

January 2014

ECA Bulletin

Local Concerns. National Impact



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ECA Peer Exchange: DOE Moving Forward February 27, 2014



ECA Board of Directors Meeting February 28, 2014

See page 10 for meeting agenda

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MONIZ ASSURES MEMBERS OF CONGRESS ON LAND TRANSFER RULE CHANGES

Secretary Moniz responded to community, congressional (House Cleanup Caucus) and ECA concerns regarding DOE changes to the rule governing transfer of real property at defense nuclear facilities for economic development in a January 15 letter, saying “Please be assured that the revised rule will not change in any substantive way how land transfer requests are processed by the Department or which sites will be eligible for land transfers.”

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COULD NEW “COMMISSION TO REVIEW THE EFFECTIVENESS OF THE NATIONAL ENERGY LABS” LEAD TO LAB CLOSURES?

The FY 2014 budget, now signed into law, contains a section that instructs the Secretary of Energy to establish the “Commission to Review the Effectiveness of the National Energy Laboratories.”

Appropriations Committee staff members tell ECA the goal of the Commission is to undertake a strategic review of the mission of the DOE laboratories, to help understand how money is spent

on the national energy laboratories and to determine if resources are efficiently allocated. They assure ECA that the Commission is not intended to close or realign laboratories, but instead to determine if labs are most effectively supporting DOE’s current and future missions. Staff members told ECA that the goal is

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Executive Committee



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D.C. Update

Welcome to 2014. The President’s fiscal year 2015 budget request will be released a month late, in March; not much legislation is expected to move during this election year; and another debt ceiling crisis is brewing. On the plus side, the President did sign the Fiscal Year 2014 Consolidated Appropriations Act into law on January 17, funding DOE and the rest of the federal government through September 30, 2014 (see details on page 4).

There are bright spots in Congress, where energy community champions work to pass important legislation. The Manhattan Project National Historical Park Act came so close to passing last year, and has an even better chance this year; a bipartisan group of Senators continues to work on comprehensive nuclear waste legislation; and individual members of Congress continue to advocate for energy communities as issues arise

with federal agencies, such as land transfer rule changes (see cover story).

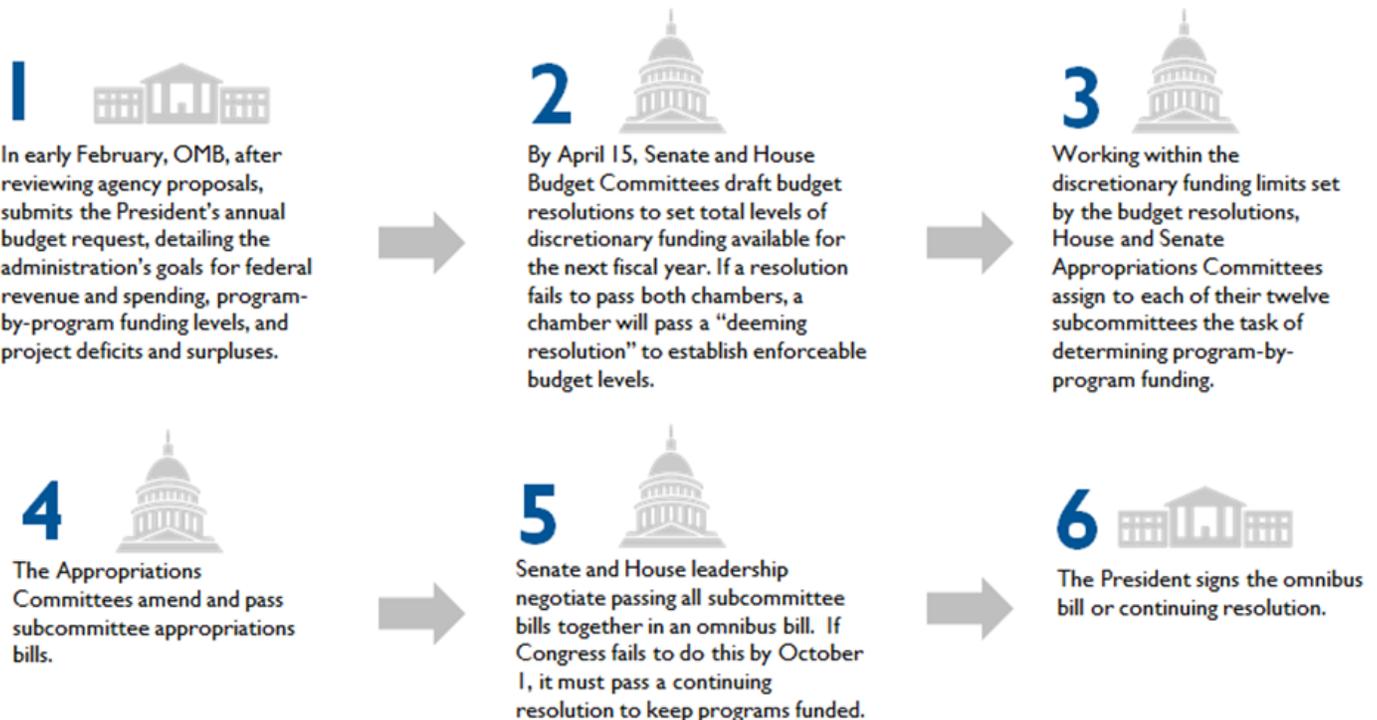
White House to Release FY 2015 Budget Request on March 4

The White House will release its fiscal year 2015 budget request on Tuesday, March 4. This is one month later than the statutorily required first Monday of February.

“Now that Congress has finished its work on this year’s appropriations, the administration is able to finalize next year’s budget,” an OMB spokesman said on January 23. “We are moving to complete the budget as quickly as possible to help Congress return to regular order in the annual budget process.”

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The Federal Budget Process (in Theory)



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D.C. Update

As part of the budget process, DOE and other federal agencies prepare their own budgets months ahead of time and submit them to OMB, which reviews and edits the requests in a process known as “OMB passback.” The budget request to be released on March 4 reflects the President’s final request, based on the agencies’ recommendations and his changes via OMB.

Debt Limit Back in Spotlight

Treasury Secretary Jacob Lew warned Congress on January 22 that, if Congress does not act, the nation is likely to exceed its statutory debt limit by late February, resulting in catastrophic impacts on the economy.

Recent debt ceiling crises, in 2011 and 2013, created significant turbulence in Congress. Lawmakers ultimately negotiated agreements that temporarily suspended the debt limit or extended it by some amount, however, the issue was not fundamentally resolved.

“The best course of action would be for Congress to act before February 7 to ensure orderly financing of the government. In the absence of Congressional action, Treasury would be forced to use extraordinary measures to continue to finance the government on a temporary basis,” Lew said. The government has used “extraordinary measures” extensively during previous debt limit discussions,

keeping federal debt from exceeding the statutory limit until Congress agrees to extend the limit.

Even extraordinary measures will be inadequate by late February, Lew says. “When I previously wrote to you in December, I estimated that Treasury would exhaust extraordinary measures in late February or early March. Based on our best and most recent information, we believe that Treasury is more likely to exhaust those measures in late February.”

It remains to be seen how Congress will react to Treasury’s request and whether a “2014 Debt Ceiling Crisis” will result.

Senate Panels Advance DOE and NNSA Leadership Nominations

This month, two of President Obama’s nominees to serve senior DOE and NNSA positions came one step closer to confirmation. On January 16, the Senate Energy and Natural Resources Committee approved Dr. Elizabeth M. Robinson to be Under Secretary for Management and Performance, a newly created position that will oversee EM. That same day, the Senate Armed Services Committee approved Madelyn R. Creedon to be Principal Deputy Administrator, NNSA.

As a final step before confirmation, the full Senate must approve the nominees.

A video of the Robinson hearing is available [here](#).

A video of the Creedon hearing is available [here](#).

DOE Leadership Status

Title	Name	Status
Secretary of Energy	Dr. Ernest Moniz	Since May 16, 2013
Deputy Secretary of Energy	Daniel Poneman	Since May 18, 2009
Under Secretary for Management and Performance	Beth Robinson	Nominated (David Klaus is Deputy)
Under Secretary for Nuclear Security and NNSA Administrator	Lieutenant General Fran G. Klotz, USAF (Ret)	Nominated (Bruce Held is acting)
Under Secretary for Science and Energy	None	No nomination nor acting
Assistant Secretary for Environmental Management	None	No nomination; Dave Huizenga is Senior Advisor and acting as head of EM (see rumor below)
Assistant Secretary for Nuclear Energy	Dr. Pete Lyons	Since April 14, 2011

FY 2014 BUDGET DETAILS: EM SITES AND DOE PROVISIONS

Final FY 2014 defense environmental cleanup funding information for select sites is included below, in addition to special provisions of interest from the DOE portion of the law.

For the Office of Nuclear Energy (NE), the 2014 budget was the biggest year ever. See select NE programs, such as SMR Licensing Technical Support, highlighted in the provisions below.

See the Fiscal Year 2014 Consolidated Appropriations package [here](#).

FY 2014 Defense Environmental Cleanup Funding Table

	FY14 Request	Defense Authorization	Senate Approps	House Approps	Omnibus Approps
Hanford	\$921.79 million	\$936.79 million	\$961.79 million	\$876.61 million	\$941 million
Los Alamos National Laboratory	\$219.79 million	\$234.79 million	\$250 million	\$195 million	\$224.79 million
Oak Ridge Reservation	\$193.94 million	\$193.94 million	\$214.94 million	\$204.03 million	\$215 million
Office of River Protection	\$1.21 billion	\$1.21 billion	\$1.21 billion	\$1.19 billion	\$1.21 billion
Savannah River Site	\$1.09 billion	\$1.193 billion	\$1.194 billion	\$1.07 billion	\$1.134 billion
Waste Isolation Pilot Plant	\$203.39 million	\$219.39 million	\$222.39 million	\$204.54 million	\$216.19 million

DOE Provision Highlights

Full text is provided below for each of the following items, which are compiled from the Joint Explanatory Statement of the Department of Energy section of the Fiscal Year 2014 Consolidated Appropriations Act.

