

April/May 2016

ECA Bulletin

Local Concerns. National Impact.

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LEGISLATIVE UPDATE



The appropriations show goes on...kind of. The House missed the April 15 deadline to pass a budget resolution, but that hasn't stopped Senate and House appropriators from starting to consider their spending bills. Of the twelve appropriations bills that have to be passed, the Senate has already voted on four and the House has considered three. Senate Majority Leader Mitch McConnell (R-KY)

expressed his hopes that the Senate can complete consideration of appropriations bills before the party conventions in late July. Meanwhile, on the House side, leadership continues to work with conservatives to draft a passable budget resolution, but those hopes are aspirational at best. When the House returns on May 9, look for appropriations bills to begin appearing on the floor.

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LOCAL GOVERNMENT INVOLVEMENT: A PROCESS NEEDING PRACTICE

DOE, EPA, and State Regulators Must Include Local Governments at All Sites

Recently, ECA received a call from a local elected official asking about legal rights belonging to local governments that want to participate in the environmental cleanup process. Needing answers from DOE, this particular official asked how to ensure local government involvement in a cleanup agreement being negotiated between their state and DOE.

This call, unfortunately, is one that ECA staff have received on many occasions. The answer regarding legal rights is simple: local governments have a legal right to participate in remedy decision-making involvement. However, identifying the purpose or role of local government involvement is often the most difficult challenge federal and state parties face

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Legislative Update

Senate Energy and Water

S. 2804, the [Senate Energy and Water](#) (E&W) Appropriations for Fiscal Year (FY) 2017, totals \$37.5 billion and provides \$12.9 billion for nuclear security, \$341 million over FY16 spending bill, including \$9.3 billion for weapons activities. \$6.4 billion is provided for environmental management activities, \$133 million above last year's enacted spending levels. That figure includes \$5.4 billion for defense environmental cleanup. \$1.05 billion is provided for the Office of Nuclear Energy. A full break down of funding can be found on page 3.

The total spending bill is \$355 million above last year's enacted level and \$261 million above the President's request. Moreover, the spending bill funds the Department of Energy (DOE) at \$30.7 billion, \$1.024 billion above last year's levels.

According to a [committee press release](#), the bill would strengthen U.S. nuclear deterrence posture, ensure nuclear stockpile readiness and safety, and prepare for existing and future nuclear threats. Chairman Lamar Alexander (R-TN) said the bill strengthens American energy security and economic competitiveness, providing the highest level of funding ever for the DOE Office of Science compared to previous appropriations bills.

The bill was considered by the full Senate but stalled after Sen. Tom Cotton (R-AR) introduced what many Democrats are calling a "poison pill" amendment concerning the Iran nuclear deal. The bill was filibustered three times and the President has threatened to veto the bill if the amendment is included. Chairman Alexander [said in subsequent news reports](#) that he hopes to be able to work out the disagreements.

House Energy and Water Bill – Yucca Included Yet Again

H.R. 5055, the [House E&W version](#) of the spending bill, totals \$37.4 billion – \$259 million above the FY16 enacted level and \$168 million above the President's budget request. \$1.01 billion

Expected Appropriations Process

Week of May 9	Full House considers NDAA
Week of May 9	Senate holds third vote on Energy and Water Appropriations bill
Week of May 9	Senate Armed Services Committee begins consideration of NDAA
Week of May 16 or 23	Full House considers Energy and Water Appropriations bill
June	Full Senate considers NDAA
June-July	Both chambers consider appropriations bills
October 1	Fiscal Year 2017 Begins

is provided for the Office of Nuclear Energy, \$17.7 million above the request. \$9.2 billion is provided for weapons activities, slightly above the request, with NNSA receiving \$12.8 billion. \$6.15 billion is provided for environmental management activities, including \$5.2 billion for defense environmental cleanup.

The House bill provides funding for the Yucca Mountain nuclear repository, including \$150 million for the Nuclear Waste Disposal program and \$20 million for the Nuclear Regulatory Commission to continue the licensing process for the Yucca Mountain project. The legislation also denies the Administration's funding proposals for non-Yucca nuclear waste activities.

Leaders from both chambers have hinted that a vote will take place the week of May 9 in the Senate and the week of May 16 in the House on the E&W spending bills.

National Defense Authorization Act

On April 28, the House Armed Services Committee passed H.R. 4909, the [National Defense Authorization Act for Fiscal Year 2017](#) (NDAA). The bill authorizes national security programs carried out by DOE. It authorizes \$6.09 billion for environmental management activities, \$83.1 million

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Both the House and Senate Appropriations provide \$5.4 billion for defense environmental cleanup.

Department of Energy FY 2017 Budget				
Appropriation	FY 2016 Enacted (\$)	FY 2017 Request (\$)	Senate FY 2017 Bill (\$)	House FY 2017 Bill (\$)
Department of Energy	29,717,278,000	31,503,903,000	30,741,296,000	29,962,889,000
National Nuclear Security Administration				
Weapons Activities	8,846,948,000	9,234,747,000	9,285,147,000	9,243,147,000
Total NNSA Funding	12,526,512,000	12,884,000,000	12,867,186,000	12,853,570,000
Environmental Management Funding				
Defense Environmental Cleanup	5,289,742,000	5,235,350,000	5,379,018,000	5,226,950,000
Non-Defense Environmental Cleanup	255,000,000	218,400,000	255,000,000	226,745,000
Uranium Enrichment Decontamination and Decommissioning Fund	673,749,000	674,000,000	717,741,000	698,540,000
Total EM Funding	6,218,491,000	6,119,099,000	6,400,000,000	6,152,235,000
Site Funding Highlights				
Carlsbad/WIPP	269,260,000	271,000,000	274,540,000	292,720,000
Hanford/Richland	922,590,000	716,811,000	839,760,000	754,758,000
Idaho National Laboratory	396,000,000	362,088,000	362,088,000	382,088,000
Lawrence Livermore National Laboratory	1,366,000	1,396,000	1,396,000	1,396,000
Los Alamos National Laboratory	185,000,000	189,000,000	199,000,000	185,000,000
Oak Ridge Reservation	239,050,000	198,219,000	263,219,000	220,315,000
Office of River Protection	1,414,000,000	1,487,456,000	1,499,965,000	1,487,456,000
Nevada NNSA Site	62,385,000	62,176,000	62,176,000	62,176,000
Paducah	199,925,000	272,310,000	205,530,000	205,530,000
Portsmouth	225,166,000	322,653,000	264,585,000	272,682,000
Sandia National Laboratory	2,500,000	4,130,000	4,130,000	4,130,000
Savannah River Site	1,208,421,000	1,297,453,000	1,268,668,000	1,230,356,000
Separations Process Research Unit (SPRU)	---	3,685,000	3,685,000	3,685,000
West Valley Demonstration Project	61,804,000	61,613,000	66,413,000	61,613,000
Nuclear Energy Funding				
Nuclear Energy	986,161,000	993,896,000	1,057,903,000	1,011,616,000
Nuclear Waste Disposal				
Waste Disposal (Yucca)	---	---	---	150,000,000
Legacy Management Funding				
Legacy Management	167,180,000	154,320,000	154,320,000	154,320,000

