

May 25, 2017

COMSECY-17-0019

**PLEASE RESPOND BY:**  
**June 9, 2017**

MEMORANDUM TO: Chairman Svinicki  
Commissioner Baran  
Commissioner Burns

FROM : Annette L. Vietti-Cook **/RA/**  
Secretary

E. Roy Hawkens **/RA/**  
Chief Administrative Judge

SUBJECT: YUCCA MOUNTAIN PROJECT ACTIVITIES

The Office of the Secretary (SECY) and the Atomic Safety and Licensing Board Panel (ASLBP) seek Commission authorization for the expenditure of funds from Nuclear Waste Fund (NWF) monies previously appropriated to the U.S. Nuclear Regulatory Commission (NRC). SECY and ASLBP propose initiating information-gathering activities in fiscal year (FY) 2017 associated with the Licensing Support Network (LSN) and a potential Nevada hearing facility as the next logical steps in the Yucca Mountain licensing process.

In SECY-16-0122, Status of Yucca Mountain Repository Program Activities (Oct. 16, 2016) (ML16201A110) (package), the NRC staff provided the Commission with an estimate of the NWF monies available to the agency and sought Commission authorization for NWF expenditures for staff knowledge management activities related to the Yucca Mountain license application. In the staff requirements memorandum associated with SECY-16-0122, the Commission approved the staff's request.<sup>1</sup>

In that paper, the staff also noted that the other ongoing NWF-supported activity, the SECY/ASLBP-managed LSN Library project, was nearing completion. That project now is finished,<sup>2</sup> affording the opportunity to undertake follow-on LSN-related information-gathering

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<sup>1</sup> Staff Requirements—SECY-16-0122—Status of Yucca Mountain Repository Program Activities (Nov. 8, 2016) (ML16313A356).

<sup>2</sup> As was noted in the April 2017 agency report to the Congress on HLW activities, the LSN Library project, which was implemented by the Office of the Chief Information Officer (OCIO) to provide public access to the 3.692 million items of discovery material that were electronically available via the LSN system at the time of its 2011 shutdown, has been completed. See Letter from NRC Chairman Kristine L. Svinicki to Representative Greg Walden, Chairman, Committee on Energy and Commerce, U.S. House of Representatives (May 19, 2017), encl. at 1 (ML17122A205) (package).

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activities, in conjunction with information-gathering efforts regarding a possible Nevada hearing facility, as discussed below.

In carrying out the court's decision in *In re Aiken County*, 725 F.3d 255 (D.C. Cir. 2013), the NRC has identified and completed activities that represent the next logical steps in the Yucca Mountain licensing process. The principal remaining activity in the process is the adjudication. Among the next key steps associated with the adjudication are (1) reinstating or replacing the LSN, which was established pursuant to 10 C.F.R. Part 2, Subpart J, but has been decommissioned; and (2) re-acquiring a venue in the vicinity of the Yucca Mountain facility for conducting adjudicatory sessions (including prehearing conferences, oral arguments, and evidentiary hearing sessions) to replace the agency's Las Vegas hearing facility that likewise has been decommissioned. Initiating information-gathering activities regarding these two matters in FY 2017 will allow the Commission to make efficient, informed decisions concerning these items should the U.S. Department of Energy communicate its intention to once again pursue the application.

Below we outline these activities.

#### 1. LSN Advisory Review Panel (LSNARP) Meetings

The LSNARP is a Federal Advisory Committee Act (FACA) body that consists of those state and local governmental bodies, Native American tribes, and industry and public interest groups concerned about the Yucca Mountain proceeding. The LSNARP is intended to provide the agency with advice, as well as be a vehicle for public input, regarding the various information technology (IT) components, including the LSN, established by Subpart J for the Yucca Mountain construction authorization proceeding. Prior to agency development and implementation of the LSN, input was sought from the LSNARP regarding system capabilities and configuration. To provide the Commission with similar input regarding reconstituting the LSN or putting in place a replacement system, we plan to conduct as many as three LSNARP meetings to provide information to, and elicit feedback from, the committee's members and the public. Once the necessary LSNARP meetings have been held,<sup>3</sup> ASLBP and SECY will be better prepared to make a recommendation to the Commission regarding reconstitution of the LSN in an appropriate form.

To accomplish these tasks once Commission authorization for LSNARP meetings is obtained, SECY and ASLBP will require approximately 60-90 days to conduct activities to prepare for an initial LSNARP meeting in FY 2017. Thereafter, it is estimated that 60-90 days would be needed to conduct the initial meeting and any follow-up meetings.

So that one or more LSNARP meetings can be scheduled in FY 2017, near-term Commission authorization is requested to use NWF monies for this purpose. The estimated cost for conducting up to three LSNARP meetings, along with several pre-meeting training webinars to better acquaint LSNARP members and other interested participants with the functionality and operations of the recently-completed LSN Library,<sup>4</sup> is \$299,000.

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<sup>3</sup> Depending on the outcome of the first meeting, SECY and ASLBP will make a determination about whether additional LSNARP meetings are needed and when/where those meetings should be held.

<sup>4</sup> Depending on the timing of the work associated with this webinar training activity, there may be some impact to existing OCIO project schedules.

2. Preparatory Activities Associated with Re-Establishing a Hearing Facility in the Vicinity of the Yucca Mountain Site

Should the Yucca Mountain proceeding be restarted in the future, the agency needs to locate a hearing venue in the vicinity of the proposed facility. The Office of Administration (ADM) and ASLBP plan to undertake preparatory activities in FY 2017 that would allow the agency to move forward promptly on facility procurement. These include a security assessment of possible Nevada locations (most particularly Las Vegas and Pahrump), as well as beginning discussions with the General Services Administration (GSA) about the possibility of re-establishing a dedicated hearing facility in Nevada. The estimated cost of these activities is \$128,000.

As of April 20, 2017, \$1,200,230 of NWF carryover funding remains unexpended. Of this, approximately \$570,000 is not otherwise assigned to any ongoing HLW activities. The resource implications associated with the information-gathering activities outlined in this paper have a total estimated cost of \$427,000, which is within this balance. Although expenditures for ongoing work, including federal court litigation, will continue to reduce the available carryover funding, the margin appears to be sufficient to continue these activities and the ones proposed in this paper for the foreseeable future. SECY and ASLBP, along with the Office of the Chief Financial Officer (OCFO), will monitor the remaining NWF carryover resources carefully and notify the Commission of any circumstances that may require a shift in the plans set forth in this document.

RECOMMENDATION:

This memorandum recommends Commission authorization to use previously appropriated NWF monies to carry out the following information-gathering activities: (1) conduct as many as three LSNARP meetings to provide information to, and gather input from, LSNARP members and the public, regarding reconstitution of the LSN or a suitable replacement system; and (2) perform security analyses regarding potential Nevada hearing venue sites and begin appropriate market research, including interactions with GSA concerning the possible procurement of Nevada hearing facility space.

The information in this paper has been coordinated with the Office of General Counsel, OCFO, ADM, OCIO, the Office of Commission Appellate Adjudication, and the Office of Nuclear Materials Safety and Safeguards (NMSS). Specifically for ADM, OCIO, and NMSS, that coordination is in the context of the estimation of HLW funds needed for the requested activities.

SECY, please track.

cc: OGC  
ADM  
OCIO  
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**ADAMS: ML17145A253**

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