



Office of Inspector General

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OFFICE OF TECHNOLOGY,  
FINANCIAL, AND ANALYTICS

AUDIT REPORT -

THE DEPARTMENT OF ENERGY NUCLEAR WASTE  
FUND'S FISCAL YEAR 2021 FINANCIAL STATEMENT  
AUDIT

DOE-OIG-22-08  
NOVEMBER 2021



**Department of Energy**  
Washington, DC 20585

November 15, 2021

MEMORANDUM FOR THE DIRECTOR, OFFICE OF STANDARD CONTRACT  
MANAGEMENT

*Sarah B. Nelson*

FROM:

Sarah B. Nelson  
Assistant Inspector General  
for Technology, Financial, and Analytics  
Office of Inspector General

SUBJECT:

INFORMATION: Audit Report on The Department of Energy Nuclear  
Waste Fund's Fiscal Year 2021 Financial Statement Audit

The attached report presents the results of the independent certified public accountants' audit of the balance sheets of the Department of Energy Nuclear Waste Fund, as of September 30, 2021, and 2020, and the related statements of net cost, changes in net position, and statements of budgetary resources for the years then ended.

To fulfill the Office of Inspector General's audit responsibilities, we contracted with the independent public accounting firm of KPMG LLP to conduct the audit, subject to our review. KPMG LLP is responsible for expressing an opinion on the Nuclear Waste Fund's financial statements and reporting on applicable internal controls and compliance with laws and regulations. The Office of Inspector General monitored audit progress and reviewed the audit report and related documentation. This review disclosed no instances where KPMG LLP did not comply, in all material respects, with generally accepted government auditing standards. The Office of Inspector General did not express an independent opinion on the Nuclear Waste Fund's financial statements.

KPMG LLP concluded that the combined financial statements present fairly, in all material respects, the respective financial position of the Nuclear Waste Fund as of September 30, 2021, and 2020, and its net costs, changes in net position, and budgetary resources for the years then ended, in accordance with United States generally accepted accounting principles.

As part of this review, auditors also considered the Nuclear Waste Fund's internal controls over financial reporting and tested for compliance with certain provisions of laws, regulations, contracts, and grant agreements that could have a direct and material effect on the determination of financial statement amounts. The audit did not identify any deficiency in internal control over financial reporting that is considered a material weakness. Additionally, the results of the

auditors' review disclosed no instances of noncompliance or other matters required to be reported under Government Auditing Standards or applicable Office of Management and Budget guidance.

We appreciated the cooperation of your staff during the audit.

Attachment

cc: Deputy Secretary  
Chief of Staff  
Deputy Director, Office of Enterprise Assessments, EA-1  
Deputy Chief Financial Officer, CF-2

Audit Report: DOE-OIG-22-08

**INDEPENDENT AUDITORS' REPORT**

**UNITED STATES DEPARTMENT OF ENERGY  
NUCLEAR WASTE FUND**

**Annual Financial Report**

**As of and for the Years Ended  
September 30, 2021 and 2020**

**November 11, 2021**

**UNITED STATES DEPARTMENT OF ENERGY  
NUCLEAR WASTE FUND**

**Annual Financial Report  
September 30, 2021 and September 30, 2020**

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KPMG LLP  
 Suite 12000  
 1801 K Street, NW  
 Washington, DC 20006

## Independent Auditors' Report

Inspector General, United States Department of Energy, and  
 Director, Office of Standard Contract Management:

### Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Department of Energy (Department) Nuclear Waste Fund, which comprise the balance sheets as of September 30, 2021 and 2020, and the related statements of net cost, changes in net position, and combined statements of budgetary resources for the years then ended, and the related notes to the financial statements.

#### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, in accordance with the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and in accordance with Office of Management and Budget (OMB) Bulletin No. 21-04, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 21-04 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### *Opinion*

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Department of Energy Nuclear Waste Fund as of September 30, 2021 and 2020, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.



#### *Emphasis of Matter*

As discussed in Note 9 to the financial statements, the Department is involved as a defendant in several matters of litigation relating to its liability to accept commercial spent nuclear fuel by January 1, 1998, the date specified in the Nuclear Waste Policy Act of 1982, as amended. The U.S. Department of Energy Nuclear Waste Fund has recorded an estimate of its liability related to this matter of \$30.9 billion and \$30.6 billion as of September 30, 2021 and 2020, respectively. Our opinion is not modified with respect to this matter.

