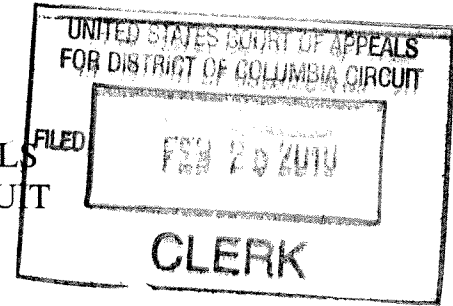


FEB 25 2010

RECEIVED

THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT



ROBERT L. FERGUSON, WILLIAM LAMPSON, and GARY PETERSEN, )

Petitioners, )

v. )

BARACK OBAMA, President of the United States, )  
STEVEN CHU, Secretary of Energy, )  
and THE UNITED STATES DEPARTMENT OF ENERGY, )

Respondents. )

Case No.

10-1058

**PETITION FOR REVIEW**

Robert L. Ferguson, William Lampson, and Gary Petersen hereby petition this Court, pursuant to Section 119 of the Nuclear Waste Policy Act ("NWPA"), 42 U.S.C. § 10139(a)(1), as amended, Section 706 of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706, and Rule 15(a) of the Federal Rules of Appellate Procedure, to review, remand, vacate, and/or defer the final action of the President and Secretary of Energy to abandon and not to proceed with plans to apply for and pursue a license for, and to construct, a repository for high level radioactive waste at Yucca Mountain, Nevada. This action became final and subject to review under

the NWPA on or about January 29, 2010. Documents reflecting the final decision are attached as Exhibit A.

Respectfully submitted,



February 25, 2010

---

Barry M. Hartman  
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barry.hartman@klgates.com

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THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ROBERT L. FERGUSON, WILLIAM	)	
LAMPSON, and GARY PETERSEN,	)	
	)	
Petitioner,	)	
	)	Case No.
v.	)	
	)	
BARACK OBAMA, President of the	)	
United States,	)	
STEVEN CHU, Secretary of Energy,	)	
and THE UNITED	)	
STATES DEPARTMENT OF ENERGY,	)	
	)	
Respondents.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25th day of February, 2010, a copy of the foregoing Petition for Review was served by certified mail, upon the following persons:

The Honorable Barack H. Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

The Honorable Steven Chu  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, DC 20585

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The White House  
1600 Pennsylvania Avenue, NW  
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---

Barry M. Hartman

# **Exhibit A**

**DOE Press Release**  
**January 29, 2010**



# U.S. DEPARTMENT OF **ENERGY**

**News Media Contact(s):**  
(202) 586-4940

**For Immediate Release**  
January 29, 2010

## **Secretary Chu Announces Blue Ribbon Commission on America's Nuclear Future**

*The Commission, led by Lee Hamilton and Brent Scowcroft, will provide recommendations on managing used fuel and nuclear waste*

Washington, D.C. – As part of the Obama Administration's commitment to restarting America's nuclear industry, U.S. Secretary of Energy Steven Chu today announced the formation of a Blue Ribbon Commission on America's Nuclear Future to provide recommendations for developing a safe, long-term solution to managing the Nation's used nuclear fuel and nuclear waste. The Commission is being co-chaired by former Congressman Lee Hamilton and former National Security Advisor Brent Scowcroft.

In light of the Administration's decision not to proceed with the Yucca Mountain nuclear waste repository, President Obama has directed Secretary Chu to establish the Commission to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle. The Commission will provide advice and make recommendations on issues including alternatives for the storage, processing, and disposal of civilian and defense spent nuclear fuel and nuclear waste.

"Nuclear energy provides clean, safe, reliable power and has an important role to play as we build a low-carbon future. The Administration is committed to promoting nuclear power in the United States and developing a safe, long-term solution for the management of used nuclear fuel and nuclear waste. The work of the Blue Ribbon Commission will be invaluable to this process. I want to thank Congressman Hamilton and General Scowcroft for leading the Commission and I look forward to receiving their recommendations," said Secretary Chu.

"As the world moves to tackle climate change and diversify our national energy portfolio, nuclear energy will play a vital role," said Carol Browner, Assistant to the President for Energy and Climate Change. "Today, the Obama Administration has taken an important step. With the creation of the Blue Ribbon Commission, we are bringing together leading experts from around the country to ensure a safe and sustainable nuclear energy future."