- Defense Environmental Cleanup: Outstanding Risks to Public Health and Safety
- Additional Actions to Address Security of Nuclear Materials
- Nuclear Energy Enabling Technologies
- SMR Licensing Technical Support Program
- Reactor Concepts Research and Development
- Fuel Cycle Research and Development
- Radiological Facilities Management
- Uranium Enrichment Decontamination and Decommissioning Fund
- Uranium Processing Facility
- Mixed Oxide (MOX) Fuel Fabrication Facility

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FY 2014 Budget Details

- U-233 Disposition Program
- Outfall 200 Mercury Treatment Facility
- Waste Treatment and Immobilization Plant (WTP)
- Salt Waste Processing Facility (SWPF)

Defense Environmental Cleanup: Outstanding Risks to Public Health and Safety.-The Department is directed to retain a respected outside group, such as the National Academy of Sciences, to rank and rate the relative risks to public health and safety of the Department of Energy's remaining environmental cleanup liabilities. Additionally, the group should undertake an analysis of how effectively the Department of Energy identifies, programs, and executes its plans to address those risks, as well as how effectively the Defense Nuclear Facilities Safety Board identifies and elevates the nature and consequences of potential threats to public health and safety at the defense environmental cleanup sites. The group shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate not later than one year after enactment of this Act.

Additional Actions to Address Security of Nuclear Materials.-The Department is directed to retain a respected independent organization with expertise in defense and security matters, such as the Institute for Defense Analysis, to conduct a comprehensive review of options for security management reform, including federalization of protective forces, and provide recommendations on organizational models for securing the Department's sites with Category I special nuclear



materials that might improve security effectiveness and reduce costs. The group shall provide a report with the results of its analysis to the Committees on Appropriations of the House of Representatives and the Senate not later than 180 days after enactment of this Act.

Nuclear Energy Enabling Technologies.-Within available funds, the agreement provides \$24,300,000 for the fifth year of the Modeling and Simulation Energy Innovation Hub, \$13,366,000 for Nuclear Energy Advanced Modeling and Simulation, and \$19,563,000 for the National Science User Facility (NSUF) at Idaho National Laboratory. Additional funding for the NSUF shall be used to accelerate the population of the Irradiated Materials Characterization Laboratory with equipment and shielded cells.

SMR Licensing Technical Support Program.

-The agreement provides \$110,000,000 for the Small Modular Reactor (SMR) Licensing Technical Support Program, of which \$85,000,000 shall be for the existing cooperative agreement.

Reactor Concepts Research and Development.-Within available funds, the agreement provides \$23,000,000 for SMR Advanced Concepts; \$30,000,000 for Light Water Reactor Sustainability; and \$60,000,000 for Advanced Reactor Concepts, of which \$33,000,000 shall be for research of the fuel and graphite qualification program for the High Temperature Gas Reactor previously funded under the Next Generation Nuclear Plant line and \$12,000,000 shall be for industry-only competition. Additional funding for Light Water Reactor Sustainability shall support development of advanced safety analysis methods for existing light water reactors.

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FY 2014 Budget Details

The Department is directed to engage in a rigorous analysis utilizing its recently integrated high-speed computing or recently developed advanced modeling and simulation capabilities to evaluate the benefit of new enhanced accident tolerant fuels.

Fuel Cycle Research and Development.-The agreement provides \$186,500,000. In lieu of all previous fiscal year 2014 direction, the agreement's direction is limited to \$60,100,000 for the Advanced Fuels program to continue implementation of accident-tolerant fuels development, of which \$3,000,000 shall be to advance promising and innovative research, including ceramic cladding and other technologies. Not later than 30 days after enactment of this Act, the Department shall provide the Committees on Appropriations of the House of Representatives and the Senate a plan for development of meltdown-resistant fuels leading to in-reactor testing and utilization by 2020 as required in the Fiscal Year 2012 Consolidated Appropriations Act.

Radiological Facilities Management.-Within available funds, the agreement provides \$20,000,000 for hot cells at Oak Ridge National Laboratory.

Uranium Enrichment Decontamination and Decommissioning Fund.-The agreement provides \$598,823,000 for activities funded from the Uranium Enrichment Decontamination and Decommissioning Fund.

Uranium Processing Facility.-The agreement provides \$309,000,000 to support the full funding requirements for continued facility design and is an adjustment due to the Department of Energy's recent decision to consider additional alternatives to meet the uranium infrastructure needs at Y-12 that might save costs and lead to a replacement facility for Building 9212 in a shorter period of time.