#### *Other Matters*

##### *Interactive Data*

Management has elected to reference to information on websites or other forms of interactive data outside the *Agency Financial Report* to provide additional information for the users of its financial statements. Such information is not a required part of the basic financial statements or supplementary information required by the Federal Accounting Standards Advisory Board. The information on these websites or the other interactive data has not been subjected to any of our auditing procedures, and accordingly we do not express an opinion or provide any assurance on it.

##### *Required Supplementary Information*

U.S. generally accepted accounting principles require that the information in the Management's Discussion and Analysis section be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audits of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

##### *Other Information*

Our audits were conducted for the purpose of forming an opinion on the basic financial statements as a whole. The information in Other Information – Schedules I and II is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audits of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

#### **Other Reporting Required by Government Auditing Standards**

##### *Internal Control over Financial Reporting*

In planning and performing our audit of the financial statements as of and for the year ended September 30, 2021, we considered the U.S. Department of Energy Nuclear Waste Fund's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the U.S. Department of Energy Nuclear Waste Fund's internal control. Accordingly, we do not express an opinion on the effectiveness of the U.S. Department of Energy Nuclear Waste Fund's internal control. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.



A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

*Compliance and Other Matters*

As part of obtaining reasonable assurance about whether the U.S. Department of Energy Nuclear Waste Fund's financial statements as of and for the year ended September 30, 2021 are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 21-04.

*Purpose of the Other Reporting Required by Government Auditing Standards*

The purpose of the communication described in the Other Reporting Required by *Government Auditing Standards* section is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the U.S. Department of Energy Nuclear Waste Fund's internal control or compliance. Accordingly, this communication is not suitable for any other purpose.

**KPMG LLP**

Washington, D.C.  
November 11, 2021



**Attachment****Management's Discussion & Analysis – (unaudited)****Reporting Entity**

The Nuclear Waste Policy Act of 1982 (NWPA) (Public Law 97-425) established the Office of Civilian Radioactive Waste Management (OCRWM) within the United States (U.S.) Department of Energy (Department or DOE). OCRWM's mission was to manage and dispose of the Nation's spent nuclear fuel (SNF) and high-level radioactive waste (HLW). The Nuclear Waste Policy Amendments Act of 1987 (Title V, Public Law 100-203) directed the Secretary of Energy to characterize only the Yucca Mountain site in Nevada as a candidate site to determine if it was suitable for a repository for SNF and HLW.

Once the characterization of the Yucca Mountain site was completed, the Secretary recommended the site to the President. In July 2002, the President signed into law the Congressional Joint Resolution designating Yucca Mountain as the site for the Nation's first SNF and HLW repository. In 2008, OCRWM submitted a license application to the U.S. Nuclear Regulatory Commission (NRC or the Commission) seeking authorization to construct the Yucca Mountain repository.

In fiscal year (FY) 2009, the President and the Department's Secretary announced that a repository at Yucca Mountain was not a workable option and that the repository program would be terminated. In January 2010, at the direction of the President, the Secretary announced the formation of the Blue Ribbon Commission (BRC), which was shortly followed by the FY 2011 Budget Request with a zero budget request for OCRWM. In March 2010, the Department filed a motion to withdraw with prejudice the Yucca Mountain License Application pending before the Atomic Safety and License Board (ASLB or Board), the independent adjudicatory body of the Nuclear Regulatory Commission (NRC or Commission). In June 2010, the ASLB issued an order denying the Department's motion to withdraw the License Application, which the Department appealed to the Commission. By the beginning of FY 2011, the Department had disbanded OCRWM, and shifted OCRWM program responsibilities to various Departmental Program Secretarial Offices. Among these shifts, the Office of General Counsel (OGC) is now responsible for ongoing litigation and oversight of regulatory activities associated with the NWPA, the Nuclear Waste Fund (NWF), and the Standard Contract for the Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (10 CFR 961) with utilities (Standard Contract).

In July 2011, a lawsuit was filed against the NRC in the U.S. Court of Appeals for the District of Columbia (DC) Circuit requesting that the court order the NRC to continue reviewing the Yucca Mountain license application.