"Finding an acceptable long-term solution to our used nuclear fuel and nuclear waste storage needs is vital to the economic, environmental and security interests of the United States," said Congressman Hamilton. "This will be a thorough, comprehensive review based on the best available science. I'm looking forward to working with the many distinguished experts on this panel to achieve a consensus on the best path forward."

"As the United States responds to climate change and moves forward with a long overdue expansion of nuclear energy, we also need to work together to find a responsible, long-term strategy to deal with the leftover fuel and nuclear waste," said General Scowcroft. "I'm pleased to be part of that effort along with Congressman Hamilton and such an impressive group of scientific and industry experts."

The Commission is made up of 15 members who have a range of expertise and experience in nuclear issues, including scientists, industry representatives, and respected former elected officials. The Commission's co-chairs have a record of tackling tough challenges in a thoughtful, comprehensive manner and building consensus among an array of interests.

The Commission will produce an interim report within 18 months and a final report within 24 months.

The members of the Blue Ribbon Commission are:

- **Lee Hamilton, Co-Chair**

Lee Hamilton represented Indiana's 9th congressional district from January 1965-January 1999. During his time in Congress, Hamilton served as the ranking member of the House Committee on Foreign Affairs, and chaired the Permanent Select Committee on Intelligence. He is currently president and director of the Woodrow Wilson International Center for Scholars, and director of The Center on Congress at Indiana University.

He is a member of the President's Intelligence Advisory Board and the President's Homeland Security Advisory Council. Previously, Hamilton served as Vice Chairman of the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission).

- **Brent Scowcroft, Co-Chair**

Brent Scowcroft is President of The Scowcroft Group, an international business advisory firm. He has served as the National Security Advisor to both Presidents Gerald Ford and George H.W. Bush. From 1982 to 1989, he was Vice Chairman of Kissinger Associates, Inc., an international consulting firm.

Scowcroft served in the military for 29 years, and concluded at the rank of Lieutenant General following service as the Deputy National Security Advisor. Out of uniform, he continued in a public policy capacity by serving on the President's Advisory Committee on Arms Control, the Commission on Strategic Forces, and the President's Special Review Board, also known as the Tower Commission.

- **Mark Ayers, President, Building and Construction Trades Department, AFL-CIO**
- **Vicky Bailey, Former Commissioner, Federal Energy Regulatory Commission; Former IN PUC Commissioner; Former Department of Energy Assistant Secretary for Policy and International Affairs**
- **Albert Carnesale, Chancellor Emeritus and Professor, UCLA**
- **Pete V. Domenici, Senior Fellow, Bipartisan Policy Center; former U.S. Senator (R-NM)**
- **Susan Eisenhower, President, Eisenhower Group, Inc.**
- **Chuck Hagel, Former U.S. Senator (R-NE)**
- **Jonathan Lash, President, World Resources Institute**
- **Allison Macfarlane, Associate Professor of Environmental Science and Policy, George Mason University**
- **Richard A. Meserve, President, Carnegie Institution for Science, and former Chairman, U.S. Nuclear Regulatory Commission**
- **Ernie Moniz, Professor of Physics and Cecil & Ida Green Distinguished Professor, Massachusetts Institute of Technology**
- **Per Peterson, Professor and Chair, Department of Nuclear Engineering, University of California - Berkeley**
- **John Rowe, Chairman and Chief Executive Officer, Exelon Corporation**
- **Phil Sharp, President, Resources for the Future**

**U.S. Department of Energy, Office of Public Affairs, Washington, D.C.**

**Unofficial Transcript**  
**DOE Press Conference**  
**January 29, 2010**

## Press Conference on Blue Ribbon Commission, January 29, 2010

2:00-2:14	Congressman Hamilton	"I think we have a great team in place, to fully examine this difficult multifaceted issue, and to put together a plan based on today's science and technology."
-----------	----------------------	--

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3:27	Questioner	"Hello, this is for Secretary Chu. Is this panel going to look at all at how this new generation of nuclear plants will be financed?"
3:43-4:14	Sec'y Chu	"Uh, no. This panel is [unintelligible] to look at what will happen in terms of the science and technology going forward. And to give it, to anticipate what's going to be happening, and to give us a plan going forward, as we said, on ultimately, figuring out how to deal with the used fuel and, eventually the nuclear waste."