Mixed Oxide (MOX) Fuel Fabrication Facility.-The agreement provides \$343,500,000. The

Department of Energy is directed to undertake a root cause analysis that identifies the underlying causes of the cost increases for the MOX and Waste Solidification Building projects and that includes the identification and prioritization of recommended solutions and corrective measures. The Department shall submit a report on the results of its analysis to the Committees on Appropriations of the House of Representatives and the Senate not later than 180 days after enactment of this Act.

U-233 Disposition Program.-The agreement provides \$45,000,000 to expedite the removal and disposition of special nuclear materials stored in Building 3019 due to continued safety and security risks. The Department is directed to discontinue funding under OR-0011Z Downblend of U-233 in Building 3019 and to establish a new funding line to provide for the costs of storage and transport of materials, maintenance of Building 3019, maintenance and upgrade of Building 2026, and any other costs that are needed to support ultimate disposition of the legacy materials. Not later than 90 days after enactment of this Act, the Department shall submit to the Committees on Appropriations of the House of Representatives and the Senate a life-cycle cost estimate for the U-233 Disposition Program that supports removal of all U-233 from Oak Ridge by 2019 and that includes an analysis of the cost and schedule implications if the Department cannot dispose of the Consolidated Edison Uranium Solidification Project material at the Nevada National Security Site as previously planned.

Outfall 200 Mercury Treatment Facility.-The agreement provides \$4,608,000 for project engineering and design for a water treatment system to reduce mercury concentrations in Upper East Fork Poplar Creek.

Waste Treatment and Immobilization Plant (WTP).-The agreement provides \$690,000,000 for WTP within existing reprogramming controls. The Department is directed to request approval from the Committees on Appropriations of the House of

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FY 2014 Budget Details

Representatives and the Senate prior to restarting any construction activities on the Pretreatment Facility. The Department is further directed to ensure that new project scope supporting direct feed and commissioning and startup activities are separately identified in the budget request and executed in accordance with DOE O 413.3B, consistent with project management best practices.

Salt Waste Processing Facility (SWPF).—The agreement provides \$125,000,000 for SWPF, including commissioning, startup, and Other Project Costs. The Department is directed to fund all supporting commissioning and startup activities within SWPF project funding, consistent with the original approved project scope, and to ensure those activities are executed in accordance with DOE O 413.3B.

DOE SUBMITS PROPOSAL TO SUSPEND COLLECTION OF NUCLEAR WASTE FUND FEE; DOJ PETITIONS FOR REHEARING

In the first week of the new year, Secretary of Energy Ernest Moniz sent a letter to Vice President Joe Biden with a proposal to suspend the collection of fees for the Nuclear Waste Fund. DOE was mandated by the U.S. Court of Appeals for the District of Columbia Circuit (Nos. 11-1066 and 11-1068; D.C. Cir. 2013) to adjust the current fee of 1 mill per kilowatt-hour for electricity to zero, per its ruling on a lawsuit filed by the National Association of Regulatory Utility Commissioners and the Nuclear Energy Institute against DOE.

The lawsuit challenged DOE's 2010 determination that no adjustment to the Nuclear Waste Fund fee was needed, even though the administration and DOE decided to terminate the Yucca Mountain repository program. The Nuclear Waste Policy Act requires the Secretary of Energy to review the adequacy of the fee annually and, upon a determination that either insufficient or excess funds are being collected, propose an adjustment to ensure that the full costs of the federal government's disposal program will be fully recovered from generators and owners of high-level radioactive waste or spent nuclear fuel.

In its ruling, the court held that DOE could neither use costs related to the Yucca Mountain project as a proxy, nor could the agency set forth a broad range of possible costs for a hypothetical option as the basis for determining whether the fee is sufficient

under statutory requirements established in the Nuclear Waste Policy Act. As written in the strongly worded opinion:

“Most glaring is the conflict between the statutory requirement that sites other than Yucca Mountain cannot even be considered as an alternative to Yucca Mountain, and the [Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste] assumption that whatever site is chosen, it will not be Yucca Mountain...Until the Department comes to some conclusion as to how nuclear wastes are to be deposited permanently, it seems quite unfair to force petitioners to pay fees for a hypothetical option, the costs of which might well – the government apparently has no idea – be already covered.”

Now, unless Congress acts in the next 90 days of continuous session, the order to change the statutory fee to zero in the absence of the necessary statutory prerequisites will go into effect.

Along with the proposal to suspend the collection of the Nuclear Waste Fee, Secretary Moniz noted that on the same day, the Department of Justice filed a petition for rehearing of the case by the entire U.S. Court of Appeals. On January 27, the Court asked petitioners in the case to respond to DOE's request for the review within 15 days.

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Could New “Commission to Review the Effectiveness of the National Energy Labs” Lead to Lab Closures?

for the Commission to issue recommendations without taking politics into consideration.