*Note: These figures are compiled from different sources: the Office of Management and Budget, the congressional appropriations committee reports, and press releases. There are some discrepancies in how each calculates government spending

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Legislative Update

below the budget request. It supports “an increased level of effort at the Hanford site to accelerate the most critical cleanup efforts.” The NDAA authorizes \$13.25 billion in spending for the NNSA, \$37 million above the budget request. It also provides \$40 million for research and development efforts within the Office of Environmental Management (EM) to develop technologies that could speed cleanup efforts. The budget requested \$15.3 million for a consent-based siting effort to develop a separate geological repository for high-level defense nuclear waste. Citing the high costs of developing two separate repositories, the bill denied that request. The full report on the bill can be found [here](#).

The Senate NDAA will be finalized and released during the week of May 9.

MOX Reauthorized

The Senate NDAA requires DOE to carry out construction and project support activities for the MOX Facility in South Carolina. The Secretary of Energy may waive this requirement if he submits a congressional report on: (1) an updated performance baseline for construction and project support activities relating to the MOX facility; (2) notification that the Secretary has sought to enter into consultations with any relevant State or foreign country necessary to pursue an alternative option for carrying out the plutonium disposition program; (3) the commitment of the Secretary to remove plutonium from South Carolina and ensure a sustainable future for SRS; and, (4) either a notification that the prime contractor of MOX has not submitted a proposal for a fixed-price contract should DOE request such a proposal for completing construction or certification that the proposal is materially deficient.

The House E&W bill recommends \$5 million, the same as last year, to continue to develop conceptual plans of the MOX Alternative but those funds may not be used to dilute plutonium. \$340 million is also provided to continue constructing the MOX Facility, and the bill prohibits the use of funding to

place the project in cold standby. The Senate bill provides \$27 million, on par with the Administration’s request.

Senate Energy Bill Passes, Tech Transfers to be Studied

S. 2012, the [Energy Policy Modernization Act of 2016](#), passed through the Senate by a vote of 85-12, making it the first overhaul of energy policy since 2007. According to the [The New York Times](#), the bipartisan measure, which seeks to better align the nation’s oil, gas, and electricity systems with the changing ways that power is produced, gives some sense of hope for future energy-related legislative victories. Senate Energy Committee Chairman Lisa Murkowski (R-AK) and Ranking Member Maria Cantwell (D-WA) both lauded the passage of a bill many admit steps away from making sweeping changes but makes reforms that are “achievable in the Senate.” The full report on the bill can be found [here](#).

Section 4204 of the bill seeks to allow National Lab directors to use technology transfer funds to carry out early technology demonstration actions. The section would remove technology barriers that limit private sector interest, allowing the demonstration of potential commercial applications of National Lab research and activities.

Section 4203 requires the DOE to identify and report to Congress on opportunities for increased access to high-performance computing services and facilities at National Labs. Increased access to these services would be given to small and medium manufactures to enhance manufacturing and economic development. Read the full section [here](#).

Interim Storage Bill Introduced

On March 15, Rep. Mick Mulvaney (R-SC) introduced the [Interim Consolidated Storage Act of 2016](#) bill.

The bill would amend the *Nuclear Waste Policy Act* to allow DOE to take title to high-level waste and spent nuclear fuel prioritizing waste at sites without an operating nuclear reactor and contract “with any person that holds a license for an interim

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consolidated storage facility.” The bill is a win for private sector entities interested in hosting consolidated interim storage facilities like WCS and Holtec/Eddy Lea Energy Alliance.

It is almost the exact same as the *Consolidated Interim Storage Act of 2015* bill filed by Rep. Mike Conaway (R-TX) last October. However, Mulvaney’s bill has provisions allowing immediate access to the interest in the Nuclear Waste Fund for the purposes outlined in the bill. It also differs in that the funding will be subject to annual Congressional appropriations.

NRC RELEASES FINAL YUCCA MOUNTAIN EIS SUPPLEMENT

Finds Impacts on Groundwater “Small”

The Nuclear Regulatory Commission (NRC) [has released](#) the staff’s final environmental impact statement (EIS) supplement on a proposed permanent repository for spent nuclear fuel and high-level radioactive waste at Yucca Mountain in Nevada. The supplement evaluates the potential radiological and non-radiological impacts—over a one million year period—on the aquifer environment, soils, ecology, and public health, as well as the potential for disproportionate impacts on minority or low-income populations. The report concludes: “The NRC staff finds that each of the potential direct, indirect, and cumulative impacts on the resources evaluated in this supplement would be small.”