In September 2011, the NRC issued its decision in which the Commission (1) announced it was split evenly on the question whether the NRC's ASLB had properly refused to allow the Department's motion to withdraw the Yucca Mountain construction license application with prejudice, and (2) unanimously held that "budgetary limitations" required the ASLB to dispose of pending matters by the end of FY 2011 and to document the history of the adjudicatory process. Subsequently, the ASLB issued a memorandum and order suspending the adjudicatory portion of the licensing proceeding due to uncertainty regarding the availability of future appropriations from the NWF to pay for future proceeding and a lack of staff to continue the proceeding. The adjudicatory portion of the licensing proceeding remains suspended due to lack of appropriations.

**Attachment**

The BRC submitted a final report in January 2012 with its recommendations for consideration by the Administration and Congress, as well as interested state, tribal and local governments, other stakeholders, and the public. Subsequently, the Department issued the “Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Waste” on January 11, 2013 (Strategy), but no Congressional action was taken to implement the Strategy. The key assumptions from the Strategy were that (1) a pilot storage facility would be operational in 2021 to allow for the removal of SNF from shut down reactors; (2) a larger interim storage facility would be operational in 2025 to begin the removal of SNF from operating nuclear power reactors, and (3) a repository would be operational by 2048.

In August 2013, the U.S. Court of Appeals for the DC Circuit issued an order to the NRC to promptly continue with the legally mandated licensing proceeding unless and until Congress authoritatively says otherwise or there are no appropriated funds remaining.

In November 2013, the NRC requested the Department prepare the supplemental environmental impact statement (EIS) that the NRC staff determined was needed for purposes of the review of the application under the National Environmental Policy Act (NEPA). In October 2014, the Department provided an updated version of the July 30, 2009, entitled, *Analysis of Postclosure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada*. In May 2016, the NRC subsequently issued the report as the *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 (NUREG-2184, Final Report)*.

Funds to restart licensing activities for Yucca Mountain were requested in the FY 2018, 2019, and 2020 Budget Requests but not received. Funds remaining prior to disbanding OCRWM have been used between October 1, 2010 and September 30, 2020 to continue the management of the NWF, litigation activities, for additional closure activities under the Obama Administration, and for exploratory activities under the prior Administration to prepare for a resumption of DOE participation in the licensing proceeding pursuant to the FY 2018, 2019, and 2020 Budget Requests. In the FY 2021 Budget Request, the prior Administration requested appropriated funds to develop and implement a consolidated interim storage program as part of a new, yet to be developed, integrated plan. The Consolidated Appropriations Act for 2021 provided a general appropriation of \$20 million for the Department to proceed with planning for one or more federal consolidated interim storage facilities using a consent-based approach and a \$7.5 million NWF appropriation for oversight activities. The funds are managed by the Office of Nuclear Energy.

In accordance with the NWPA, the Department entered into more than 69 Standard Contracts with utilities in which, in return for payment of fees into the NWF, the Department agreed to begin disposal of SNF by January 31, 1998. Because the Department has no facility available to receive SNF under the NWPA, it has been unable to begin disposal of the utilities' SNF as required by the contracts. Significant litigation claiming damages for partial breach of contract has ensued as a result of the Department's delay.

**Attachment****Fiscal Year 2021 and 2020 Financial Performance**

The principal financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 United States Code 3515 (b). While the statements have been prepared from the books and records of the entity in accordance with Generally Accepted Accounting Principles for Federal entities and the formats prescribed by the Office of Management and Budget (OMB), the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

The NWF consists of fees paid by the owners and generators of SNF from commercial reactors, in accordance with provisions of their contracts with the Department for disposal services. NWF assets in excess of those authorized by Congress to pay NWPA costs are invested in U.S. Treasury securities. On November 19, 2013, the U.S. Court of Appeals for the District of Columbia Circuit found that the Department did not have a legitimate basis to evaluate the ongoing fee and directed the Department to propose to Congress a reduction of the ongoing fee to zero. The Department complied and such proposal became effective on May 16, 2014. The NWPA originally provided that the federal government would pay the costs of defense-generated nuclear waste directly into the NWF. However, Congress in 1993 changed that requirement to instead establish a separate Defense Nuclear Waste Disposal Appropriation (DNWDA).