---

6:10	Questioner	"Thank you very much for holding this, ah, call. The previous administration had a science-based, engineering-based approach that involved various kinds of recycling that didn't seem to go very far. Could you say where perhaps they might have gone wrong or what's different in your approach?"
6:30-7:17	Sec'y Chu	"...As we said, we're asking this commission to step back and take a very broad view of what we know today and what we expect to be learning in the coming decades, and rather than, uh, comment on anything else or criticize anything else, we're not here to do that. We're actually here to say, based on what we know today and based on what we anticipate knowing, we're gonna plot the best plan forward."

---

8:04	Questioner	"I just was wondering to what extent will the site at Yucca Mountain still be considered as part of the mix, as I remember when the legislation was established setting up the commission, there was some interest in including Yucca Mountain as part of the mix of alternatives that the commission would be looking at. Thank you."
8:33	Congressman Hamilton	<b>"I think Secretary Chu has made it quite clear that the nuclear waste storage at Yucca Mountain is not an option, and that the Blue Ribbon Commission will be looking at better alternatives for the back end of the fuel cycle."</b>
8:49	Carol Browner	<b>"As the president has said many times, we're done with Yucca, we need to be about looking at alternatives."</b>

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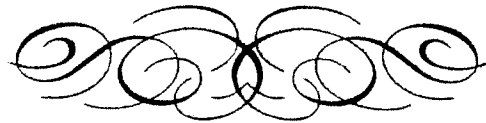
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9:07	Questioner	"I was just wondering, I know this question has been asked a number of times but I'll try it again. What's the reason that yucca Mountain is not an option for this administration, and what scientific reviews were done by the Administration to reach that judgment?"
9:23	Carol Browner	<b>"We work for the president, we take our directions from the president, the president has been clear that Yucca Mountain was not an option and now we're going to go out and figure out what the options are going forward."</b>
9:35	Cong. Hamilton	"I think it's been made clear to me that the science has advanced dramatically since Yucca site was chosen, and my recollection is that site was chosen 20 years ago or so. And we're gonna try to pull together the current information and research to develop a plan for the back end of the fuel cycle.
10:11	Gen. Scowcroft	"We're trying to look forward now, not looking back, and we have no preconceived notions and we'll look at all science has to offer us to deal with this issue."

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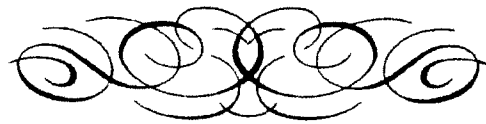
10:30	Questioner	"I'm just curious exactly how the commission will be set up. Will it report directly to the executive branch or to Congress?"
10:40	Sec'y Chu	"This is a FACA commission on a presidential order directed to me, the Secretary of Energy to form this commission. This commission will make recommendations to me which I will take both to the President and to Congress."

**Excerpts from *Budget of  
the US Government,*  
February 1, 2010**



# Budget

of the U. S. Government



Fiscal Year 2011

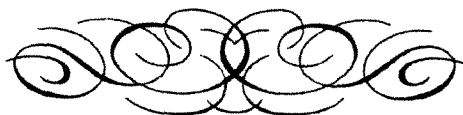


Office of Management and Budget  
[www.budget.gov](http://www.budget.gov)



# Appendix

Budget of the U. S. Government



Fiscal Year 2011



Office of Management and Budget  
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## THE BUDGET DOCUMENTS

*Budget of the United States Government, Fiscal Year 2011* contains the Budget Message of the President, information on the President's priorities, budget overviews organized by agency, and summary tables.

*Analytical Perspectives, Budget of the United States Government, Fiscal Year 2011* contains analyses that are designed to highlight specified subject areas or provide other significant presentations of budget data that place the budget in perspective. This volume includes economic and accounting analyses; information on Federal receipts and collections; analyses of Federal spending; information on Federal borrowing and debt; baseline or current services estimates; and other technical presentations.

The *Analytical Perspectives* volume also contains supplemental material with several detailed tables, including tables showing the budget by agency and account and by function, subfunction, and program, that is available on the Internet and as a CD-ROM in the printed document.

*Historical Tables, Budget of the United States Government, Fiscal Year 2011* provides data on budget receipts, outlays, surpluses or deficits, Federal debt, and Federal employment over an extended time period, generally from 1940 or earlier to 2011 or 2015.

To the extent feasible, the data have been adjusted to provide consistency with the 2011 Budget and to provide comparability over time.