DOE issued the final EIS in 2002, then supplemented it in June 2008 when it submitted a construction authorization application to the NRC. The NRC staff recommended adoption of DOE’s EISs in September 2008, but noted the need to supplement the study of groundwater effects in the Yucca Mountain aquifer beyond DOE’s analyzed location at the site boundary. DOE accordingly updated its analysis of potential groundwater impacts after closure of a repository at the site and ultimately deferred to the NRC to

prepare the supplement. The draft EIS supplement was published for public comment in August 2015 and the NRC received over 1,200 comments.

Under the Nuclear Waste Policy Act, the NRC is to adopt DOE’s EIS to the extent practicable. However, in February 2010, the Secretary of Energy stated that the “Administration has determined that developing a repository at Yucca Mountain, Nevada is not a workable option,” and funding for Yucca Mountain has not been appropriated by Congress since then. Regardless, the NRC was directed to continue review work on the application after a 2013 appeal court ruling by the U.S. Court of Appeals for the District of Columbia Circuit.

DOE is now focused on developing a consent-based siting process for interim storage and another geologic repository.

The full *NRC Supplement to the U.S. Department of Energy’s Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada – Final Report* is [here](#).



Check out Daughters of Hanford, a project that highlights women’s perspectives of the Hanford nuclear site. The project offers a cross-section of politicians, leaders, and environmental cleanup advocates - all women who were part of history and the future talent putting their minds on the nuclear site’s toughest problems. More information [here](#).

2016 NATIONAL CLEANUP WORKSHOP: AGENDA TOPICS, SPEAKERS ANNOUNCED

DOE released topics of discussion and a list of EM's senior leaders who are set to speak at the 2016 National Cleanup Workshop in mid-September in the Washington, D.C.-area.

The workshop will address:

- The path forward for high-level waste at EM's Hanford and Savannah River sites;
- Upcoming acquisitions and procurement policy changes;
- The new approach to cleanup at EM's Los Alamos Site;
- Industry, community, and state perspectives on the future of cleanup;
- Startup, construction, and commissioning progress in 2016;
- Decommissioning successes and lessons learned;
- Advanced robotics and other EM technology development priorities;

- Maintaining a safety conscious work environment across the EM complex;
- DOE's new approach to project management;
- Bringing new workers to the EM cleanup program and effective human capital management;
- EM's path forward for defense high-level waste disposal; and
- Understanding the remaining costs in the EM program.

The workshop Sept. 14-15, 2016, at the Hilton Alexandria Mark Center in Alexandria, Va.

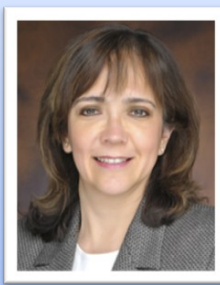
The workshop will bring together senior DOE executives, DOE site officials, industry executives, and other stakeholders to discuss EM's progress on the cleanup of the environmental legacy of the nation's Manhattan Project and Cold War nuclear weapons program.

Learn more about the workshop [here](#).

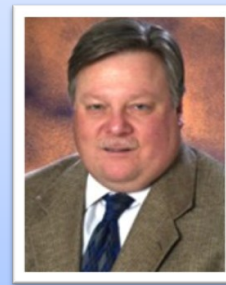
The nuclear cleanup program's leaders scheduled to take part in the workshop include Assistant Secretary Monica Regalbuto, Principal Deputy Assistant Secretary Mark Whitney, and Acting Associate Principal Deputy Assistant Secretary Frank Marcinowski.



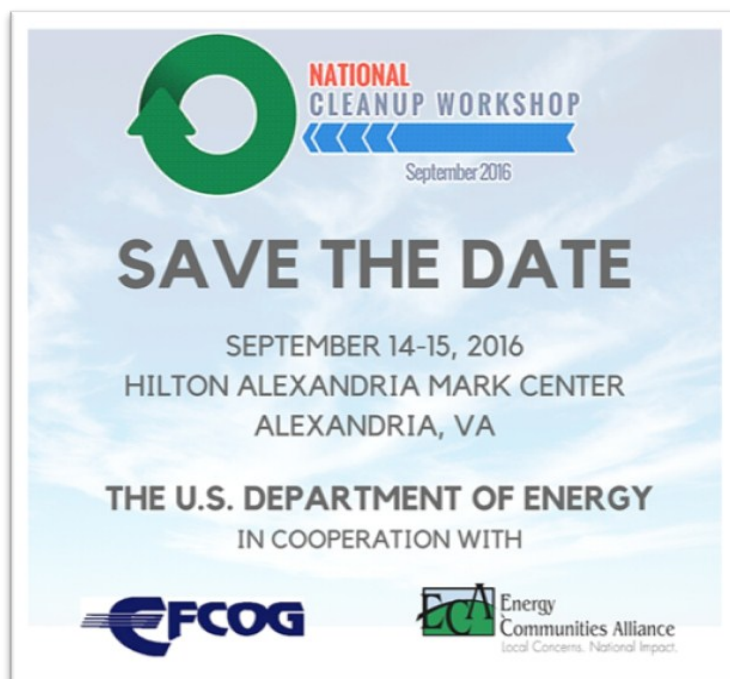
Mark Whitney



Monica Regalbuto



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when trying to engage local governments. This is complicated by the fact that policies and guidance established by DOE to help interpret laws like CERCLA and RCRA, in addition to the individuals managing the process, change throughout the cleanup process. Although federal environmental laws include specific provisions for community and local government involvement, agencies managing cleanup sometimes narrowly interpret public involvement processes as laid out in established applicable regulations.

These strict interpretations create situations in which DOE limits local government involvement based on its already narrow interpretation of the very policy it is intending to accomplish. Regardless of the intent, local governments have in many instances been relegated to an interested “citizen” or cursory role instead of being treated as equals with state and federal governments. However, CERCLA specifically designates local officials with certain legal rights. Pursuant to section 9620(f) of CERCLA, local government officials must be allowed to participate in the planning and selection of the remedial action. Additionally, this includes, but is not limited to, access to DOE’s data (even in “draft”), reports, and information as it becomes available to DOE:

The Administrator and each department, agency, or instrumentality responsible for compliance with this section shall afford to relevant State and local officials the opportunity to participate in the planning and selection of the remedial action, including but not limited to the review of all applicable data as it becomes available and the development of studies, reports, and action plans...

