined that developing the Yucca Mountain repository is not a workable option and that the Nation needs a different solution for nuclear waste disposal. The Office of Civilian Radioactive Waste Management will be terminated. The core functions and staff to support efforts under the Nuclear Waste Policy Act to meet the obligations of the Government will continue under the Office of Nuclear Energy, which will lead all future waste management activities. Every effort will be made to utilize the expertise and experience of Office of Civilian Radioactive Waste Management personnel in other Departmental organizations or government agencies consistent with Title 5 of the United States Code, Civil Service Regulations, and union agreements.

Detailed Justification

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Salaries and Benefits	45,285	45,900	0
Travel	1,525	1,000	0
Information Technology	12,700	12,500	0
Support Services	10,973	6,100	0
Other Related Expenses	2,000	2,000	0
Working Capital Fund	2,500	2,500	0
Total, Program Direction	74,983	70,000	0

Explanation of Funding Changes

	FY 2011 vs. FY 2010 (\$000)
Salaries and Benefits The decrease is due to the termination of the Office of Civilian Radioactive Waste Management.	-45,900
Travel The decrease is due to the termination of the Office of Civilian Radioactive Waste Management	-1,000
Information Technology The decrease is due to the termination of the Office of Civilian Radioactive Waste Management.	-12,500
Support Services The decrease is due to the termination of the Office of Civilian Radioactive Waste Management.	-6,100
Other Related Expenses The decrease is due to the termination of the Office of Civilian Radioactive Waste Management.	-2,000
Working Capital Fund The decrease is due to the termination of the Office of Civilian Radioactive Waste Management.	-2,500
Total Funding Changes, Program Direction	-70,000

Support Services by Category

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Technical Support			
Repository Project			
Management and Technical Services	9,268	4,400	0
Administrative Services	1,400	1,395	0
Total, Repository Project	10,668	5,795	0
System Analysis and Strategic Development			
System Engineering	0	0	0
System Analysis	0	0	0
Waste Acceptance	0	0	0
Regulatory Coordination	0	0	0
Total, System Analysis & Strategic Development	0	0	0
Total, Technical Support	10,668	5,795	0
Management Support			
Program Management & Integration			
Quality Assurance	300	300	0
Program Management & Control			
Program Management, Planning & Control	5	5	0
Audits and Report?	0	0	0
Baseline Management	0	0	0
Program & Policy Integration	0	0	0
Public Information	0	0	0
Total, Program Management & Control	5	5	0
Total, Program Management & Integration	305	305	0
Total, Management Support	305	305	0
Total, Support Services	10,973	6,100	0

**Other Related Expenses by Category
(Including Working Capital Fund)**

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Other Related Expenses			
Repository Project			
Communication, Other Rent, and Utilities	1,660	1,660	0
Other Services	90	90	0
Human Resources & Administration	60	60	0
Total, Repository Project	1,810	1,810	0
Headquarters			
Other Services	40	40	0
Human Resources & Administration	30	30	0
Supplies and Materials	20	20	0
Services Performed by Other Agencies	100	100	0
Working Capital Fund	2,500	2,500	0
Total, Headquarters	2,690	2,690	0
Total, Other Related Expenses	4,500	4,500	0

Congressionally Directed Projects

Funding Profile by Subprogram

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Congressionally Directed Projects	1,855	0	0

Description

OCRWM has no Congressionally Directed Projects for FY 2010 or FY 2011

Detailed Justification

(dollars in thousands)

	FY 2009	FY 2010	FY 2011
Congressionally Directed Projects			
Cooperative Agreement between the Department of Energy and Inyo County (CA)	1,522	0	0
▪ Inyo County Affected Unit of Local Government (CA)	333	0	0
Total, Program Direction	<hr/> 1,855	0	0

GENERAL PROVISIONS

[SEC. 301. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.]

[SEC. 302. None of the funds appropriated by this Act may be used—

(1) to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 4604 of the Atomic Energy Defense Act (50 U.S.C. 2704) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees; or

(2) to provide enhanced severance payments or other benefits for employees of the Department of Energy under such section; or

(3) develop or implement a workforce restructuring plan that covers employees of the Department of Energy.]

SEC. [303]301. The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. [304]302. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. [305]303. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term "user facility" includes, but is not limited to:

(1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2));

(2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and

(3) any other Departmental facility designated by the Department as a user facility.

SEC. 13061304. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year [2010] 2011 until the enactment of the Intelligence Authorization Act for fiscal year [2010] 2011.

SEC. [307]305. Of the funds made available by the Department of Energy for activities at Government-owned, contractor-operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed