

Statement of Edward F. Sproat, III
Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
FY 2009 Appropriations Hearing

Mr. Chairman and Members of the Committee, I am Edward F. Sproat, III, Director of the Department of Energy's (DOE) Office of Civilian Radioactive Waste Management (OCRWM). I appreciate the invitation to appear before the Committee to discuss the President's fiscal year (FY) 2009 budget request for my Office which has the responsibility to design, license, construct, and operate the Nation's repository for the disposal of spent nuclear fuel and high-level radioactive waste, as defined in the Nuclear Waste Policy Act (NWPA) of 1982, as amended.

When I came to this Committee last year, I outlined a number of specific deliverables that OCRWM would achieve in FY 2008, assuming appropriation of the President's request of \$494.5 million, including:

- Submit a License Application for a Construction Authorization for a geologic repository for disposal of spent nuclear fuel and high-level radioactive waste at Yucca Mountain to the Nuclear Regulatory Commission (NRC) by June 30, 2008;
- Certify DOE's Licensing Support Network collection in accordance with NRC requirements and regulations by December 21, 2007;
- Complete the Supplemental Environmental Impact Statement (EIS) for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain;
- Perform the analysis and deliver the report to Congress required by the NWPA on the need for a second repository; and
- Complete the final EIS for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geologic Repository at Yucca Mountain.

Despite the President's request of \$494.5 million, the Congress appropriated \$386.4 million for OCRWM in FY 2008, a reduction of \$108.1 million from the President's request. This large reduction, which occurred well into the fiscal year, contributed to significant management challenges, and following the FY 2007 appropriation which was approximately \$100 million less than the President's request, caused a reduction in force of approximately 900 personnel from the Program. The cumulative impact of these significant appropriation reductions is that DOE is no longer able to maintain the best achievable opening date of March 2017 that I presented to the Committee last year. However, because of significant improvements we have made in management practices

and processes, we will be able to complete all of the deliverables for FY 2008 that I promised the Committee last year on or near schedule, including the submittal of the License Application to the NRC this June.

FY 2009 BUDGET REQUEST AND KEY ACTIVITIES

The President's FY 2009 budget request for this Program is \$494.7 million. The Committee will note that this amount is significantly less than the \$1.2 billion for FY 2009 that I presented to the Committee last year as the amount needed to achieve the best achievable opening date of March 2017. This FY 2009 funding request reflects what the Administration sees as the realities of the effects of the current discretionary spending budget caps on this Program. Because the funding mechanism established by Congress for the Program when it established the Nuclear Waste Fund is not currently available to offset appropriations for this Program, we have limited our budget request to an amount that is needed to support the process to attain a Construction Authorization from the NRC and to continue some of the other critical path activities. We believe that unless Congress addresses the funding mechanism issue for this Program by acting affirmatively on the proposed legislation this Administration has sent to Congress, it is unrealistic to expect Congress to appropriate the significant increases in funding needed to open the repository in the shortest possible time (i.e., by 2017). We are therefore re-baselining the Program schedule and budget authority cash flow projections to reflect what we expect to be flat funding until the NRC issues the Construction Authorization. I will provide this revised information to the Committee when it is completed.

FY 2009 will be the first year of a multi-year license defense process. Following an acceptance review by the NRC, it is anticipated that the NRC will docket the License Application, thus beginning the formal licensing phase that is anticipated to last three to four years. In FY 2009, our objectives are to:

- Defend the License Application for the repository before the NRC;
- Begin detailed design for the facilities required for receipt of spent nuclear fuel and high-level radioactive waste at the repository;
- Continue essential interactions with State, local, and Tribal governments needed to support national transportation planning;
- Complete efforts to finalize the contour mapping and the layout of the rail line to support land acquisition and complete a right-of-way application for the Nevada rail line;
- Continue design and licensing work on the Transportation, Aging and Disposal (TAD) canister system;

- Continue staffing and training the OCRWM organization so that it has the skills and culture needed to design, license, and manage the construction and operation of the Yucca Mountain project with safety, quality, and cost effectiveness; and
- Continue planning and designing a compliant and well-integrated safeguards and security, safety, and emergency management program.