Beyond the legal authorities, state and federal policies dictate that cleanup must be to a level supported by local communities. Although most local government officials know the major players that shape their cleanup program, including state

regulators, DOE site managers, EPA region leads, state attorney generals and more, officials still find themselves advocating for a role in the process – even in instances where cleanup actions directly affect their communities. As a result, remedy selection has become an increasingly difficult task for local government officials who may be left out of the loop by DOE officials. Without local government support, delays and missed milestones lead to litigation costs, political turmoil with DOE, and state officials having to put out fires at every turn. We have learned from multiple lawsuits against DOE that an easier path to a successful cleanup program requires collaboration and openness.

The reality is DOE has successfully engaged local governments beyond a “public involvement” role in the past across various sites. At Rocky Flats, Mound, and Hanford, the Department included local governments directly in the remedy selection process. Although rarely asked by DOE and the state to directly participate initially, local government officials inserted themselves in the process.

A process in which federal, state, and local entities can agree on must evolve to ensure trust and communication are established at each site. For that reason, parties charged with cleanup at a site, including those charged with regulating cleanup activities, must clearly define and implement a process for local government involvement. However, conflicts are sure to arise when federal officials and state regulators view engagement as burdensome or as another box to check in the cleanup program. Once DOE can ensure a more open process to engaging affected community members, improvements in decision-making and remedy selection will follow.

ECA is aware of funding challenges faced at DOE. We understand that funding does not permit DOE to meet all binding cleanup milestones with states and EPA in our communities, pursuant to CERCLA and RCRA, as applicable. However, DOE must always share cleanup data and information, from budget numbers to risk reports – no matter how bad the news may be. Any delay in information-sharing

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elevates sentiments of mistrust felt around communities, regardless of intent. Sharing information is an important component of involvement. For example, in 2011 DOE proclaimed cleanup of one small site to cost upwards of \$1 billion. Five years later, the Department responded to a local government

inquiry for information saying the cost analysis has not been performed.

Finally, DOE must remind and provide guidance to its officials to engage, and not just brief or meet with local governments. As one former DOE site manager used to summarize, successful cleanup stories are always attributed to a collaborative process since meeting regulatory minimums is not enough. After all, local government officials are charged with the same responsibilities as their federal and state counterparts: protecting the health, safety, and welfare of their communities.

NNSA WANTS TO DISPOSE OF PLUTONIUM AT WIPP

On March 30, 2016, the National Nuclear Security Administration (NNSA) issued a [Record of Decision](#) (ROD) for *Disposition of Surplus Non-Pit Plutonium for the Final Surplus Plutonium Disposition* [Supplemental Environmental Impact Statement](#) (SPD Supplemental EIS). The ROD outlines NNSA's path forward to prepare and process six metric tons of surplus plutonium at the Savannah River Site (SRS) for disposal at the Waste Isolation Pilot Plant (WIPP).

The ROD is a follow-on to the SPD Supplemental EIS issued in April 2015. The SPD Supplemental EIS analyzed options for the disposal of thirteen metric tons of plutonium, some of which is currently at the Los Alamos National Laboratory. NNSA has not yet identified a path forward for the remaining seven metric tons of surplus plutonium.

The six metric tons of plutonium addressed by the ROD will be diluted then disposed of at WIPP using a proven process, according to the NNSA announcement.

New Mexico Environment Department Secretary Ryan Flynn and both of the state's senators have weighed in on the matter.

"If DOE moves forward with this plan, the state of New Mexico and Congress will need assurances that

this proposal fully complies with WIPP's disposal criteria and with the Land Withdrawal Act," Sen. Tom Udall, D-N.M., said in a statement to *The New Mexican*.

"We have to go above and beyond to ensure the safety of our workers, communities, and the environment," Heinrich said in a statement

Flynn, whose department recently released a new draft consent order outlining waste cleanup requirements at Los Alamos, said he still wants Los Alamos waste to be prioritized. "That is the waste that is sitting in my backyard, that is sitting in the backyard of the people I am representing," he told *The New Mexican*.



New Mexico Environment
Department Secretary
Ryan Flynn

NNSA says its plan to dispose of SRS plutonium will meet WIPP's standards and that workers will be protected from airborne emissions. The agency acknowledges that the SRS community "performs an invaluable service that would not be possible anywhere else in the world."

HOUSE NUCLEAR CLEANUP CAUCUS HOLDS FORUM

On April 20, ECA participated in the House Nuclear Cleanup Caucus event on Capitol Hill. The meeting was sponsored by Energy Technology and Environmental Business Association, the Energy Facility Contractors Group, and the Nuclear Energy Institute.

The Caucus, which is co-chaired by Reps. Chuck Fleischmann (R-TN) and Ben Ray Lujan (D-NM) kicked off their series for the year with a panel comprised of both DOE officials and contractors to discuss DOE's high-risk excess facilities. Various contractors, industry officials, stakeholders and senior officials at DOE also participated at the caucus kick-off. ECA Vice Chair and Kennewick Mayor Steve Young and ECA staff also attended the event.

EM Assistant Secretary Dr. Monica Regalbuto addressed attendees, describing the challenges that EM faces in remediating more than 2,000 DOE excess facilities, a number expected to increase by 1,000 in the next decade. Regalbuto emphasized that a successful cleanup strategy must consider realistic funding, a well-thought out and calculated list of priorities, along with a schedule and the ability to apply cost-saving technologies.

The event was attended by various members of Congress, including Rep. Dan Newhouse (R-WA) and Rep. Mike Simpson (R-ID), who chairs the House Appropriations Subcommittee on Energy and Water Development. Chairman of the House Armed Services Subcommittee on Strategic Armed Forces, Rep. Mike Rogers (R-AL), also spoke at the event highlighting the importance that the cleanup mission has on shaping a budget that has foresight for stronger defense and national security missions.



