



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 24, 2017

The Honorable Greg Walden
Chairman, Committee on Energy
and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Commission, I am transmitting the December 2016 monthly status report on the U.S. Nuclear Regulatory Commission (NRC) activities and use of unobligated carryover funds appropriated from the Nuclear Waste Fund. This report describes NRC activities in December 2016 to address the remand by the U.S. Court of Appeals for the District of Columbia Circuit in the case *In re Aiken County* regarding the licensing process for the U.S. Department of Energy's Yucca Mountain license application.

Please feel free to contact me or Eugene Dacus, Director of the Office of Congressional Affairs, at 301-415-1776, if you have questions or need more information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen Burns", with a long, sweeping underline.

Stephen G. Burns

Enclosure:
As stated

cc: Representative Frank Pallone, Jr.

**U.S. Nuclear Regulatory Commission Monthly Status Report
Activities Related to the Yucca Mountain Licensing Action
Report for December 2016**

Background

On August 13, 2013, a panel of the U.S. Court of Appeals for the District of Columbia Circuit issued its decision in the case *In re Aiken County* directing the U.S. Nuclear Regulatory Commission (NRC) to “promptly continue with the legally mandated licensing process” for the U.S. Department of Energy’s application to construct a geologic repository for high-level waste at Yucca Mountain, NV. The NRC promptly began taking steps to comply with the court’s direction following the issuance of the decision. On November 18, 2013, the Commission approved a memorandum and order that set a course of action for the Yucca Mountain licensing process that is consistent with the Appeals Court decision and with the resources available. The Commission also issued a related staff requirements memorandum on November 18, 2013, which, among other things, directed the NRC staff to complete and issue the Safety Evaluation Report (SER) associated with the construction authorization application.

On February 3, 2015, the Commission directed the staff to develop an environmental impact statement (EIS) supplement and undertake certain SER “wrap-up” activities, including records retention and the development of a lessons-learned report. The Commission also approved a path forward for making Licensing Support Network (LSN) documents publicly available in the Agencywide Documents Access and Management System (ADAMS).

On November 8, 2016, the Commission directed the staff to update the collection of knowledge management reports on the staff’s Yucca Mountain review activities, in order to capture new insights. The previous knowledge management reports were completed in 2011.

Table 1 provides a breakdown of estimates and expenditures for all of the Commission-directed activities.

Accomplishments and Ongoing Work

All of the activities directed by the Commission to date are complete, with the exception of administrative work to synchronize the public LSN Library and the agency’s existing internal ADAMS library of LSN documents, and the new knowledge management task described below. In mid-August 2016 the LSN Library, which includes 3.692 million items, was made publicly available via the NRC website (<http://www.nrc.gov/reading-rm/lrn/index.html>). As of December 31, 2016, work had been completed on incorporating the documents and header corrections necessary to address the anomalies identified in SECY-16-0091, “Making Licensing Support Network Documents Publicly Available,” dated July 29, 2016 (available at <http://www.nrc.gov/docs/ML1621/ML16210A436.pdf>). The recent document reconciliation additions to the public LSN Library will be placed into the agency’s existing internal ADAMS library of LSN documents, so the databases will be synchronized.

Enclosure

Also during the month of December, the staff began working to update the collection of knowledge management reports, which will cover technical topics in preclosure and postclosure safety assessments, and climate and hydrology, as discussed in SECY-16-0122, "Status of Yucca Mountain Program Activities," dated October 19, 2016 (available at <http://www.nrc.gov/docs/ML16201A110>).

Nuclear Waste Fund Expenditures

During the month of December 2016, the NRC expended \$9,301 of Nuclear Waste Fund (NWF) funds on its actions in direct response to the court's decision. Cumulative expenditures since the August 13, 2013, U.S. Court of Appeals decision are \$12,133,408. The August 13, 2013, balance of \$13,549,315 of unexpended NWF funding, less the cumulative expenditures of \$12,133,408, results in a remaining unexpended balance of \$1,415,907. Total unobligated NWF funds remaining as of December 31, 2016, are \$1,333,573. Table 1 provides further details on the NRC's expenditure of NWF funds since August 13, 2013.