*Appendix, Budget of the United States Government, Fiscal Year 2011* contains detailed information on the various appropriations and funds that constitute the budget and is designed primarily for the use of the Appropriations Committees. The *Appendix* contains more detailed financial information on individual

programs and appropriation accounts than any of the other budget documents. It includes for each agency: the proposed text of appropriations language; budget schedules for each account; legislative proposals; explanations of the work to be performed and the funds needed; and proposed general provisions applicable to the appropriations of entire agencies or group of agencies. Information is also provided on certain activities whose transactions are not part of the budget totals.

### AUTOMATED SOURCES OF BUDGET INFORMATION

The information contained in these documents is available in electronic format from the following sources:

**Internet.** All budget documents, including documents that are released at a future date, spreadsheets of many of the budget tables, and a public use budget database are available for downloading in several formats from the Internet at [www.budget.gov/budget](http://www.budget.gov/budget). Links to documents and materials from budgets of prior years are also provided.

**Budget CD-ROM.** The CD-ROM contains all of the budget documents in fully indexed PDF format along with the software required for viewing the documents. The CD-ROM has many of the budget tables in spreadsheet format and also contains the materials that are included on the separate *Analytical Perspectives* CD-ROM.

For more information on access to electronic versions of the budget documents (except CD-ROMs), call (202) 512-1530 in the D.C. area or toll-free (888) 293-6498. To purchase the budget CD-ROM or printed documents call (202) 512-1800.

### GENERAL NOTES

1. All years referenced to are fiscal years, unless otherwise noted.
2. Detail in this document may not add to the totals due to rounding.

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PAYMENTS TO STATES UNDER FEDERAL POWER ACT—Continued  
Program and Financing—Continued

Identification code 89-5105-0-2-806	2008 actual	2010 est.	2011 est.
23.95 Total new obligations	-3	-3	-3
<b>New budget authority (gross), detail:</b>			
<b>Mandatory:</b>			
60.20 Appropriation (special fund)	3	3	3
<b>Change in obligated balances:</b>			
73.10 Total new obligations	3	3	3
73.20 Total outlays (gross)	-3	-3	-3
<b>Outlays (gross), detail:</b>			
86.97 Outlays from new mandatory authority	3	3	3
<b>Net budget authority and outlays:</b>			
89.00 Budget authority	3	3	3
90.00 Outlays	3	3	3

The States are paid 37.5 percent of the receipts from licenses for occupancy and use of national forests and public lands within their boundaries issued by the Federal Energy Regulatory Commission (16 U.S.C. 810).

## NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act, \$11,300,000, to remain available until expended. (*Energy and Water Development and Related Agencies Appropriations Act, 2010.*)

## Program and Financing (in millions of dollars)

Identification code 89-5369-0-2-274	2009 actual	2010 est.	2011 est.
<b>Obligations by program activity:</b>			
00.01 NEHOR	10	11	11
10.00 Total new obligations (object class 25.2)	10	11	11
<b>Budgetary resources available for obligation:</b>			
21.40 Unobligated balance carried forward, start of year	1	1	1
22.00 New budget authority (gross)	10	11	11
23.90 Total budgetary resources available for obligation	11	12	12
23.95 Total new obligations	-10	-11	-11
24.40 Unobligated balance carried forward, end of year	1	1	1
<b>New budget authority (gross), detail:</b>			
<b>Discretionary:</b>			
40.00 Appropriation	10	11	11
<b>Change in obligated balances:</b>			
72.40 Obligated balance, start of year	9	10	10
73.10 Total new obligations	10	11	11
73.20 Total outlays (gross)	-9	-11	-12
74.40 Obligated balance, end of year	10	10	9
<b>Outlays (gross), detail:</b>			
86.90 Outlays from new discretionary authority		9	9
86.93 Outlays from discretionary balances	9	2	3
87.90 Total outlays (gross)	9	11	12
<b>Net budget authority and outlays:</b>			
89.00 Budget authority	10	11	11
90.00 Outlays	9	11	12

The Northeast Home Heating Oil Reserve provides an emergency supply of home heating oil supply for the Northeast States during times of inventory shortages and significant threats to

immediate further supply. Two million barrels of heating oil will provide supplemental emergency supply over a 10-day delivery period, the time required for ships to carry heating oil from the Gulf Coast to New York Harbor.