Rep. Mike Simpson (R-ID) speaks during the House Nuclear Cleanup Caucus Event

Participants agreed and highlighted the need to address rising costs associated with maintaining excess DOE facilities, including funding for surveillance and maintenance. Those costs are close to \$30 million for facilities at the Paducah Site, according to panelist Mark Duff, director of Environmental Management for the Fluor Paducah Deactivation Project.

Ken Rueter, president and project manager of URS|CH2M Oak Ridge LLC, EM's cleanup contractor for the Oak Ridge Reservation, added that investing now instead of later will save DOE money by reducing risk in the short term and alleviating dangers and costs in the long run.

The House Nuclear Cleanup Caucus series serves as an opportunity for congressional members to inform and advocate for cleanup for the EM program. Additional caucus events are scheduled for June 8 and September 14 during the [DOE National Cleanup Workshop](#). Visit EM's website [here](#) to find more information.



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OPPOSITION TO CLOSING MOX CONTINUES TO MOUNT

When Congress returns on May 9, debate will continue between DOE, Congress, South Carolina officials, and others over the future of MOX.

As part of its annual review, DOE examined and graded the facility. The consortium at the Savannah River Site facility, CB&I Areva MOX Services, received an overall grade of 49 percent, including mixed verbal reviews. The review by DOE comes amid the debate over whether to close the MOX facility and pursue downblending as an alternative to dispose of weapons-grade plutonium that is currently sitting at the Savannah River Site facility.

In addition, in March, the NRC released its annual assessment findings on MOX constructions. They concluded the MOX facility was constructed in a manner that preserved public health and safety and was consistent with the Commission's rules and regulations and the conditions of the Construction Authorization.

South Carolina Governor Nikki Haley, a proponent of the facility, filed a lawsuit against DOE earlier this year insisting that the federal government owes the state for its failure to meet a 2003 agreement on the plutonium that currently sits at the SRS site. DOE responded to the lawsuit saying that the agreement outlined non-binding goals and not mandates. In addition, DOE argued that the \$100 million fine that the state is seeking is an issue that should be handled in Federal Claims Court instead of the U.S. District Court.

A spokesperson from Governor Haley's office said, "We won't back down on what is an important economic development and quality of life issue for the people of our state."

Southern Carolina Alliance, an ECA member and local economic development organization that represents impoverished areas near SRS, has sought to join the state's lawsuit against DOE. Southern Carolina Alliance argues that it is financially affected by the MOX project and says its constituents would benefit from the plants productivity and fine money, according to the [Associated Press](#). DOE, in its legal response, said the group has no "claim or defense" in the case.

Sen. Lindsey Graham (R-SC) is also holding DOE's feet to the fire. Graham helped write the 2003 agreement during his time in the U.S. House. In the past months, other South Carolina representatives have also weighed in on the Administration's decision to cut the program. Sen. Graham spoke out during a hearing on the Senate Armed Services Committee during Secretary Moniz's visit to the Hill to testify on the FY17 Budget.

"A deal's a deal. We put the statute there for a purpose. If the MOX program does not get back on track, the statute helps ensure we protect the state," said Graham.

At this point in time, the fate of the MOX facility and the South Carolina's lawsuit remain unclear.

The MOX project was designated to help dispose of 34 tons of weapons-grade plutonium under an agreement with Russia, converting the plutonium into nuclear fuel.

DOE's failure to meet either goal has led to the state filing a \$1 million a day lawsuit, beginning Jan. 1, with a \$100 million cap.



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IDAHO ATTORNEY GENERAL WASDEN SHOULD WAIVER, ALLOW IDAHO NUCLEAR RESEARCH

By Jeff Thompson

This op-ed was originally published by the Idaho Statesman on April 12

Gov. C.L. “Butch” Otter supports issuing a waiver that would allow the U.S. Department of Energy to ship a small quantity of commercial nuclear fuel to Idaho National Laboratory for vital research. So does Idaho’s congressional delegation: Reps. Mike Simpson, and Raul Labrador; Sens. Jim Risch and Mike Crapo.

Attorney General Lawrence Wasden says he supports the lab doing this vital national security and clean energy work, he also says he wants the INL to retain its coveted status as the nation’s lead nuclear research lab. However, the attorney general continues to block the shipment and put INL, the state economy and our national security at risk.

That’s the reason I authored House Concurrent Resolution 60, which passed overwhelmingly by the Idaho House of Representatives and Senate. HCR 60 expressed support for INL’s clean energy and national security mission, while urging Wasden to join Otter in signing the waiver.

Read the resolution. It wasn’t critical of Wasden in any way. But, speaking to Idaho Public Television recently, the attorney general characterized HCR 60 as a “political ambush” and a “greased bill.”

First, as policymakers, it is entirely appropriate for the Legislature to offer the attorney general guidance on an issue vital to the state economy and national security.

Second, HCR 60 was drafted and voted on late in the session because that’s when we learned Wasden had been unable to reach an agreement with the Department of Energy, and a second shipment of commercial fuel had been delayed and could be lost.

Third, Wasden alone is blocking the shipment, which would arrive in the form of a solid, weigh roughly 100 pounds, pose absolutely no threat to the

aquifer and be worth up to \$10 million annually to the state.

HCR 60 passed the House on a 53-16 vote and the Senate on a voice vote. Legislators from every region in Idaho and of all political persuasions expressed support for INL’s clean energy and national security mission. These lawmakers understand the remarkable cleanup progress at the site that resulted from the 1995 Settlement Agreement. DOE has done an admirable job hitting cleanup milestones and shipping waste out. These lawmakers get that the DOE has spent millions of dollars and is working diligently to solidify the last 900,000 gallons of liquid waste, and that blocking a research project critical to our national security doesn’t accomplish that task one day sooner.