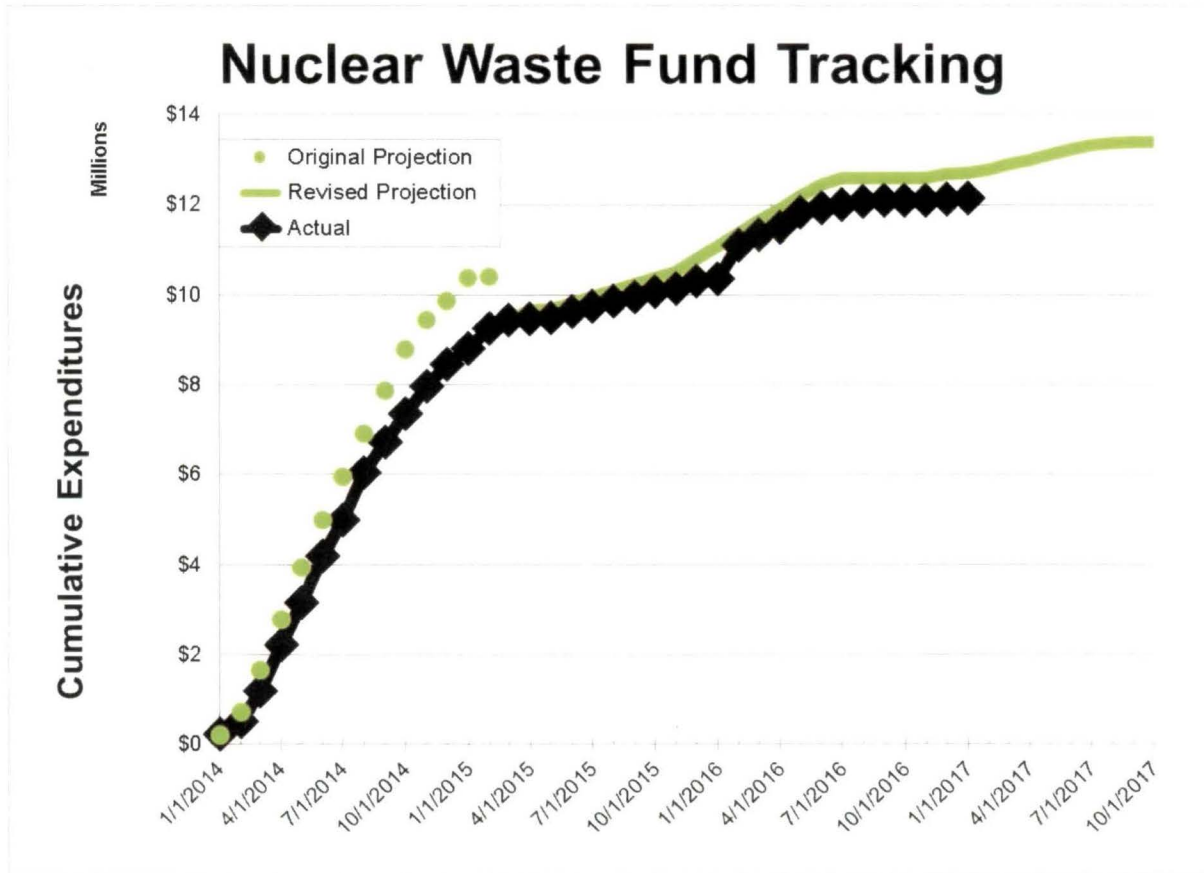
Table 1 Status of NRC NWF Funds since the August 13, 2013, Court Decision			
Yucca Mountain Licensing Activities	Cost Estimate	December Expenditures	Cumulative Expenditures
Completion of the SER	\$8,310,000	\$0	\$8,364,877
Loading of Licensing Support Network documents into a nonpublic ADAMS library	\$350,000	\$0	\$277,670
Loading of Licensing Support Network documents into a public ADAMS library	\$1,100,000	\$1,407	\$1,063,059
Development of the EIS supplement	\$2,000,000	\$0	\$1,550,427
SER wrap-up activities	\$100,000	\$0	\$53,327
Knowledge management reports	\$700,000	\$6,285	\$7,751
Program planning and support	\$825,000	\$1,609	\$473,473
Response to the August 30, 2013, Commission order		\$0	\$137,518
Federal court litigation*		\$0	\$154,903
Support and advice in NRC proceedings		\$0	\$35,535
Subtotal, other support costs chargeable to NWF funds		\$1,609	\$801,429
Adjustments to close out contracts funded by previous NWF appropriations		\$0	\$14,868
Total	\$13,385,000	\$9,301	\$12,133,408

*Includes a \$59,000 expenditure in May 2014 for the agency's agreement to settle the Equal Access to Justice Act claim of one of the *Aiken County* petitioners. On October 23, 2014, the Court of Appeals for the District of Columbia Circuit denied the motion from other parties requesting reimbursement for attorneys' fees.

The unexpended NWF balance of \$1,415,907 includes \$82,334 of unexpended obligations. These unexpended obligations are primarily on contracts with the Center for Nuclear Waste Regulatory Analyses and on contracts related to the loading of LSN documents into public ADAMS.

Figure 1 shows the cumulative projected and actual expenditures. Projected expenditures include cost estimates shown in Table 1. The actual cumulative expenditures reflect costs through December 31, 2016, as given in Table 1.

Figure 1. Nuclear Waste Fund Tracking



Stakeholder Communications and Interactions

No stakeholder communications or interactions occurred in December 2016.

Identical letter sent to:

The Honorable Greg Walden
Chairman, Committee on Energy
and Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Frank Pallone, Jr.

The Honorable John Shimkus
Chairman, Subcommittee on Environment
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Paul Tonko

The Honorable John A. Barrasso
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, DC 20510
cc: Senator Thomas R. Carper

The Honorable Shelley Moore Capito
Chairman, Subcommittee on Clean Air
and Nuclear Safety
Committee on Environment
and Public Works
United States Senate
Washington, DC 20510
cc: Senator Thomas R. Carper

The Honorable Fred Upton
Chairman, Subcommittee on Energy
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Bobby L. Rush

The Honorable Rodney Frelinghuysen
Chairman, Committee on Appropriations
United States House of Representatives
Washington, DC 20515
cc: Representative Nita Lowey

The Honorable Mike Simpson
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
Washington, DC 20515
cc: Representative Marcy Kaptur

The Honorable Lamar Alexander
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States Senate
Washington, DC 20510
cc: Senator Dianne Feinstein