Four-year contracts for the storage, operation and maintenance of the reserve were awarded in August 2007 to Hess Corp (for 1,000,000 barrels in New York harbor) to Morgan Stanley (for 750,000 barrels in New Haven, CT), and to Hess Corp (for 250,000 barrels in Groton, CT). A sale of 35,000 barrels was conducted at the time to offset storage costs. The Department repurchased 19,253 barrels of the oil in 2008. Purchase of the remainder, 15,427 barrels of oil, is scheduled for 2010. New storage contracts are planned for award in late 2011.

## [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 "NWPA"), \$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 NWPA: *Provided further*, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the NWPA, 0.51 percent shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of the NWPA: *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 NWPA, to conduct appropriate activities and participate in licensing activities under Section 118(c) of the NWPA: *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 NWPA, 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 NWPA: *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 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 118(c)(3) of the NWPA: *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 NWPA 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 NWSA, 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.*)

## Special and Trust Fund Receipts (in millions of dollars)

Identification code 89-5227-0-2-271	2009 actual	2010 est.	2011 est.
01 00 Balance, start of year	20,494	22,162	24,028
01 99 Balance, start of year	20,494	22,162	24,028
<b>Receipts:</b>			
02 20 Nuclear Waste Disposal Fund	770	773	779
02 40 Earnings on Investments, Nuclear Waste Disposal Fund	1,096	1,224	1,323
02 99 Total receipts and collections	1,866	1,997	2,102
04 00 Total: Balances and collections	22,360	24,159	26,130
<b>Appropriations:</b>			
05 00 Nuclear Waste Disposal	-145	-98	-10
05 01 Salaries and Expenses	-49	-29	-10
05 02 Salaries and Expenses	-4	-4	-2
05 99 Total appropriations	-198	-131	-12
07 99 Balance, end of year	22,162	24,028	26,118

## Program and Financing (in millions of dollars)

Identification code 89-5227-0-2-271	2009 actual	2010 est.	2011 est.
<b>Obligations by program activity:</b>			
00 01 Repository	76	44	
00 02 Program Direction	63	70	
10 00 Total new obligations	139	114	
<b>Budgetary resources available for obligation:</b>			
21 40 Unobligated balance carried forward, start of year	10	16	
22 00 New budget authority (gross)	145	98	
23 90 Total budgetary resources available for obligation	155	114	
23 95 Total new obligations	-139	-114	
24 40 Unobligated balance carried forward, end of year	16		

## New budget authority (gross), detail:

Discretionary:	2009 actual	2010 est.
40 20 Appropriation (special fund)	145	98

## Change in obligated balances:

72 40 Obligated balance, start of year	87	62	33
73 10 Total new obligations	139	114	
73 20 Total outlays (gross)	-164	-143	
74 40 Obligated balance, end of year	62	33	33

## Outlays (gross), detail:

86 90 Outlays from new discretionary authority	93	98
86 93 Outlays from discretionary balances	71	45
87 30 Total outlays (gross)	164	143

## Net budget authority and outlays:

89 00 Budget authority	145	98
90 00 Outlays	164	143

## Memorandum (non-add) entries:

92 01 Total investments, start of year: Federal securities: Par value	42,570	44,643	46,529
92 02 Total investments, end of year: Federal securities: Par value	44,643	46,529	48,631

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. The Administration has determined that developing a repository at Yucca Mountain, Nevada, is not a workable option and that the Nation needs a different solution for nuclear waste disposal. As a result, 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 in 2010 and establish a Blue Ribbon Commission to develop a new strategy for nuclear waste management and disposal. All funding for development of the Yucca Mountain facility will be eliminated, such as further land acquisition, transportation access, and additional engineering. 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. Residual responsibilities for site remediation will be assumed by NNSA and the Office of Environmental Management.

## Object Classification (in millions of dollars)

Identification code 89-5227-0-2-271	2009 actual	2010 est.	2011 est.
<b>Direct obligations:</b>			
<b>Personnel compensation:</b>			
11.1 Full-time permanent	26	25	
11.3 Other than full-time permanent	1	1	
11.5 Other personnel compensation	1	1	
11.9 Total personnel compensation	28	27	
12.1 Civilian personnel benefits	6	5	
21.0 Travel and transportation of persons	1	1	
23.2 Rental payments to others	3	3	
25.1 Advisory and assistance services	31	6	
25.2 Other services	32	16	
25.3 Other purchases of goods and services from Government accounts	3	5	
25.4 Operation and maintenance of facilities	3	25	
41.0 Grants, subsidies, and contributions	26	26	
99.9 Total new obligations	139	114	