ECA communities should be aware of the Commission and its activities. It is currently unclear if the Commission will hold public meetings, but it is important that communities share with the Commission the importance of the Labs in their communities. ECA has asked Appropriations Committee staff to require the Commission to hold public meetings, and at the very least, give local governments and communities an opportunity to formally provide input to the Commission before it issues its recommendations. We will keep you posted on further developments.

The following language is an edited version of the bill text that directs establishment of the Commission. Full language can be found at Section 319 of the Consolidated Appropriations Act, 2014.

Commission to Review the Effectiveness of the National Energy Laboratories

The Commission shall address whether DOE’s national laboratories (all DOE and NNSA national laboratories):

- are properly aligned with the Department’s strategic priorities;
- have clear, well understood, and properly balanced missions that are not unnecessarily redundant and duplicative;
- have unique capabilities that have sufficiently evolved to meet current and future energy and national security challenges;
- are appropriately sized to meet the Department’s energy and national security missions; and

- are appropriately supporting other Federal agencies and the extent to which it benefits DOE missions.

The Commission shall also determine whether there are opportunities to more effectively and efficiently use the capabilities of the national laboratories, including consolidation and realignment, reducing overhead costs, reevaluating governance models using industrial and academic benchmarks for comparison, and assessing the impact of DOE’s oversight and management approach. In its evaluation, the Commission should also consider the cost and effectiveness of using other research, development, and technology centers and universities as an alternative to meeting DOE’s energy and national security goals.

The Commission shall analyze the effectiveness of the use of laboratory directed research and development (LDRD) to meet the Department of Energy’s science, energy, and national security goals. The Commission shall further evaluate the effectiveness of the Department’s oversight approach to ensure LDRD-funded projects are compliant with statutory requirements and congressional direction, including requirements that LDRD projects be distinct from projects directly funded by appropriations and that LDRD projects derived from the Department’s national security programs support the national security mission of the Department of Energy. Finally, the Commission shall quantify the extent to which LDRD funding supports recruiting and retention of qualified staff.

The Commission shall, by no later than February 1, 2015, transmit to the Secretary of Energy and the Committees on Appropriations of the House and Senate a report containing the Commission’s findings and conclusions.

Response by the Secretary of Energy

The Secretary of Energy shall, by no later than April 1, 2015, transmit to Committees on Appropriations of the House of Representatives and the Senate a report containing the Secretary’s approval or disapproval of the Commission’s recommendations

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Could New “Commission to Review the Effectiveness of the National Energy Labs” Lead to Lab Closures?

and an implementation plan for approved recommendations.

Commission Membership

The Commission shall be composed of nine members appointed by the Secretary of Energy from among persons nominated by the President’s Council of Advisors on Science and Technology.

Each person nominated for appointment to the Commission shall:

- be eminent in a field of science or engineering; and/or

- have expertise in managing scientific facilities; and/or
- have expertise in cost and/or program analysis; and
- have an established record of distinguished service.

The membership of the Commission shall be representative of the broad range of scientific, engineering, financial, and managerial disciplines related to activities under this title. No person shall be nominated for appointment to the Board who is an employee of DOE; a national laboratory or site under contract with DOE; a managing entity or parent company for a national laboratory or site under contract with DOE; or an entity performing scientific and engineering activities under contract with DOE.

DOE IG REPORT: NNSA’S MANAGEMENT OF THE \$245 MILLION NUCLEAR MATERIALS SAFEGUARDS AND SECURITY UPGRADES PROJECT PHASE II AT LOS ALAMOS NATIONAL LABORATORY

The DOE Inspector General (DOE IG) issued a report, *NNSA’s Management of the \$245 million Nuclear Materials Safeguards and Security Upgrades Project Phase II at Los Alamos National Laboratory* on January 2. The report was commissioned to evaluate NNSA projects to upgrade aging security infrastructure at Los Alamos National Laboratory’s Technical Area-55. These upgrades, known collectively as the Nuclear Materials Safeguards and Security Upgrades Project - Phase II (NMSSUP), began in 2009.

DOE IG found that the NMSSUP suffered from a number of project management weaknesses, which resulted in cost increases of as much as \$41 million and delayed completion of the project by nearly a year.

The report is available [here](#).



Bulletin Ideas?

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

ECA Peer Exchange: DOE Moving Forward

February 27-28, 2014

Liaison Hotel, Washington, D.C

Registration is open for the ECA Peer Exchange on February 27th at the Liaison Hotel. Join the communities and local governments around DOE sites as we discuss key issues. DOE Officials, administration officials and Washington insiders will discuss important issues and provide you with their insights.