As of September 30, 2021, cumulative billings from fees and the DNWDA, totaled approximately \$25.4 billion; and cumulative interest earnings and other revenue totaled approximately \$32.7 billion. As of September 30, 2021, cumulative expenditures by the Department from appropriations and amounts authorized by Congress, including direct appropriations to the NRC, the now defunct Office of the Nuclear Waste Negotiator, and the Nuclear Waste Technical Review Board, totaled approximately \$11.4 billion.

As of September 30, 2021 and 2020, the U.S. Treasury securities held by the NWF were \$44.3 billion and \$42.6 billion, respectively, and had a fair value of \$52.4 billion compared to \$54.3 billion.

Offsetting NWF investments and receivables are deferred revenues, which reflect the cumulative fees billed, related accrued interest, and investment income in excess of expenditures since inception. As of September 30, 2021 and 2020, the combined deferred revenue balance was \$46.7 billion and \$45.1 billion, respectively. The increase from investment income and net gains from the maturity of securities was \$1.7 billion and \$1.6 billion for FY 2021 and FY 2020, respectively.

The Department estimates the remaining liability associated with the partial breach of the Standard Contract and has reflected that amount on the Commitments and Contingencies line of the balance sheet. As of September 30, 2021 and 2020, the estimate of the remaining liability from SNF litigation was \$30.9 billion and \$30.6 billion, respectively. Judgments and settlements for damages related to the partial breach are paid by the Judgment Fund.

**Attachment****ANALYSIS OF SYSTEMS, CONTROLS, AND LEGAL COMPLIANCE**

Analysis of systems, controls, and legal compliance is performed, reported, and audited at the Departmental level. The results of these reviews and assessments are incorporated in the Department's Annual Financial Report. A significant issue, SNF and HLW Disposal, was reported by management in FY 2021 and FY 2020 and is described below.

**Federal Managers' Financial Integrity Act**

The Federal Managers' Financial Integrity Act (FMFIA) of 1982 requires that agencies establish internal control and financial systems to provide reasonable assurances that the integrity of Federal programs and operations are protected. Furthermore, it requires that the head of the agency provide an annual assurance statement on whether the agency has met this requirement and whether any material weaknesses exist. NWF's balances are included in the Department's financial statements and are covered by the annual assurance statement.

In response to the FMFIA, the Department developed an internal control program which holds managers accountable for the performance, productivity, operations, and integrity of their programs through the use of management controls. Annually, senior managers at the Department are responsible for evaluating the adequacy of the internal controls surrounding their activities and determining whether they conform to the principles and standards established by the Office of Management and Budget, and the Government Accountability Office. The results of these evaluations and other senior management information are used to determine whether there are any internal control problems to be reported as material weaknesses. The Departmental Internal Control and Audit Review Council, the organization responsible for oversight of the Management Control Program, makes the final assessment and decision for the Department.

**Significant Issue - SNF AND HLW DISPOSAL**

The government's acceptance of SNF and HLW, authorized under the NWPA, has been delayed by various factors.

**Actions Taken and Remaining**

The previous Administration requested funds for the Yucca Mountain licensing proceeding in the FY 2018, 2019, and 2020 Budget Requests. However, no appropriations were received. In the FY 2021 Budget Request, the prior Administration did not request any funds for the Yucca Mountain licensing proceeding but did request appropriated funds to develop and implement a consolidated interim storage program as part of a new, yet to be developed, integrated plan. The Consolidated Appropriations Act for 2021 appropriated \$20 million for the Department to proceed with planning for one or more federal consolidated interim storage facilities using a consent-based approach.

In FY 2021, the Department began planning activities for a consent-based approach to site one or more federal consolidated interim storage facilities in the near term, followed by a repository some years after. In the FY 2022 Budget Request, the Administration requested additional funds to work collaboratively with the public, communities, stakeholders, and governments at the Tribal, State, and local levels and intends to pursue a consent-based approach to site an interim storage facility

**Attachment**

or facilities and permanent disposal. Additionally, the Department continues to manage NWF, administer the Standard Contracts, and maintain the security of the Yucca Mountain site.