## Employment Summary

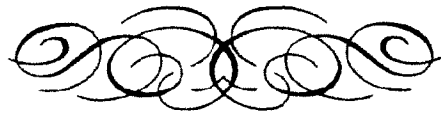
Identification code 89-5227-0-2-271	2009 actual	2010 est.	2011 est.
<b>Direct:</b>			
1001 Civilian full-time equivalent employment	243	243	

## URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

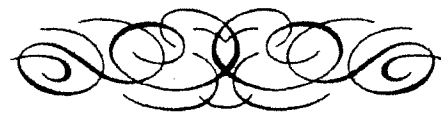
For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, and title X, subtitle A, of the Energy Policy Act of 1992, [\$573,850,000] \$708,498,000, to be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, to remain available until expended. (*Energy and Water Development and Related Agencies Appropriations Act, 2010.*)

## Special and Trust Fund Receipts (in millions of dollars)

Identification code 89-5231-0-2-271	2009 actual	2010 est.	2011 est.
01 00 Balance, start of year	4,453	4,536	4,649
01 99 Balance, start of year	4,453	4,536	4,649
<b>Receipts:</b>			
02 20 Domestic Utility Fees, Decontamination and Decommissioning Fund			200
02 40 Earnings on Investments, Decontamination and Decommissioning Fund	156	224	278
02 41 General Fund Payment - Defense, Decontamination and Decommissioning Fund	163	463	497
02 99 Total receipts and collections	619	687	925
04 00 Total: Balances and collections	5,072	5,223	5,574



# Terminations, Reductions, and Savings



## Budget of the U.S. Government Fiscal Year 2011



Office of Management and Budget  
[www.budget.gov](http://www.budget.gov)

**GENERAL NOTES**

1. All years referenced for budget data are fiscal years unless otherwise noted. All years referenced for economic data are calendar years unless otherwise noted.
2. Detail in this document may not add to the totals due to rounding.
3. Web address: *http://www.budget.gov*.

**TERMINATION: YUCCA MOUNTAIN NUCLEAR WASTE REPOSITORY**  
*Department of Energy*

The Administration has determined that Yucca Mountain, Nevada, is not a workable option for a nuclear waste repository and will discontinue the Department of Energy's program to construct a repository at the mountain in 2010. The Department will carry out its responsibilities under the Nuclear Waste Policy Act within the Office of Nuclear Energy as the Administration develops a new nuclear waste management strategy.

**Funding Summary**  
(In millions of dollars)

	2010 Enacted	2011 Request	2011 Change from 2010
Budget Authority.....	197	0	-197

**Justification**

The Nuclear Waste Disposal Account was established as part of the Nuclear Waste Policy Act of 1982 (Public Law 97-425), as amended, to provide funding to implement Federal policy for disposal of commercial spent nuclear fuel and high-level radioactive waste. The Administration has determined that developing a repository at Yucca Mountain is not a workable option and that the Nation needs a better solution for nuclear waste disposal. The President has made clear that the Nation needs a better solution than the proposed Yucca Mountain repository, saying that such a solution must be based on sound science and capable of securing broad support, including support from those who live in areas that might be affected by the solution.

In 2010 the Department will discontinue its application to the Nuclear Regulatory Commission (NRC) for a license to construct a high-level waste geologic repository at Yucca Mountain, Nevada. Secretary of Energy Chu has announced that he will establish a Blue Ribbon Commission to help inform the Administration as it develops a new strategy for nuclear waste management and disposal.

In the interim, all funding for development of the facility will be eliminated, such as further land acquisition, transportation access, and additional engineering. While a new strategy is developed, ongoing responsibilities under the Act, including administration of the Nuclear Waste Fund and the Standard Contract, will continue within the Office of Nuclear Energy, which will lead all future waste management activities, including research on alternative waste management and disposal pathways, such as deep borehole disposal, salt disposal, and geologic disposal sites. Residual responsibilities for site remediation will be assumed by the Office of Environmental Management and responsibilities for security at the site will be assumed by the National Nuclear Security Administration.