Lawmakers, from southeast Idaho, the Magic Valley, the Treasure Valley and north Idaho, recognize the INL’s importance to the Idaho economy. The lab is Idaho’s 5th largest private employer. It spent \$130 million with Idaho businesses last year and generated \$58 million in state and local taxes — money that helped fund schools, pave roads and hire police and firefighters.

Wasden wasn’t elected to enact policy. That’s the job of the Legislature and governor. Yet, Wasden has effectively taken on the role of policymaker by refusing to allow the INL to fulfill its mission as the nation’s lead nuclear research facility.

Five years ago, Wasden granted the same kind of waiver he is blocking today. As we did in HCR 60, I urge him to do the right thing, and soon, before any additional damage is done, to the great State of Idaho.

Jeff Thompson is a Republican member of the Idaho House of Representatives representing District 30. He lives in Idaho Falls.

NUCLEAR SECURITY SUMMIT SUMMARY

World leaders gathered in Washington, D.C. at the end of March for the fourth Nuclear Security Summit to discuss steps in curtailing the global spread of nuclear weapons.

Russian President Vladimir Putin, an important actor with significant influence on reducing the threat of nuclear weapons, did not attend this year's summit. According to a Kremlin press release, Putin decided against participating following the U.S. failing to meet obligations outlined in a non-proliferation agreement between the U.S. and Russia signed in 2000. The agreement calls for the two countries to dispose of thirty-four metric tons of weapons-grade plutonium. The mixed oxide (MOX) facility in Aiken, S.C., is part of that 2000 nonproliferation agreement. Thirty-four metric tons of plutonium is roughly equivalent to 17,000 nuclear warheads.

Critics argue that MOX is too costly to run – an estimated \$800 million to \$1 billion annually for several years. According to a recent DOE report, downblending the plutonium and sending it to the Waste Isolation Pilot Plant (WIPP) in New Mexico would save the government \$400 million per year.

The debate over whether to pull the plug on the MOX facility has caused tension between DOE, nuclear policy experts, and Congress. Following the Administration's decision to cease funding all together in the FY 17 budget proposal, members from the South Carolina delegation have begun resisting the proposal. For instance, Sen. Lindsay Graham (R-SC) has repeatedly confronted DOE officials, including Secretary Moniz, during recent hearings. In a statement, Sen. Graham recently said,



"If you can convince me there's a cheaper way to do this that meets our international commitment and overcomes the regulatory and statutory hurdles, I'm all ears. But don't give me an ill-conceived plan no one has thought through that doesn't have a snowball's chance in hell of working."

Aside from tensions over U.S. and Russia's international agreement, Administration policy has come under criticism from members of Congress who believe the country is increasing vulnerable to nuclear threats. The evening before the summit, half a dozen Democratic senators wrote to the President urging the Administration to "redouble" its efforts to reduce nuclear threats. Opponents of the current policy are particularly upset over proposed budget cuts for nuclear security which also include increases in spending to modernize weapons systems in the FY17 budget.

Outside groups have gone even further to voice concerns, saying the upgrades to the nuclear arsenal would only increase chances of an arms race with countries like Russia, concluding that the nuclear summit only goes as far as securing about 2 percent of the material worldwide that could be used to construct a nuclear weapon or dirty bomb.



Bulletin Ideas?

Would you like to have stories featured in the next Bulletin?
Send your ideas and photos to Devon@energyca.org

WCS FILES APPLICATION WITH NRC FOR CONSOLIDATED INTERIM STORAGE FACILITY

This month, Waste Control Specialists (WCS), in partnership with Areva and NAC International, formally filed an application with the U.S. Nuclear Regulatory Commission (NRC) for a license to construct and operate a Consolidated Interim Storage Facility (CISF) for used nuclear fuel. Both NRC and WCS estimate it will take three years to obtain the final license, and WCS is aiming for the facility to be operational as early as 2021. WCS announced its application in a [press release](#) on April 28.

WCS's application is for a 40-year license to store 40,000 metric tons of used nuclear fuel at a facility in Andrews, Texas, where WCS already operates a hazardous waste site. According to WCS, the facility will be built in eight phases, each of which will be able to accommodate 5,000 metric tons. The primary operations performed at the site will be transferring the used fuel contained in a sealed canister from a transportation cask into an engineered interim used fuel storage system.

After the initial 40-year license period ends, WCS anticipates asking for 20 year renewals.

Mark Lombard, Director of the NRC's Division of Spent Fuel Management, addressed how the application would be considered in a [blog post](#) following WCS' announcement. He said that the NRC would conduct two parallel reviews: one on safety and security aspects and the second on potential environmental impacts. However, he noted that first "we will review the application to see if it contains enough information that is of high enough quality to allow us to do the detailed reviews. If it doesn't, WCS will have a chance to supplement it. If we find the application is sufficient

and accept it, we will publish a notice in the *Federal Register*. This notice will alert the public that we have accepted the application for technical review, and offer an opportunity to ask for a hearing."

As part of the safety and security review, NRC staff will hold a public meeting near the site to answer questions about its process.

Lombard continued, "Once we get public and stakeholder input on the scope of our environmental review, we will conduct the review and document the results in a draft Environmental Impact Statement (EIS)." Another public comment period will follow, that input will be considered and a Safety Evaluation Report will be issued before the EIS is finalized. If interested parties/stakeholders challenge any safety, security or environmental aspects of the review, the Atomic Safety and Licensing Board will determine whether another hearing will be held to address these "contentions."

Finally, Lombard noted, "If the application meets our regulations, we're legally bound to issue a license. We don't consider whether there's a need for the facility or whether we think it's a good idea. Our reviews look only at the regulatory requirements, which are carefully designed to ensure public health and safety and the environment will be protected."

The NRC expects a second, separate application for a consolidated storage site in New Mexico to be filed by the end of November by Holtec International. That site would be hosted by the Eddy-Lea Energy Alliance, a limited liability company owned by the cities of Carlsbad and Hobbs, and Eddy County and Lea County.



