

RAS E-332

CLEARWATER, INC.

DOCKETED
USNRC

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

February 3, 2010

Lawrence McDade, Chair
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
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Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555

Dr. Kaye D. Lathrop
Administrative Judge
Atomic Safety and Licensing Board
190 Cedar Lane E.
Ridgeway, CO 81432

In the Matter of
ENERGY NUCLEAR OPERATIONS, INC.
(Indian point Nuclear Generating Units 2 and 3)
Docket Nos. 50-247-LR/286-LR

Dear Administrative Judges:

Hudson Sloop Clearwater, Inc. is hereby to notifying the Atomic Safety and Licensing Board of some significant developments that are relevant to the pending contention regarding spent fuel storage and disposal. First, the president has announced that next year's budget will contain no funding for the nuclear waste repository at Yucca Mountain and the Department of Energy has filed a request for a stay in the licensing proceeding regarding Yucca Mountain, pending its withdrawal of the application with prejudice.¹ This indicates that the administration has now decided that the Yucca Mountain repository is no longer even an option to be considered. Most parties in that proceeding either consented to the motion or took no position. The Board in that case suspended preparations for depositions yesterday.²

1 U.S. Department of Energy's Motion to Stay the Proceeding, dated February 1, 2010, attached Attachment 1

2 http://www.lvrj.com/news/breaking_news/NRC-board-gives-lawyers-OK-to-stop-Yucca-depositions-83392147.html, attached as Attachment 2.

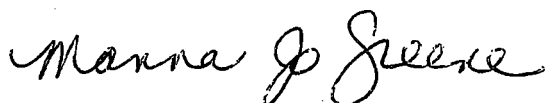
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Second, the president has give the go-ahead to the long-awaited blue-ribbon panel on nuclear waste disposal options.³ The memorandum from the Energy Secretary appointing the panel states: "in light of the Administration's decision not to proceed with 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."⁴ Thus, although it is now clear that the nation is no longer going to pursue the siting of a nuclear waste repository at Yucca Mountain, it is impossible to predict which solution the blue-ribbon panel will favor, let alone which solution might ultimately be adopted by the President or the Commission.

Finally, a licensing board in the Prairie Island proceeding recently recognized that new contentions filed within 30 days of the emergence of significant new information are timely. *In the Matter of Northern States Power Co.* (Prairie Island Nuclear Generating Plant, Units 1 and 2), Order Admitting Contention, *slip op.* at 7-8 (January 28, 2010).

Respectfully submitted,



cc: Service list

³ <http://www.whitehouse.gov/the-press-office/presidential-memorandum-blue-ribbon-commission-americas-nuclear-future>, attached as Attachment 3.

⁴ <http://www.energy.gov/news/8584.htm>, attached as Attachment 4.

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 1, 2010 |

U.S. DEPARTMENT OF ENERGY'S MOTION TO
STAY THE PROCEEDING

Today, the President announced the Administration's budget for fiscal year 2011. In that budget, the President directed that the Department of Energy "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" *Budget of the U.S. Government, Fiscal Year 2011*, Appendix at 437 (available at <http://www.whitehouse.gov/omb/budget/fy2011/assets/doe.pdf>); *see id., Terminations, Reductions, and Savings* at 62 (available at <http://www.whitehouse.gov/omb/budget/fy2011/assets/trs.pdf>) (Attached). Moreover, the budget specifies that "all funding for development of the Yucca Mountain facility will be eliminated" for fiscal year 2011. *Id.*

In accord with these determinations, DOE has advised the undersigned counsel that DOE intends to withdraw the pending application with prejudice and to submit a separate Motion, pursuant to 10 C.F.R. § 2.107(a), within the next 30 days, to determine the terms and conditions,

if any, of that withdrawal. To avoid the unnecessary expenditure of resources by the Board, the NRC Staff, and all other parties to this proceeding, DOE hereby requests that the Board stay proceedings (with one exception discussed below) in this matter through the disposition by the Board of any DOE motion under Section 2.107 filed within the next 30-days. *See Duke Energy Corp.* (Catawba Nuclear Station, Units 1 and 2), unpublished Commission Order (Jan. 30, 2004) and *Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), 1966 WL 627, 640 (N.R.C.) (Oct. 2, 1996) (Commission granting “housekeeping” stay to accommodate time for future Staff filings and parties’ responsive filings); *see generally Nat’l Audubon Soc’y, Inc. v. Watt*, 678 F.2d 299, 307 (D.C. Cir. 1982) (discussing parties’ agreement “to a stay of the proceedings ‘to conserve judicial resources’ . . . [T]he need for a stay was premised, in large part, on a new policy toward federal water projects adopted by an incoming Administration”).