**Unofficial Transcript**  
**DOE Press Conference**  
**February 1, 2010**

**Secretary Chu's Press Conference on the FY 2011 Budget, February 1, 2010**

Start to 0:39	Sec'y Chu	"The Waste Act requires that we have a path moving forward. The Blue Ribbon Commission is a path going forward. The BRC has stipulated that the waste in dry cask storage will be safe for a half a century. So that means there's time to take a deep breath, and since we know a lot more than we did in 1982, to really look at this dispassionately and plot steps, path forward. <b>We're still moving forward and that's what was required by law.</b> "
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2:40	Questioner	"Yucca Mountain project [unintelligible] what are some of those shutdown activities? Termination of the contracts? And what sort of schedule are you looking at?"
2:53	Sec'y Chu	"Well, we certainly have any contractual obligation we have [sic] legally, in terms of the contracts we will honor those. So the budget includes all those things. Let me also preemptively say that there are some people, for example, of 600 jobs, we are looking at, <b>for federal workers, there are roughly 260, we're looking to reassign them.</b> Of the contractors, because the net DOE budget is increasing, we're also working with our contractors to see if many, if not all, of those people can be employed in some other way."

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3:27	Questioner	"Hello, this is for Secretary Chu. Is this panel going to look at all at how this new generation of nuclear plants will be financed?"
3:43-3:59	Sec'y Chu	"Uh, no. This panel is [unintelligible] to look at what will happen in terms of the science and technology going forward. And to give it, to anticipate what's going to be happening, and to give us a plan going forward, as we said, on ultimately, figuring out how to deal with the used fuel and, eventually the nuclear waste."
4:04	DOE Official	"If I just may add, we had \$197[million] in the 2010 budget. We plan to use a significant portion of that to <b>address some of the transitional issues.</b> And we also have about \$55 million in the nuclear energy budget [unintelligible] toward that."

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6:45	Questioner	"On the withdrawal of the Yucca application, did you say, are you withdrawing that with prejudice, are you declaring the site unsuitable as you withdraw it?"
6:57	Sec'y Chu	"Well, we're withdrawing it. I think that speaks for itself. With prejudice is what my general counsel (laughs) I'm a newbie in what does with prejudice mean, and he will explain to me later what that means, but we are withdrawing it."
7:07	Questioner	"Just to be clear, because my understanding was that it needs to be declared unsuitable --
	Sec'y Chu	"--No--"
	Questioner	"So that the site cannot be considered in the future. Is that?"
7:35	DOE Gen Counsel	"As a legal matter, it will be withdrawn with prejudice which we'll file within the next 30 days."

7:45	Questioner	"On Yucca...to provide government support, possible government support for a new generation of nuclear reactors through loan guarantees, but you've stopped the waste process altogether to reexamine what its fate might be. Is that a prudent decision in terms of taxpayers' money?"
8:01	Sec'y Chu	"Well we haven't stopped the waste process process. In fact the whole point of the blue ribbon panel is to say that we've learned a lot more since the Waste Act of 1982, we see on the horizon a lot of other options. Let me just give you one example. We're gonna be funding R&D and looking at various options regarding fuel recycling, but we're also looking at, for example, is it possible to get a deep burn on one end of the fuel? Right now, lets say its .7% uranium 235, from the uranium we dig it out of the ground, we enrich to 5%, we burn 1% of that 5%. And then you have depleted uranium, plus, but not much of the energy content. If you can burn 10% of the energy content of the uranium, we're talking a factor of 20 or more decrease in the amount of energy per unit of fuel. These are things that people are beginning to discuss, and, again, all new since 1982, so this Blue ribbon commission will be looking at many many things. And, we are going forward. I want to stress that. We continue to go forward."

**Letter from DOE  
to Nevada Dept. of  
Conservation and  
Natural Resources,  
February 8, 2010**



**Department of Energy**  
Office of Civilian Radioactive Waste Management  
1551 Hillshire Drive  
Las Vegas, NV 89134-6321

QA: N/A

FEB 08 2010

Mr. Tracy Taylor, State Engineer  
Division of Water Resources  
Department of Conservation and  
Natural Resources  
State of Nevada  
901 South Stewart Street, Suite 2002  
Carson City, NV 89701-5249

2010 FEB -9 11:16:58

Subject: Withdrawal of Water Applications 77798 through 77913

Dear Mr. Taylor:

This letter responds to your letters November 10, 2009 and January 14, 2010 regarding the Department's intent to pursue the 116 applications to appropriate groundwater that were filed on January 20, 2009. In light of recent developments, the U.S. Department of Energy does not intend to pursue the 116 subject applications and requests that these applications be withdrawn.

If you have any questions, please contact me at (702) 794-1454.