## Attachment

## UNITED STATES DEPARTMENT OF ENERGY

## NUCLEAR WASTE FUND

## Balance Sheets

As of September 30, 2021 and 2020

(Dollars in thousands)

	FY 2021	FY 2020
<b>ASSETS</b>		
Intragovernmental:		
Fund Balance with Treasury <sup>(Note 3)</sup>	\$ 22,394	\$ 6,137
Investments, Net <sup>(Note 4)</sup>	<u>44,295,293</u>	<u>42,649,104</u>
Total Intragovernmental Assets	<u>44,317,687</u>	<u>42,655,241</u>
With the public:		
Accounts Receivable Due from Utilities <sup>(Note 5)</sup>	2,419,490	2,417,950
General Property, Plant, and Equipment, Net <sup>(Note 6)</sup>	<u>20</u>	<u>22</u>
Total with the public	<u>2,419,510</u>	<u>2,417,972</u>
Total Assets	<u>\$ 46,737,197</u>	<u>\$ 45,073,213</u>
<b>LIABILITIES</b>		
Intragovernmental: <sup>(Note 8)</sup>		
Accounts Payable	\$ 23	\$ 223
Deferred Revenue <sup>(Notes 7 and 10)</sup>	<u>634,826</u>	<u>636,677</u>
Total Intragovernmental Liabilities	<u>634,849</u>	<u>636,900</u>
With the public:		
Accounts Payable and Other Liabilities	825	106
Deferred Revenue <sup>(Note 10)</sup>	46,080,796	44,432,294
Commitments and Contingencies <sup>(Note 9)</sup>	<u>30,877,550</u>	<u>30,604,161</u>
Total with the public	<u>76,959,171</u>	<u>75,036,561</u>
Total Liabilities <sup>(Note 8)</sup>	<u>77,594,020</u>	<u>75,673,461</u>
<b>NET POSITION</b>		
Unexpended Appropriations - Funds from other than Dedicated Collections	20,727	3,913
Cumulative Results of Operations - Funds from other than Dedicated Collections	<u>(30,877,550)</u>	<u>(30,604,161)</u>
Total Net Position	<u>(30,856,823)</u>	<u>(30,600,248)</u>
Total Liabilities and Net Position	<u>\$ 46,737,197</u>	<u>\$ 45,073,213</u>

The accompanying notes are an integral part of these statements.

## Attachment

NUCLEAR WASTE FUND  
 Statements of Net Cost  
 For the Fiscal Year Ended September 30, 2021 and 2020  
 (Dollars in thousands)

	FY 2021	FY 2020
First Repository Costs	\$ 684	\$ 1,787
All Other Program Costs:		
Program Support	7,780	1,508
Transfers of Appropriations <sup>(Note 7)</sup>	3,600	3,600
Waste Acceptance, Storage and Transportation	2,681	205
Total All Other Program Costs	14,061	5,313
Total First Repository and Other Program Costs	14,745	7,100
Less Eamed Revenues <sup>(Note 10)</sup>	(14,745)	(7,100)
Net First Repository Costs & Other Program Costs	-	-
Estimated costs for waste acceptance obligations	662,631	2,724,131
Net Cost of Operations	\$ 662,631	\$ 2,724,131

*The accompanying notes are an integral part of these statements.*

## Attachment

NUCLEAR WASTE FUND  
 Statements of Changes in Net Position  
 For the Fiscal Year Ended September 30, 2021 and 2020  
 (Dollars in thousands)

	FY 2021	FY 2020
<b>UNEXPENDED APPROPRIATIONS</b> <small>(combined totals - Note 11)</small>		
Beginning Balance	\$ 3,913	\$ 5,912
Budgetary Financing Sources Related to Appropriations:		
Appropriations Received <small>(Note 2)</small>	20,000	-
Appropriations Used	<u>(3,186)</u>	<u>(1,999)</u>
Total Budgetary Financing Sources Related to Appropriations	<u>16,814</u>	<u>(1,999)</u>
Ending Balance - Unexpended Appropriations	<u>20,727</u>	<u>3,913</u>
<b>CUMULATIVE RESULTS OF OPERATIONS</b> <small>(combined totals - Note 11)</small>		
Beginning Balance	\$ (30,604,161)	\$ (28,536,455)
Other Financing Sources (Non-Exchange):		
Imputed Financing from Costs Absorbed by Others	<u>389,242</u>	<u>656,425</u>
Total Other Financing Sources	<u>389,242</u>	<u>656,425</u>
Net Cost of Operations	<u>(662,631)</u>	<u>(2,724,131)</u>
Net Change	<u>(273,389)</u>	<u>(2,067,706)</u>
Ending Balance - Cumulative Results of Operations	<u>\$ (30,877,550)</u>	<u>\$ (30,604,161)</u>
Total Net Position	<u>\$ (30,856,823)</u>	<u>\$ (30,600,248)</u>