The one exception that DOE proposes to this stay of proceedings would apply to DOE’s submission addressing the Board’s questions at the January 27, 2010 Case Management Conference, as well as the other parties’ written responses to that filing. DOE intends to adhere to its commitment to make that filing. That document, and other parties’ responses, may provide information relevant to the winding up of this proceeding.¹

Finally, DOE notes that Answers to this Motion are due in 10 days, but depositions are scheduled to begin approximately two weeks from today, and the electronic indexes associated with derivative discovery for those depositions under 10 C.F.R. § 2.1019 are due next week. In order to preserve the resources of the parties, DOE requests that the Board issue as soon as possible an interim Order suspending discovery pending its resolution of this Motion.

¹ In accordance with this Board’s Order of December 22, 2009, that parties “not [] take any actions at this time that would prevent or hinder their ability to archive LSN documentary material in a readily accessible format,” DOE will preserve and maintain its LSN collection pending further instruction.

DOE counsel has made a sincere attempt to confer with counsel for the other parties prior to filing this Motion, per 10 C.F.R. § 2.323(b), including holding a telephone conference to which counsel for each party was invited. As a result of that consultation, the following parties concur with this Motion: State of Nevada, State of California, Nuclear Energy Institute, Clark County, Nye County, Inyo County, and Eureka County.

The following parties take no position as of the time of this filing: the NRC Staff, JTS, NCAC, and the "Four Counties" (*i.e.*, Nevada Counties of Mineral, Lander, Churchill, and Esmeralda).

White Pine County opposes the Motion.

Respectfully submitted,

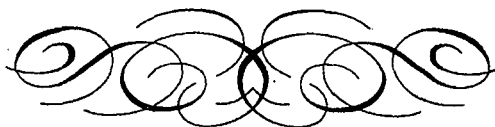
Signed (electronically) by Donald J. Silverman

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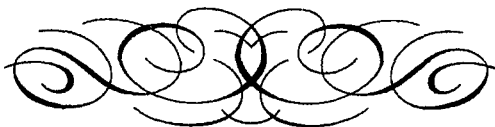
U.S. Department of Energy
Office of the General Counsel
1000 Independence Avenue, SW
Washington, DC 20585

Dated in Washington, DC
this 1st day of February



Appendix

Budget of the U. S. Government



Fiscal Year 2011



Office of Management and Budget
www.budget.gov

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. 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.

U.S. GOVERNMENT PRINTING OFFICE
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PAYMENTS TO STATES UNDER FEDERAL POWER ACT—Continued
Program and Financing—Continued

| Identification code 89-5105-0-2-806 | 2009 actual | 2010 est. | 2011 est. |
|--|-------------|-----------|-----------|
| 23.95 Total new obligations | -3 | -3 | -3 |
| New budget authority (gross), detail: | | | |
| Mandatory: | | | |
| 60.20 Appropriation (special fund) | 3 | 3 | 3 |
| Change in obligated balances: | | | |
| 73.10 Total new obligations | 3 | 3 | 3 |
| 73.20 Total outlays (gross) | -3 | -3 | -3 |
| Outlays (gross), detail: | | | |
| 86.97 Outlays from new mandatory authority | 3 | 3 | 3 |
| Net budget authority and outlays: | | | |
| 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. |
|--|-------------|-----------|-----------|
| Obligations by program activity: | | | |
| 00.01 NEHOR | 10 | 11 | 11 |
| 10.00 Total new obligations (object class 25.2) | 10 | 11 | 11 |
| Budgetary resources available for obligation: | | | |
| 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 |
| New budget authority (gross), detail: | | | |
| Discretionary: | | | |
| 40.00 Appropriation | 10 | 11 | 11 |
| Change in obligated balances: | | | |
| 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 |
| Outlays (gross), detail: | | | |
| 86.90 Outlays from new discretionary authority | 9 | 9 | 9 |
| 86.93 Outlays from discretionary balances | 9 | 2 | 3 |
| 87.00 Total outlays (gross) | 9 | 11 | 12 |
| Net budget authority and outlays: | | | |
| 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 "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 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 NWPA, 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 |
| Receipts: | | | |
| 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 |
| Appropriations: | | | |
| 05.00 Nuclear Waste Disposal | -145 | -98 | |
| 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 | 25,118 |