Voices of the Manhattan Project, a joint development by the Atomic Heritage Foundation and the Los Alamos Historical Society, is publishing Manhattan Project oral histories. Check them out at www.manhattanprojectvoices.org.

SRS CONTRACT TO BE REBID NEXT YEAR

Another major cleanup contract is set to be rebid soon. DOE released a [draft request for proposals](#) (RFP) for the cleanup of leftover liquid waste at Savannah River Site (SRS) for potential bidders to comment on. The final RFP could be released this summer, allowing companies about six months to prepare bids for what could be 10 years of contract work if all the operations are exercised.

The current multibillion dollar cleanup contract with Savannah River Remediation expires June 30, 2017. DOE has added some incentives to induce the next contractor “or exceed the contract-performance requirements, and to do so within the total estimated contract price and completion dates. Incentives are structured to ensure a strong financial motivation for the contractor to achieve the contract requirements,” according to the draft.

Upcoming Contract Expirations	
2016 • DUF6 Conversion Operations (Jan. 2016) • Oak Ridge ETTP (July 2016; can be extended for four years) • Nevada National Security Site (Sept 2016) • Moab (Sept. 2016) • SRS (Sept. 2016; can be extended 22 months) • Portsmouth (March 2016; can be extended for five years) • Hanford waste tanks (Sept. 2016; two-year extension possible)	2017 • SRS waste tanks (June 2017) • Paducah (July 2017) • WIPP M&O (Sept. 2017; five-year extension possible) • Los Alamos National Laboratory (Sept. 2017; more award terms possible) • Sandia National Laboratories (April 2017) 2018 and Beyond • Hanford Central Plateau (Sept. 2018) • Lawrence Livermore (Sept. 2018; more award terms possible) • West Valley (April 2019) • Y-12/Pantex (June 2019; up to five more years possible) • Hanford Mission Support (Sept. 2019) • Salt Waste Processing Facility

Note: the Los Alamos National Laboratory contract will be rebid in 2018, the contractor that manages the lab was awarded a one year extension.

POST CLEANUP MONITORING: ROCKY FLATS UPDATE

As the United States Fish and Wildlife Service prepares to broadly open the Rocky Flats National Wildlife Refuge to public access, questions about the cleanup and ongoing protectiveness of the remedy are being raised. Partially in response, DOE, EPA and Colorado Department of Public Health and Environment developed the following fact sheet to address the many questions and growing concern.



COLORADO
Department of Public
Health & Environment



**U.S. DEPARTMENT OF
ENERGY**

- EPA, CDPHE, and DOE in the 2006 Corrective Action Decision/Record of Decision (CAD/ROD) determined that the portion of the Rocky Flats property comprising the refuge was already in a state that is protective of human health and the environment, where unrestricted and unlimited use is acceptable.
- The Remedial Investigation/Feasibility Study (RI/FS) for Rocky Flats was completed in 2006 and consists of 23 volumes of data and analysis. The database of sample results used to prepare the RI/FS and Comprehensive Risk Assessment contained approximately 6.9 million data records for all media (soil, groundwater, surface water, air).
- The Radionuclide Soil Action Levels (RSALs) developed under the Rocky Flats Cleanup Agreement (RFCA) were reduced in 2002 for plutonium to 50 picocuries per gram of soil, which is protective to the open space user.
- Residual plutonium concentrations in surface soil in the refuge average about 1.1 picocuries/gram (about a trillionth of a Curie per gram of soil), which is approximately 2% of the RSAL for plutonium. These concentrations are protective of human health for any exposure scenario.
- The highest concentration of plutonium detected in surface soil samples in the eastern refuge area was 20.3 picocuries per gram of soil. This equates to the very low end of the regulatory risk range for a refuge worker or visitor.
- The Colorado Standards for Protection Against Radiation sets the maximum annual dose from radioactivity for an individual to 25 mrem per year. This equates to approximately 231 picocuries of plutonium per gram of soil; this is the exposure scenario for an adult rural resident. This exposure scenario includes activities such as living at the site full-time and eating home-grown produce.
- The wildlife refuge visitor scenario used for risk calculations includes both a child and an adult who visit the site 100 days a year for 2.5 hours per day. The dose estimate for plutonium for the wildlife refuge visitor child is 0.2 mrem per year, which is less than one percent of the 25 mrem per year Colorado standard. The estimated 0.2 mrem per year is a very small fraction of the average annual dose to US public from all sources of 360 mrem/year.
- In consideration of the very low risks, EPA delisted (removed) the peripheral operable unit (refuge area) from the National Priorities List. The refuge is not a Superfund site.
- The vast majority of the site would be suitable for residential and/or industrial use. The main reason the DOE-retained lands are not part of the refuge and not open to the public is to protect the ongoing actions (e.g., treatment systems) from human interference. Access restrictions are not required in either the refuge or on DOE-retained lands to protect humans from residual risk in surface soils.
- The public, including local governments, has been extensively involved in the selection of the end use of the property as a wildlife refuge with public access. During the cleanup and post-cleanup periods, public involvement included public comment, working groups, oversight panels, a Citizens Advisory Board, and a Council of Local Governments/Rocky Flats Stewardship Council. Public use of the refuge was envisioned, thoroughly analyzed, and shared with the public and the local governments in numerous decision documents and mandated by the Refuge Act passed by the US Congress in 2001.