*The accompanying notes are an integral part of these statements.*



## Attachment

NUCLEAR WASTE FUND  
 Statements of Budgetary Resources  
 For the Fiscal Year Ended September 30, 2021 and 2020  
 (Dollars in thousands)

	FY 2021	FY 2020
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance from Prior Year Budget Authority, Net	\$ 4,475	\$ 6,377
Appropriations <sup>(Note 2)</sup>	27,500	-
Total Budgetary Resources	<u>\$ 31,975</u>	<u>\$ 6,377</u>
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations and Upward Adjustments (Total) <sup>(Note 12)</sup>	\$ 21,864	\$ 2,039
Unobligated Balance, End of Year:		
Apportioned, Unexpired Accounts	6,741	1,622
Exempt from Apportionment, Unexpired Accounts	3,370	2,716
Unobligated Balance, End of Year	<u>10,111</u>	<u>4,338</u>
Total Budgetary Resources	<u>\$ 31,975</u>	<u>\$ 6,377</u>
<b>OUTLAYS, NET</b>		
Outlays, Net	\$ 10,624	\$ 3,510
Distributed Offsetting Receipts	(1,687,123)	(1,744,060)
Nuclear Waste Fund Outlays, Net	<u>\$ (1,676,499)</u>	<u>\$ (1,740,550)</u>

*The accompanying notes are an integral part of these statements.*

## Attachment

**UNITED STATES DEPARTMENT OF ENERGY  
NUCLEAR WASTE FUND**

Notes to Financial Statements  
September 30, 2021 and September 30, 2020

(Dollars in thousands unless otherwise noted)

**(1) Legislative Background**

The Nuclear Waste Policy Act of 1982 (NWPAA) was signed into law on January 7, 1983. The NWPAA establishes a framework for the financing, siting, licensing, operating and decommissioning of one or more mined geologic repositories for the Nation's spent nuclear fuel (SNF) and high-level radioactive waste (HLW) which is to be carried out by the Department of Energy (Department or DOE). In addition, the NWPAA contains other provisions including:

- Assigning responsibility for the payment of disposal costs to the owners and generators of SNF and HLW and creating a special Nuclear Waste Fund (NWF) within the Department of Treasury of the United States for the collection of fees to cover such costs;
- Providing for contracts between the Department and the owners and generators of SNF and HLW pursuant to which the Department is to take title to the SNF or HLW as expeditiously as possible, following commencement of repository operations and, in return for payment of fees established by the NWPAA, to begin disposal of the SNF or HLW not later than January 31, 1998; and
- Requiring evaluation of the use of civilian disposal capacity for the disposal of HLW resulting from atomic energy defense activities (Defense HLW). In April 1985, the President notified the Department of his determination that a separate defense waste repository was not necessary and directed the Department to proceed with arrangements for disposal of such waste. Fees, equivalent to those paid by commercial owners, must be paid for this service by the Federal Government.

On December 22, 1987, the President signed into law the Budget Reconciliation Act, Subtitle A Title V, of which contained amendments to the NWPAA. The legislation directed the Department to characterize only the Yucca Mountain site in Nevada as a candidate site for the first repository. The legislation also provided for the termination of site-specific activities at all candidate sites other than the Yucca Mountain site, within 90 days of enactment, and for phasing out, not later than six months after enactment, all research programs in existence that were designed to evaluate the suitability of crystalline rock as a potential repository host medium.