Program and Financing (in millions of dollars)

| Identification code 89-5227-0-2-271 | 2009 actual | 2010 est. | 2011 est. |
|---|-------------|-----------|-----------|
| Obligations by program activity: | | | |
| 00.01 Repository | 76 | 44 | |
| 00.02 Program Direction | 63 | 70 | |
| 10.00 Total new obligations | 139 | 114 | |
| Budgetary resources available for obligation: | | | |
| 21.40 Obligated 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: | | | |
| 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 | |
| 87.00 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. |
|---|-------------|-----------|-----------|
| Direct obligations: | | | |
| Personnel compensation: | | | |
| 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 | 9 | 25 | |
| 41.0 Grants, subsidies, and contributions | 26 | 26 | |
| 99.9 Total new obligations | 139 | 114 | |

Employment Summary

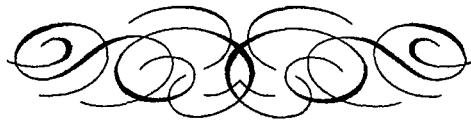
| Identification code 89-5227-0-2-271 | 2009 actual | 2010 est. | 2011 est. |
|---|-------------|-----------|-----------|
| Direct: | | | |
| 1001 Civilian full-time equivalent employment | 243 | 243 | |

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

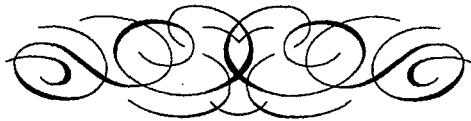
For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, and title X, subtitle A, of the Energy Policy Act of 1992, [\$573,850,000] \$708,498,000, to be derived from the 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 |
| Receipts: | | | |
| 02.20 Domestic Utility Fees, Decontamination and Decommissioning Fund | | | 200 |
| 02.40 Earnings on Investments, Decontamination and Decommissioning Fund | 156 | 274 | 728 |
| 02.41 General Fund Payment - Defense, Decontamination and Decommissioning Fund | 463 | 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

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.

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 1, 2010 |
| |) | |

CERTIFICATE OF SERVICE

I hereby certify that copies of the "U.S. DEPARTMENT OF ENERGY'S MOTION TO STAY THE PROCEEDING" have been served on the following persons on this 1st 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

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Paul S. Ryerson

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Parties Served

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Bauser, Michael A.
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Feb. 02, 2010
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NRC board gives lawyers OK to stop Yucca depositions

By STEVE TETREALT
STEPHENS WASHINGTON BUREAU

WASHINGTON — A panel of judges at the Nuclear Regulatory Commission granted permission today for attorneys to temporarily suspend preparations for Yucca Mountain license hearings.

The interim ruling by the Atomic Safety and Licensing Board allowed attorneys for the Energy Department, the state of Nevada and others to put aside their groundwork for upcoming depositions, at least for now and perhaps forever.

It was the first in what could be a series of NRC rulings that could lead to the eventual withdrawal of the Energy Department's application to build a nuclear waste repository at the Nevada site.

"I am not planning to have depositions," said Bruce Breslow, executive director of Nevada's Agency for Nuclear Projects. The NRC ruling means the state does not have to send checks ahead to hire court reporters or book flights to send attorneys to take testimony from expert witnesses.

Depositions were to begin on Feb. 17, but attorneys have been preparing for weeks. The interim ruling is effective until the NRC board decides whether to suspend license activities for a longer period. The board has 10 days to rule.

The NRC licensing board issued the one-page order a day after the Department of Energy asked for the Yucca Mountain proceeding to be suspended for 30 days. During that 30 days, Energy Secretary Steven Chu announced on Monday, DOE would file a motion to withdraw the application and bring the repository licensing to a halt.