2016 Congressional Calendar



- Both chambers in session
- Both chambers in recess
- Senate in session
- House in session
- Federal holiday

April

M	T	W	T	F
				1
4	5	6	7	8
11	12	13	14	15
18	19	20	21	22
25	26	27	28	29

May

M	T	W	T	F
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30 Memorial Day	31			

June

M	T	W	T	F
		1	2	3
6	7	8	9	10
13	14	15	16	17
20	21	22	23	24
27	28	29	30	

July

M	T	W	T	F
				1
4 Independence Day	5	6	7	8
11	12	13	14	15
18 [REPUBLICAN NATIONAL CONVENTION]	19	20	21	22
25 [DEMOCRATIC NATIONAL CONVENTION]	26	27	28	29

August

M	T	W	T	F
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30	31		

September

M	T	W	T	F
			1	2
5 Labor Day	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

October

M	T	W	T	F
3	4 Rosh Hashanah ends	5	6	7
10 Columbus Day	11 Yom Kippur begins	12	13	14
17	18	19	20	21
24	25	26	27	28
31				

November

M	T	W	T	F
	1	2	3	4
7	8 Election Day	9	10	11 Veterans Day
14	15	16	17	18
21	22	23	24 Thanksgiving	25
28	29	30		

December

M	T	W	T	F
			1	2
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26 Christmas (Federal)	27	28	29	30

Hanukkah begins
Dec. 24

2016



Upcoming Events

Week of May 9	Expected Senate consideration of the NDAA
Week of May 9	Expected Senate consideration of the Energy and Water Appropriations bill
May 12-13	ECA Peer Exchange Meeting on EM Issues, for more information contact ivana@energyca.org
Week of May 16	Expected House floor consideration of the NDAA
Week of May 16 or 23	Expected House consideration of the Energy and Water Appropriations bill
May 24	DOE Office of Nuclear Energy (NE) consent based siting regional meeting in Denver, Colorado. For more information see here .
June 2	NE consent based siting regional meeting in Boston, Massachusetts. For more information see here .
June 8	House Nuclear Cleanup Caucus workshop, for more information contact Christina Barworosky at cmb@nei.org
June 23	NE consent based siting regional meeting in Tempe, Arizona. For more information see here .
July 14	NE consent based siting regional meeting in Boise, Idaho. For more information see here .
July 21	NE consent based siting regional meeting in Minneapolis, Minnesota. For more information see here .
August 9-10	Third Annual Intermountain Energy Summit in Idaho Falls, ID, for more information click here
August 18-19	ECA Peer Exchange: Implementing the Manhattan Project National Historical Park, for more information contact ivana@energyca.org
September 14	House Nuclear Cleanup Caucus workshop, for more information contact Christina Barworosky at cmb@nei.org
September 14-15	DOE 2016 National Cleanup Workshop co-hosted by ECA and EFCOG
October 1	FY 2017 begins
November	2016 Intergovernmental Meeting in New Orleans, LA, for more information contact ivana@energyca.org
November 8	Federal Elections

NEW DOE AND STATE OF NEW MEXICO DRAFT CONSENT ORDER RELEASED

On March 30, the New Mexico Environment Department (NMED) released a [Draft Consent Order](#) for 45 days of public review and comment. The draft is an update to the 2005 Consent Order between the State and DOE which included a December 2015 cleanup deadline that was not met. The entire Draft can be read [here](#). The comment period ends on May 16.

“Any cleanup work not completed under the former 2005 Consent Order will be carried forward by its inclusion in the Draft Consent Order,” said NMED Secretary Ryan Flynn in a press release. “We are optimistic that the updated Draft Consent Order,

once finalized, will serve as a stronger tool for substantiating federal budget requests for greater cleanup funds. Unfortunately, the former Consent Order saw federal cleanup funds drop to \$189M. We believe a cleanup level of \$255M is more appropriate and that a stronger Consent Order, with an achievable campaign approach to cleanup, could be a helpful factor to obtain such funding.”

Flynn hopes to be able to finalize the consent order with DOE by early July, according to the [Exchange Monitor](#). NMED wants an accelerated cleanup process with more time spent on remediation and less on administration.

We're



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Local Concerns. National Impact.

Moving

Energy Communities Alliance, Inc. is moving to a new office effective May 20, 2016!

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ECA Articles

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ECA CHAIR SPEAKS ON USED FUEL MANAGEMENT

ECA Chair and Aiken County Councilman Chuck Smith spoke during an NEI conference on Used Fuel Management on May 3rd, presenting the role of energy communities in a consent-based siting process. Smith joined industry executives, utility regulators and DOE officials.

In his presentation, Smith highlighted the challenges DOE faces in defining a consent-based siting process. These include the need to address nuclear waste management of both commercial spent-nuclear fuel and defense high-level waste with urgency, to secure assured funding not based on annual appropriations, and to provide resources for potentially interested host communities and states to begin education and outreach efforts now. In regards to the key challenge of trust, Smith stated:

“DOE’s decision to withdraw the Yucca Mountain license application, political stalemates in Congress, the manner in which DOE pursued the deep borehole field test in North Dakota, DOE’s push to terminate the MOX project in my community, have all negatively impacted public trust that DOE can manage and dispose of nuclear waste or enter into a legally enforceable consent-based siting agreement. Without trust, public acceptance, and political support will be difficult to develop and maintain over time.”

He also suggested that meeting participants and DOE should consider how “stakeholders” should be defined in comparison to “interested parties,” suggesting that “stakeholders” should be defined as impacted parties within a specific radius of a proposed facility, whereas “interested parties” should be those outside of that radius. He asked, “How much weight should each of these groups have in determining whether there is consent?”

Smith also outlined recommendations for DOE:



ECA Chair Chuck Smith

- Finish the Yucca Mountain licensing review or pass legislation to modify the NWPA and allow alternative sites for interim storage or permanent disposal to be considered.
- Identify necessary steps— and the order that need to be accomplished – to move a consent-based siting process forward.
- Develop a list of suitable disposal mediums and indicate where they exist (salt, granite, etc.) to inform feasibility studies.
- Develop an initial list of the type of incentives/ compensation they are willing to consider.
- Along with NRC and EPA, begin to develop scientifically-based health and environmental standards, model state laws and regulations to guide the siting process.

Smith concluded, “If progress cannot be made, communities that have become de facto interim storage sites for both defense high-level nuclear waste as well as commercial spent nuclear fuel should receive funding from the federal government to offset the impacts of storing waste...”

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