



U.S. Senate Committee on Appropriations

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**U.S. Senate Appropriations Energy and Water Subcommittee
Testimony of Edward F. Sproat III
Director, Office of Civilian Radioactive Waste Management
U.S. Department of Energy**

WASHINGTON, D.C. – The U.S. Senate Appropriations Energy and Water Development Subcommittee on Wednesday held a hearing to examine the Fiscal Year (FY) 2008 budget request for the Department of Energy's Environmental Management program. As part of that hearing, the subcommittee heard testimony from Edward F. Sproat III, Director of the Department of Energy's (DOE) Office of Civilian Radioactive Waste Management. Mr. Sproat's prepared testimony is below.

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) 2008 budget request for my Office which has the responsibility to design, license, construct, and operate a repository for the disposal of high-level radioactive waste, as defined in the Nuclear Waste Policy Act (NWPA) of 1982, as amended.

When I first came to this Program last summer I outlined four strategic objectives to implement the President's priorities during my tenure. They are:

- Submit a high-quality and docketable License Application to the Nuclear Regulatory Commission (NRC) no later than Monday, June 30, 2008;
- Design, staff, and train the OCRWM organization such 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;
- Address the Federal Government's mounting liability associated with unmet contractual obligations to move spent nuclear fuel from nuclear plant sites; and
- Develop and begin implementation of a comprehensive national transportation plan that accommodates State, local, and Tribal concerns and input to the greatest extent practicable.

The President's FY 2008 budget request of \$494.5 million for this Program is supportive and vital to achieving these objectives.

FY 2008 KEY ACTIVITIES

FY 2008 will be a critical year for the Program. It is imperative that the DOE submit a high-quality License Application to the NRC in 2008. This activity is on the critical path to opening the repository and allowing the Department to meet its contractual obligations to begin accepting and removing spent nuclear fuel and high-level radioactive waste from 131 sites around the country. This budget request will provide the funding needed to complete that License Application.

In FY 2008, our objectives are to:

- Submit a License Application for the repository to the NRC;
- Certify the Licensing Support Network in accordance with NRC requirements and regulations;
- Complete the Supplemental Yucca Mountain Environmental Impact Statement (EIS);
- Begin the defense of the License Application after submittal;
- Design the standard canisters to be used by the industry to package and ship spent nuclear fuel to the repository;
- Perform critical personnel safety upgrades at the Yucca Mountain site;
- Perform the analysis and deliver the report to Congress required by the NWPA on the need for a second repository; and
- Resolve comments and issue the final EIS for the Nevada Rail Line which is required to transport spent nuclear fuel to the repository.

In addition to the specific deliverables outlined above, 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 2008 request also includes funding for the State of Nevada and affected units of local government as well as funding for the University System of Nevada and Nye County and Inyo County, California, for independent scientific studies.
- Funding for cooperative agreements with State regional groups and other key parties involved in transportation planning. NWPA Section 180 (c) pilot grants

will also be pursued to support operational preparedness training and to refine the Section 180 (c) program.

- Funding for Program management and integration of the Project components through formal baselines, procedures, and the system requirements hierarchy, and for resolving cross-cutting issues that impact the waste management system. This area has been weak in the past and is now targeted by senior management for improvement.
- 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.

IMPACT OF FY 2007 FINAL BUDGET AUTHORIZATION

The President's FY 2007 budget request for the Yucca Mountain Program was \$544.5 million. The final budget authority received for FY 2007 was \$444.5 million, a \$100 million reduction. While we are still evaluating the impact of the final FY 2007 appropriation in conjunction with the President's FY 2008 request, it is likely but not yet certain, that we will not be able to meet our Best-Achievable Schedule (attached) for opening the repository by March 2017. A one year slip is likely, but we are still evaluating recovery options. We will, however, meet our commitment to deliver the License Application for the repository in mid-2008.

IMPLICATIONS OF NON-ACCESS TO THE NUCLEAR WASTE FUND

The NWPA established 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 \$19.5 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, the Department cannot access the Nuclear Waste Fund annual receipts, interest or corpus, for their intended use without a significant negative impact on the Federal budget deficit. Because the monies collected are counted as mandatory receipts in the budgetary process, spending from the Nuclear Waste Fund is scored against discretionary funding caps for the Department. In legislation the Administration submitted to Congress last year 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.

While lack of access to the Fund is not critical to the Program for FY 2008, it will have serious consequences in FY 2009 and beyond. Over the past six months, we have been developing a projected budget authority needs estimate by fiscal year through repository construction. It is based on projected funding requirements for construction of the repository and the transportation infrastructure needed to meet the Best-Achievable Schedule opening date of March 2017, assuming enactment of the Nuclear Waste Management and Disposal Act that the Administration has reintroduced. 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, the transportation infrastructure, and the transportation and disposal casks.

For each year beyond 2017 that the repository's opening is delayed, the Department estimates that U.S. taxpayers' potential liability to contract holders who have paid into the Nuclear Waste Fund will increase by approximately \$500 million. This will be in addition to the estimated current potential liability of approximately \$7.0 billion due to the Department's not beginning removal of spent nuclear fuel in 1998 as required by contract. 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.

In summary, the President's FY 2008 budget request will provide the needed funds to allow submittal of the construction License Application for Yucca Mountain by mid-2008. The significant reduction in requested funding for FY 2007, however, will present challenges and puts in jeopardy the Department's ability to meet the March 2017 opening date. And, 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 2008 budget request for the Office of Civilian Radioactive Waste Management.

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

Best-Achievable
Yucca Mountain Repository Schedule

Milestone	Date
Design for License Application Complete	30 November 2007

Licensing Support Network Certification	21 December 2007
Supplemental Environmental Impact Statement (EIS) Issued	30 May 2008
Final License Application Verifications Complete	30 May 2008
Final Rail Alignment EIS Issued	30 June 2008
License Application Submittal	30 June 2008
License Application Docketed by NRC	30 September 2008

Best-Achievable Repository Construction Schedule	
Start Nevada Rail Construction	5 October 2009
Construction Authorization	30 September 2011
Receive and Possess License Application Submittal to NRC	29 March 2013
Rail Access In-Service	30 June 2014
Construction Complete for Initial Operations	30 March 2016
Start up and Pre-Op Testing Complete	31 December 2016
Begin Receipt	31 March 2017

The schedule above is based on factors within the control of DOE, enactment of the Nuclear Waste Management and Disposal Act, appropriations consistent with optimum Project execution, issuance of an NRC Construction Authorization consistent with the three year period specified in the Nuclear Waste Policy Act, and the timely issuance by the NRC of a Receive and Possess license. This schedule also is dependent on the timely issuance of all necessary other authorizations and permits, the absence of litigation related delays and the enactment of pending legislation proposed by the Administration.

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