In fiscal year (FY) 2009, the President and the Department's Secretary announced that a repository at Yucca Mountain was not a workable option and that the repository program would be terminated. At that time, they also announced that a Blue Ribbon Commission would be established to evaluate disposal alternatives. Accordingly, on January 29, 2010, the Department's Secretary announced the formation of a Blue Ribbon Commission on America's Nuclear Future to provide recommendations for developing a safe, long-term solution to managing the Nation's SNF and HLW. The Blue Ribbon Commission submitted a final report in January 2012 with their recommendations on these issues for consideration by the Administration and Congress, as well as interested state, tribal and local governments, other stakeholders, and the public. On February 1, 2010, the President issued the FY 2011 Budget Request with a zero budget request for the Nuclear Waste Fund Appropriation and the Defense Nuclear Waste Disposal Appropriation (formerly known as and reported under the Office of Civilian Radioactive Waste Management (OCRWM) prior to FY 2011). Consequently, the Department closed OCRWM on September 30, 2010, and, on October 1, 2010, the Department reassigned prior responsibilities for the operations of OCRWM and its assets and liabilities within the Department, herein referred to as the NWF.

In March 2017, the Administration submitted *America First – A Budget Blueprint to Make America Great Again* to Congress that included the restart of licensing activities for the Yucca Mountain nuclear waste repository. The Administration requested funds from the Nuclear Waste Fund to restart licensing for Yucca Mountain in the FY 2018 – 2020 Budget Requests. However, no appropriations were received. In FY 2020, the Administration decided to take a different approach and announced its intent to pursue alternatives to Yucca Mountain.

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The FY2021 budget request included funds to begin development of interim storage options as part of an integrated plan. However, the NWPAs, as amended, mandates pursuing Yucca Mountain. Therefore, amending the NWPAs will be necessary in order to pursue a new approach. The current Administration is committed to working with Congress to develop and implement a new integrated plan.

**(2) Significant Accounting Policies**

**Basis of Presentation** – These financial statements have been prepared to report the financial position and results of operations of the NWF and include all activity related to the Nuclear Waste Fund Appropriation and the Defense Nuclear Waste Disposal Appropriation, used for the disposal of SNF and HLW (formerly reported under the Office of Civilian Radioactive Waste Management). The financial statements have been prepared from the books and records of the Department for the NWF in accordance with accounting principles generally accepted in the United States of America, as applicable to Federal entities, and presentation guidelines in Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements.

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information per Statement of Federal Financial Accounting Standards (SFFAS) 56, *Classified Activities*.

**Basis of Accounting** – The NWF's financial statements are prepared using the accrual method of accounting. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred without regard to receipt or payment of cash. The NWF also uses budgetary accounting to facilitate compliance with legal constraints and to monitor its budget authority. On the Balance Sheets, assets and liabilities have been classified according to the type of entity with which the transactions were made. Intragovernmental assets and liabilities are those from or to other federal entities.

**Revenue Recognition** – Fees, related accrued interest, and investment income are recognized as exchange (earned) revenue to the extent of expenses incurred, subject to Congressional authorization, as discussed below. Fees billed, related accrued interest, and investment income in excess of current expenses are deferred.

The NWPAs requires the civilian owners and generators of nuclear waste to pay their share of the full cost of the NWF and, to that end, establishes a fee for electricity generated and sold by civilian nuclear power reactors which the Department must collect and annually assess to determine its adequacy. A one-time fee (see Note 5) was recorded by the NWF as of April 7, 1983, related to the disposal of SNF generated prior to that date. Fees recognized by the NWF are based upon kilowatt (kWh) of electricity generated and sold by civilian nuclear reactors on and after April 7, 1983. The Department set the per kWh portion of the fee to zero in 2014.

Fees associated with the disposal of the Department's SNF and HLW are also recognized as the related costs are incurred and allocated. The methodology for allocating costs between SNF and HLW owned and managed by the Government (defense) and commercial (civilian) was developed by public rulemaking and published in the Federal Register in August 1987. This rule provides guidance for calculating the defense and civilian shares of total costs. The annual *Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program* (TSLCC) calculated the defense and civilian shares of program costs using this methodology. The most recent TSLCC was published in 2008.