Sincerely,

A handwritten signature in black ink that reads "Ned B. Larson".

Ned B. Larson  
Federal Project Director  
Nevada Rail Line Project

*Las Vegas Sun* Article  
**On Yucca Funding**  
**February 1, 2010**

Las Vegas Sun

# Obama to zero out Yucca Mountain funding, pull license

By ***Lisa Mascaro*** (contact)

Published Sunday, Jan. 31, 2010 | 11:50 a.m.

Updated Monday, Feb. 1, 2010 | 9:22 a.m.

WASHINGTON - President Barack Obama plans to zero out funding for Yucca Mountain and "take steps" to withdraw the project's pending license application, according to a preview of the 2011 budget that will be announced Monday.

The president's intention to pull the license application -- a promise he made while campaigning in Nevada -- would be one of the most critical moves yet in stopping the proposed nuclear waste dump in Nevada.

Senate Majority Leader Harry Reid, who has been in ongoing talks with Obama over the dump, called the development "great news."

"President Obama is keeping his word to Nevada and I thank him for working with me as we try to find a safer solution for dealing with the nation's nuclear waste," Reid said Sunday.

Reid's office released information from Obama's coming budget that showed: "The Department of Energy's Office of Civilian Radioactive Waste Management will be merged into the Office of Nuclear Energy. As part of the merger, funding for the proposed Yucca Mountain project will be eliminated and the Department will take steps to withdraw the license application in the near future. This reflects the Administration's commitment to pursuing a responsible, long-term strategy through the appointment of a high-level Blue Ribbon Commission on America's Nuclear Future."

"We had champagne on ice for 25 years, but we won't pop the cork until we see the terms and conditions of the withdrawal of the Yucca Mountain license application," said Bruce Breslow, the executive director of the state's Agency for Nuclear Projects, which has been fighting the dump.

Breslow and project opponents will be looking to see that the application is drawn "with prejudice" -- meaning the site is not suitable and cannot be reconsidered in the future.

He said he will also be looking to the Energy Department to begin to restore the desert site where it has been working and drilling for years. "We will want to ensure that DOE follows up on site restoration and reclamation and preserve all important documents to protect our legal position in the future."

Even as Reid -- and, in the past year, Obama -- have severely slashed the Yucca Mountain budget, opponents have worried that unless the license for the project that is now pending for review at the Nuclear Regulatory Commission is withdrawn, a more friendly administration could revive the dump project.

That license review is a lengthy four-year process that could finish by 2012 -- a presidential election year.

However, under existing law, the administration and its Energy Department could simply withdraw the license application -- essentially halting the project from advancing, which would be a significant blow.

The administration had been hesitant to pull the license because it could face mounting liability from the power companies, which have been successfully suing the government for failing to open Yucca Mountain and take the nuclear waste off their hands.

On Friday, the administration took a critical step toward assuring the nuclear industry it was seeking a viable Plan B by establishing a commission headed by Lee Hamilton and Brent Scowcroft to study alternatives. The administration also announced it would be beefing up new federal loan guarantees sought by the nuclear industry to build new power plants Obama touted in his State of the Union speech last week.

Yucca Mountain's opponents may still hold skepticism that the project is truly dead. The site 90 miles northwest of Las Vegas remains in the 1987 law as the proposed location for the nation's nuclear waste, and opponents argue that until the site is declared unsuitable by the administration or the law is changed by Congress, Nevada's desert could remain on the back burner as the waste site.

Also, budget watchers will be looking to see how much funding the Obama allocation allocates to the new merged department to ensure only minimal amounts for close out work at Yucca are allowed.

Congress is unlikely to attempt any change to the existing law, as Reid would not likely have the votes to revisit the difficult issue that had been decided more than 20 years ago.

Still, those who have been fighting the dump for decades will likely see the Obama administration's decision to zero out funding and take steps to withdraw the application in the future as among the most clear signs yet the dump project is almost dead.

Democratic Rep. Shelley Berkley said the Energy Department confirmed to her the budget language coming Monday from the White House.

"This budget is a bulldozer that will help Nevada flatten Yucca Mountain into a permanent pile of rubble," Berkley said.

"Money talks and the president's budget shouts 'no more spending' on efforts to dump nuclear waste in Nevada," she said. "We are closer than ever to winning the war on Yucca Mountain and the battle now is to pass this funding cut, so I'll be on the front lines leading the charge in the House."

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