Program of Events

Thursday, February 27

8:00 am – 8:30 am

Breakfast and Registration

8:30 am – 8:45 am

Welcome and Introductions

Mayor Tom Beehan, ECA Chair

8:45 am – 10:00 am

View from the Seventh Floor

Mary Louise Wagner, Senior Advisor for NE (invited)

Betsy Connell, Senior Advisor for EM (invited)

10:00 am – 10:45am

Keynote Speaker

Congressman Mike Simpson (R-ID)

Chairman, Energy and Water Appropriations Subcommittee

10:45 am – 11:30 am

NNSA: Modernization, Contracts and Working With Local Governments

Bruce Held, Acting Administrator, NNSA

11:30 am – 11:45 am

BREAK

11:45 am – 12:15 pm

Nuclear Energy Initiatives

Pete Lyons, Assistant Secretary, DOE-NE

12:15 pm – 1:45 pm

LUNCH – DOE Coordination

David Klaus, Deputy Under Secretary for

Management and Performance

1:45 pm – 3:15 pm

Moving Forward with Cleanup and EM Priorities

Dave Huizenga, Senior Advisor, DOE-EM

Demystifying the Cleanup Budget

Terry Tyborowski, Deputy Assistant Secretary for Program Planning and Budget, DOE-EM

3:15 pm – 3:30 pm

BREAK

3:30 pm – 4:15 pm

Roundtable Discussion: Local Government and DOE Partnerships

4:15 pm – 4:45 pm

Wrap-up

Friday, February 28

8:30 am – 12:00 pm

ECA Board Meeting

(ECA members and invited guests only)

Meeting Sign-up

Participant's must register online at our Eventbrite page. The link to register is [here](#).

ECA Members, Government and Public Sector Participants—\$200.00

Private Sector Participants—\$495.00

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Moniz Assures Members of Congress on Land Transfer Rule Changes

The rule in question is 10 C.F.R. Part 770, “Transfer of Real Property at Defense Nuclear Facilities for Economic Development,” for which DOE released the new Final Rule on November 13, 2013. Local governments and Community Reuse Organizations around the country, along with ECA, expressed concern that significant changes had been made to 10 C.F.R. Part 770 without any opportunity for public comment, after the Rule was in place for 13 years as an Interim Final Rule. The Rule became effective on December 13, 2013, and can be seen [here](#).

Members of Congress also expressed concern to Secretary Moniz in a December 11, 2013 letter from Representatives Doc Hastings (WA-04) Chuck Fleischmann (TN-03), Joe Wilson (SC-02), John J. Duncan, Jr. (TN-02), Ed Whitfield (KY-01), and Ben Ray Lujan (NM-03). In addition, Congressman Mike Simpson (ID-02) assisted in the endeavor. The letter called on DOE to seek input from impacted communities before moving forward with change, and additionally requested the following information: (1) the purpose of the Department modifications to 10 CFR 770 issued on November 13, 2013, (2) a description and timeline of the process used by the Department to develop and finalize the modifications, (3) the reason why the 90 day deadline to respond to land transfer requests from local government entities and Community Reuse Organizations was eliminated and the Department's new schedule for considering requests, (4) the reason for altering language regarding indemnification (5) a list of the sites that are impacted by the modifications as well as a list of sites not impacted, and (6) the Department's definitions of "downsized site" and "closed site." A copy of the House letter can be found [here](#).

Secretary Moniz responded on January 15, saying:

“We are proud of our support for local economic growth as the Department’s mission evolves. We

remain firmly committed to transferring unneeded or underutilized land at our defense nuclear sites. We are communicating with interested parties and the Energy Communities Alliance to clarify the Final Rule’s effect and assure them of our continuing commitment to transferring real property at Defense Nuclear Facilities for economic development.”

Regarding how DOE determined the changes were “non-substantive” in nature, Moniz referred to a December 18, 2013 letter from the Department’s Deputy General Counsel to ECA, saying the letter “explains why these changes are considered not substantive, and therefore will not change which land is eligible under the Rule, or how land transfers are processed.”

ECA appreciates that Secretary Moniz emphasized DOE’s commitment to transferring property for economic development, although only time will tell if the Rule changes don’t affect its implementation.

The House Cleanup Caucus should be thanked for immediately assisting local governments on the issues. The Chairman Doc Hastings and his staff, along with all the members that signed the letter (Reps. Fleischmann, Wilson, Duncan, Whitfield, and Lujan), and Congressman Simpson’s office led a lot of coordination and discussion with DOE. ECA members should thank their members for taking the lead on these issues.

DOE-ECA Discussions Regarding Changes

In a December 2, 2013 letter to Secretary Moniz, ECA requested that DOE withdraw the Rule and allow for public comment and discussion before the Rule became effective. ECA outlined its concern that the Final Rule changes the definition of sites that are eligible for using the regulation, eliminates the 90 day deadline for DOE to respond to land transfer requests from local governments and Community Reuse Organizations, and removes environmental indemnification protections for communities. In the letter, ECA also requested that DOE act more quickly on land requests that have already been submitted to the Department. Transferring land to communities for reuse helps to

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Moniz Assures Members of Congress on Land Transfer Rule Changes

create new economic opportunities in DOE communities.