While the NRC board considers the request to suspend the license hearings, DOE asked for permission to put the depositions on ice in the meantime as a way to save everyone money. Alex Polonsky, a lawyer for DOE, floated the idea by other attorneys in the case and all agreed.

Charles Fitzpatrick, an attorney for Nevada, estimated that the parties would save a combined tens of thousands of dollars by having the depositions set aside for now.

Contact Stephens Washington Bureau Chief Steve Tetreault at stetreault@stephensmedia.com or 202-783-1760.

Find this article at:

http://www.lvrj.com/news/breaking_news/NRC-board-gives-lawyers-OK-to-stop-Yucca-depositions-83392147.html

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For Immediate Release

January 29, 2010

Presidential Memorandum -- Blue Ribbon Commission on America's Nuclear Future

MEMORANDUM FOR THE SECRETARY OF ENERGY

SUBJECT: Blue Ribbon Commission on America's Nuclear Future

Expanding our Nation's capacity to generate clean nuclear energy is crucial to our ability to combat climate change, enhance energy security, and increase economic prosperity. My Administration is undertaking substantial steps to expand the safe, secure, and responsible use of nuclear energy. These efforts are critical to accomplishing many of my Administration's most significant goals.

An important part of a sound, comprehensive, and long-term domestic nuclear energy strategy is a well-considered policy for managing used nuclear fuel and other aspects of the back end of the nuclear fuel cycle. Yet the Nation's approach, developed more than 20 years ago, to managing materials derived from nuclear activities, including nuclear fuel and nuclear waste, has not proven effective. Fortunately, over the past two decades scientists and engineers in our country and abroad have learned a great deal about effective strategies for managing nuclear material. My Administration is committed to using this advanced knowledge to meet the Government's obligation to dispose of our Nation's used nuclear material.

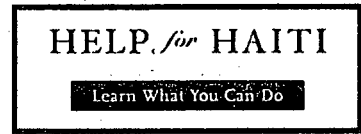
Accordingly, I request that you establish a Blue Ribbon Commission on America's Nuclear Future (Commission) and appoint its members. Those members should include recognized representatives and experts from a range of disciplines and with a range of perspectives, and may include participation of appropriate Federal officials. The Commission's business should be conducted in an open and transparent manner.

The Commission should conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle, including all alternatives for the storage, processing, and disposal of civilian and defense used nuclear fuel and nuclear waste. This review should include an evaluation of advanced fuel cycle technologies that would optimize energy recovery, resource utilization, and the minimization of materials derived from nuclear activities in a manner consistent with U.S. nonproliferation goals.

In performing its functions, the Commission should consider a broad range of technological and policy alternatives, and should analyze the scientific, environmental, budgetary, economic, financial, and management issues, among others, surrounding each alternative it considers. Where appropriate, the Commission may also identify potential statutory changes.

The Commission should provide an interim report to you within 18 months of the date of this memorandum, and that report should be made available for public comment. The Commission should provide a final report to you within 24 months of the date of this memorandum. The Department of Energy shall provide funding and administrative support for the Commission, as you determine appropriate, so that it can complete its functions within these time periods. Additionally, all executive departments and agencies shall provide such information and assistance to the Commission as you or the Commission may request for purposes of carrying out the Commission's functions, to the extent permitted by law. Nothing in this memorandum shall be construed to require the disclosure of classified, proprietary, law enforcement sensitive, or other information protected under governing law. This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are hereby authorized and directed to publish this memorandum in the Federal Register.



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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**

Presidential Memorandum on the Blue Ribbon Commission ([/news/documents/2010nuclearfuture_memo.pdf](#)) (pdf - 10k)

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

February 3, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
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| In the Matter of |) | |
| |) | |
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| (Indian Point Nuclear Generating |) | 50-247-LR |
| Units 2 and 3) |) | and 50-286-LR |
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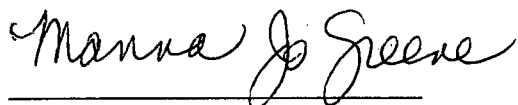
CERTIFICATE OF SERVICE

I certify that on February 3, 2010 copies of the foregoing **BOARD NOTIFICATION LETTER DATED FEBRUARY 3, 2010** were served on the following by first-class mail and e-mail:

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|---|---|
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Manna Jo Greene

February 3, 2010