In addition, the budget request also includes funds for the following activities:

- Funding for payments-equal-to-taxes to the State of Nevada and Nye County, Nevada, where Yucca Mountain is located. Our FY 2009 request also includes oversight funding for the State of Nevada, affected units of local government and an affected tribe, as well as funding for the University System of Nevada and Nye County, Nevada, and Inyo County, California for independent scientific studies;
- Funding for cooperative agreements with State regional groups and other key parties involved in transportation planning; and
- Funding for Program direction which supports Federal salaries, expenses associated with building maintenance and rent, training, and management and technical support services, which include independent Nuclear Waste Fund audit services, independent technical and cost analyses, and University-based independent technical reviews. We also have included funding to begin the upgrade of obsolete data storage systems which house the scientific data collected over the years of this Program; this significant asset is now at risk of loss.

IMPLICATIONS OF NON-ACCESS TO THE NUCLEAR WASTE FUND

The NWPA establishes the requirement that the generators of high-level nuclear waste must pay for its disposal costs. As a result, the Nuclear Waste Fund was created and is funded by a 1 mil per kilowatt-hour fee on all nuclear generation in this country. As of today, the Fund has a balance of approximately \$21.0 billion which is invested in U.S. Treasury instruments. The government receives approximately \$750 million per year in revenues from on-going nuclear generation and the Fund averages about 5.5 percent annual return on its investments. At the present time, due to technical scoring requirements, appropriations for the Yucca Mountain repository have a significant negative impact on the Federal budget deficit. Specifically, the monies collected are counted as mandatory receipts in the budgetary process, while spending from the Nuclear Waste Fund is scored against discretionary funding caps for the Department. In legislation the Administration submitted to the 109th Congress and has submitted again to this Congress, the President proposes fixing this problem by reclassifying mandatory Nuclear Waste Fund receipts as discretionary, in an amount equal to appropriations from the Fund for authorized waste disposal activities. Funding for the Program would still

have to be requested annually by the President and appropriated by the Congress from the Nuclear Waste Fund.

Sustained funding well above current and historic levels will be required if the repository is to be built. Funding at current levels in future years will not be adequate to support design and the necessary concurrent capital purchases for repository construction, transportation infrastructure, and transportation and disposal casks. The development of a credible schedule for the Program is highly dependent upon a steady and reliable funding stream.

The Department estimates that U.S. taxpayers' potential liability to contract holders who have paid into the Nuclear Waste Fund will increase from approximately \$7.0 billion to approximately \$11 billion if the opening of the repository is delayed from 2017 to 2020. The calculation of potential costs to taxpayers is a complex matter that depends on a number of variables that change year to year, however, on average the liability will increase \$500 million annually. The Department has not attempted to calculate precisely what these costs would be if the opening of the repository were delayed beyond 2020. There will also be added costs associated with keeping defense waste sites open longer than originally anticipated. The Department has not yet estimated those costs. It can be seen, however, that each year of delay in opening the repository has significant taxpayer cost implications, as well as the potential for delaying construction of needed new nuclear power plants. Therefore, the Administration believes it is in the Country's best interest to expedite construction of the repository and the transportation infrastructure necessary to bring both defense and commercial spent nuclear fuel and high-level waste to Yucca Mountain.

SUMMARY

In summary, the President's FY 2009 budget request will provide the needed funds to defend the License Application for a Construction Authorization of a geologic repository for disposal of spent nuclear fuel and high-level radioactive waste at Yucca Mountain. The significant reductions in appropriated funding for FY 2007 and FY 2008, however, have negated the Department's ability to meet the March 2017 best achievable opening date. Each year's delay beyond the March 2017 date will result in increased potential taxpayer liability to utility contract holders as well as increased costs for storage at defense waste sites across the country. I respectfully urge the Congress to consider and pass the President's FY 2009 budget request for the OCRWM.

I would be pleased to answer any questions the Committee may have at this time.