After ECA sent the December 2 letter, DOE quickly set up a meeting between ECA and the Deputy Under Secretary for Management and Performance, The Principal Deputy Assistant Secretary for Intergovernmental Affairs, the Senior Advisor for Environmental Management, the Office of Management (OM) the Office of General Counsel (GC) and other DOE officials to discuss the new Final Rule. At the meeting DOE explained that they believed the changes to the Rule were non-substantive in nature. ECA requested that DOE issue a letter explaining that the changes would have no impact on how the Rule is applied.

On December 18, 2013, ECA received two letters in response to their letter and meeting. In the first letter to ECA Chair Mayor Thomas Beehan, Deputy Under Secretary for Management and Performance David Klaus explained that the Final Rule cannot be withdrawn without initiating a new rulemaking procedure. He referred to a letter from the Deputy General Counsel to ECA Executive Director Seth Kirshenberg (“GC Letter”) which explains that the changes to 10 C.F.R. 770 are “considered non-substantive and will therefore not alter the way in which land transfer request are processed or which land is eligible under the Rule.” Klaus went on to explain that the Department values its working relationship with ECA and will continue to work closely with local governments. He also addressed land transfer requests that have already been submitted to DOE and said “The Department is taking steps to improve the timeliness of our review process and we are committed to working with each requestor to approve mutually beneficial land transfer requests, and we continue to strive to improve our process.”

The GC Letter stated “the revised rule will not change the way in which land transfer requests will be processed by the Department or which sites will

be eligible for land transfers.” It went on to say that “the addition of the terms ‘closed or downsized’ simply reflects that if a defense nuclear site has land that is unneeded, temporarily underutilized, or underutilized and the Department determines to consider transferring or conveying the land, this would be considered ‘downsizing.’ If there is land that is located on a defense nuclear facility, and it is not subject to a land withdrawal order issued by the Department of the Interior, then that property can be considered for transfer and reuse.” A copy of the letters sent to ECA is available [here](#).

What Does this Mean to Local Communities?

ECA appreciated the quick response of DOE to the congressional inquiries and the concern of local governments to discuss the issuance of the Final Rule. Moving forward, DOE and local governments will need to continue to focus on some key items:

1. Local government role in decision-making:

Clearly DOE leadership have acknowledged that local government involvement is important and that all offices (not just the ones that have been doing it for years) need to understand that the working relationship can benefit both DOE and local governments. Some ECA members remain concerned that the Final Rule was issued without an opportunity for public comment, however, it will hopefully be a reminder of the need for local government and public comment in the future.

2. Changes included in the Final Rule

In the end DOE clarified what confused many in the Final Rule. DOE clarified that there should be no impact on the application of 10 C.F.R. 770 as it relates to which sites can use the rule. The clarifications, if interpreted by future DOE General Counsels the way the current acting General Counsel interprets the Final Rule will (hopefully mean) that no “nuclear defense facility” communities are impacted by the changes. ECA is always cautious about the change in legal interpretations and will need to stay on top of future DOE leadership.

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Moniz Assures Members of Congress on Land Transfer Rule Changes

3. Timeliness of their land transfer request review process.

Before ECA and DOE started discussing the Final Rule, DOE did not understand why any local communities were frustrated with the land transfer process. However, ECA believes that the DOE will move the land transfer process forward in communities that have requested land. The interesting issue is that some offices in DOE always pointed to other offices in DOE as the hold up in the land transfer process. Hopefully the CROs and local governments that have requested land will have the opportunity to push the process forward and senior level DOE officials will understand importance of the land transfer to the economies of the local communities. (As a side note, the issue over whether DOE will charge money to communities for land remains unsettled and will continue to slow up the transfer of at least one site - an issue that must be addressed by DOE leadership)

3. Timing of DOE Response to a land transfer request. Timing of DOE's response still remains an interesting issue. The original rule identified DOE would respond with 90 days. The Final Rule removed the requirement. DOE tells ECA that it will respond in timely manner. We will have to watch this issue.

4. Applications. The Final Rule changed the information that is required in the 10 C.F.R. 770 applications. A key issue that remains open is DOE's request for end users list. When it takes over 3 years to acquire property (in a fast transfer) listing end users with certainty can be difficult. This is an issue that will need to be addressed moving forward.

ECA staff appreciated the support of so many people within DOE, including those we regularly work with on issues in EM, NE, NNSA, LM, etc. and the new people in the Secretary's office, Deputy Secretary's office, MA and GC. The work of the people to meet with ECA and coordinate issues that were raised by ECA members is the reason why ECA works so closely with DOE. ECA especially wants to thank Deputy Undersecretary Klaus and Ingrid Kolb, Director of MA.

Tim Frazier to Direct Bipartisan Policy Center's Nuclear Waste Initiative

The Bipartisan Policy Center recently announced that Tim Frazier will direct its new nuclear waste initiative, "America's Nuclear Future: Taking Action to Address Nuclear Waste." Mr. Frazier was formerly the Designated Federal Official managing the Blue Ribbon Commission on America's Nuclear Future.

See the full article from the Bipartisan Policy Center website [here](#).

OFFICE OF LEGACY MANAGEMENT RELEASES QUARTERLY PROGRAM UPDATE TO CAP 2013

DOE's Office of Legacy Management, which is responsible for ensuring that DOE's post-closure responsibilities are met, released its October–December 2013 Program Update this month, including the following articles:

- Agencies Assist LM to Develop Reports on Defense-Related Uranium Mines
- DOE Responds to Public Input on the Draft ULP PEIS
- Groundwater Remedy Is Evaluated at the Mound, Ohio, Site
- Visitors Learn About the History of LM's Unique Facility in Puerto Rico
- German Remediation Officials Benchmarking Visit
- International Atomic Energy Agency Accepts Consultation from LM
- Environmental Justice Activities

The Program Update is available [here](#).

NRC DELAYS PUBLICATION OF FINAL WASTE CONFIDENCE RULE

The US Nuclear Regulatory Commission (NRC) announced a delay in the schedule to release its final Waste Confidence Generic Environmental Impact Statement (GEIS) and its final Waste Confidence Rule. NRC is moving the original deadline from September 2014 to no later than October 3, 2014 for publication of the GEIS and the final rule.

The Waste Confidence rule codifies the Commission's generic determination of the environmental impacts associated with the storage of spent fuel after the end of a reactor's licensed life for operation.

According to an NRC press release, the delay is a result of time lost during the government shutdown from October 1 to October 16 last year. NRC was forced to reschedule a number of public meetings and to extend the public comment period on the draft GEIS and rule by “nearly a month.”

NRC Press Release: <http://pbadupws.nrc.gov/docs/ML1402/ML14023A710.pdf>

NRC Waste Confidence Website: <http://www.nrc.gov/waste/spent-fuel-storage/wcd.html>

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NNSA'S NEW SUPPLY CHAIN MANAGEMENT POLICY IMPACTS ALL EM AND NNSA SITE LOCAL CONTRACTORS, SAYS THE LANL MAJOR SUBCONTRACTOR CONSORTIUM

The Los Alamos National Laboratory Major Subcontractor Consortium (LANL-MSA) issued the following press release on January 17, 2014:

The President of the Los Alamos National Laboratory Major Subcontractor Consortium (LANL-MSA), Liddie Martinez, delivered a presentation to the Regional Coalition of LANL Communities detailing potential negative outcomes of the National Nuclear Security Administration's (NNSA) Supply Chain Management Center's (SCMC) new policy mandating usage by the complex's Prime Contractors by assigning specific performance targets to each of the sites for purchase of goods and services. This NNSA policy shifts local purchasing to suppliers holding national contracts within the SCMC system thereby impacting all communities surrounding the eight NNSA sites and those near the 17 Environmental Management sites nationwide. Potential negative impacts include hundreds of millions in lost revenue due to underutilized contracts, reductions in local gross receipts taxes, thousands of jobs lost, and the likelihood of compounded losses as contractors reduce their local presence, staff, and investment in the local communities through volunteer service and community commitment programs.

The LANL MSA contends that the SCMC system institutes an un-level playing field by allowing out of state suppliers to circumvent the additional requirements placed on local contractors to include maintaining local facilities, participation and funding of a Community Development Plan, and payment of local gross receipts tax. The National Nuclear Security Administration has publicly confirmed that the utilization of the SCMC is scheduled to expand; thereby directing even more funds away from the local subcontractors and thereby, local communities.

The LANL Major Subcontractors' Consortium has asked the local governing bodies in Northern New Mexico to support efforts to study the possible impacts and mitigate the effects of the NNSA's efforts to utilize the Supply Chain Management Center and to request that all members of the New Mexico Congressional Delegation collaborate with the impacted regional governments, vital institutions and the private sector including the Major Subcontractors' Consortium to work with the NNSA to mitigate or eliminate the negative impact of requiring LANL to utilize the SCMC procurement system by passing a resolution, and that copies of the resolution be transmitted to all members of the New Mexico Congressional Delegation.



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www.energyca.org

2014 Congressional Calendar

January

SUN	MON	TUES	WED	THUR	FRI	SAT
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 House and Senate in Session

 Senate in Session Only

 House in Session Only

 Federal Holiday



Please Note: Congressional schedule is subject to change

2014 Calendar of Events



February 13–24	House and Senate recess
February 27	“DOE Moving Forward” ECA Peer Exchange, Washington, D.C.; see page 10 for more information
February 28	ECA Board Meeting and Elections
March 1	The Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise submits an interim report to Congress, per the National Defense Authorization Act for Fiscal Year 2013
March 4	The President releases his fiscal year 2015 budget request (including DOE’s budget)
May 7–9, 2014	National Training Conference on the Toxics Release Inventory (TRI) and Environmental Conditions in Communities; Arlington, VA. More information is available here .



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