**Appropriations** – Expenditure authority for the NWF has historically been provided by two separate appropriations. For fiscal years 2021 and 2020, Congress appropriated \$0 from the Defense Nuclear Waste Disposal Appropriation and \$27,500 and \$0, respectively, from the Nuclear Waste Disposal Appropriation to be used for

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**(2) Significant Accounting Policies (continued)**

nuclear waste disposal activities. The \$27,500 of the Nuclear Waste Disposal Appropriation for FY2021 includes \$20,000 derived from the General Fund and \$7,500 from the Nuclear Waste Fund.

Fee payments and investment income are deposited into the NWF account and are made available to the Department through the annual expenditure authority provided by Congress. Investments are made in United States (U.S.) Treasury securities from funds in excess of current needs. If, at any time, monies available in the NWF are insufficient to discharge responsibilities under the NWPA, borrowings may be made from the U.S. Treasury. The NWPA limits the NWF from incurring expenditures, entering into contracts, and obligating amounts to be expended except as provided in advance by appropriation acts. Appropriated dedicated collections such as these are excluded from appropriations received on the Statements of Changes in Net Position.

**Imputed Financing Sources** – In certain instances, costs of the NWF are paid out of funds appropriated to other federal agencies. For example, payments under the terms of settlements and judgments are paid by the U.S. Treasury Judgment Fund (Judgment Fund). When costs directly attributable to NWF's operations are paid by other agencies, NWF recognizes these amounts in the *Statements of Net Cost*. In addition, these amounts are recognized as imputed financing sources in the *Statements of Changes in Net Position*.

**Funds from Dedicated Collections** – NWF follows SFFAS 43, *Funds from Dedicated Collections*, which requires separate identification of funds from dedicated collections on the Balance Sheets, Statements of Changes in Net Position, and other selected footnotes.

Funds from dedicated collections are financed by specifically identified revenues, often supplemented by other financing sources, which remain available over time. These specifically identified revenues and other financing sources are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the Government's general revenues (see Note 11).

**Investments** – Investments are in U.S. Treasury securities and are stated at cost net of amortized premiums and discounts, as it is the Department's intent to hold the investments to maturity. Premiums and discounts are amortized using the effective interest yield method. Investment interest is accrued on the outstanding investment balance using the applicable interest rate for the investments (see Note 4).

**General Property, Plant, and Equipment, Net** – Purchases of general property, plant, and equipment (PP&E) exceeding \$50 are capitalized if they have a useful life greater than two years. PP&E is depreciated on a straight-line basis over the estimated useful lives of the assets. Useful lives range from 5 to 30 years. PP&E is presented net of accumulated depreciation. Maintenance costs are borne by NWF for equipment either on loan from or shared with other programs (see Note 6).

**Accounts Receivable Due from Utilities** – Accounts receivable must be paid prior to when the Department begins accepting waste. Interest is accrued quarterly on the outstanding amount receivable including accrued interest. The interest rate used is the 13-week U.S. Treasury bill rate. NWF does not record an allowance for doubtful accounts related to one-time spent fuel fees because the Department's acceptance of the waste is contingent upon these fees being paid (see Note 5).

**Liabilities** – Liabilities represent the amount of monies or other resources that are likely to be paid by NWF as the result of a transaction or event that has already occurred. However, no liability can be paid by NWF absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified in these notes as

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**(2) Significant Accounting Policies (continued)**

liabilities not covered by budgetary resources and there is no certainty that the appropriation will be enacted. Also, liabilities other than contracts can be abrogated by the Government acting in its sovereign capacity.

**Tax Status** – NWF, as a part of the Department of Energy, which is a Federal agency, is not subject to federal, state, or local income taxes.

**First Repository Costs** – For the fiscal years ended September 30, 2021 and 2020, first repository costs consist primarily of Yucca Mountain shutdown costs. Historically, the general goals have been that of licensing and construction of a permanent repository for nuclear waste at Yucca Mountain and to be ready for acceptance of waste at the facility.

**Use of Estimates** – The preparation of financial statements requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Significant items subject to such estimates and assumptions include primarily commitments and contingencies related to Spent Nuclear Fuel litigation (see Note 9).

**(3) Fund Balance with Treasury**

Summaries of the status of fund balances with the U.S. Treasury for appropriated and special funds as of September 30, 2021 and September 2020 are as follows:

<b>As of September 30, 2021</b>	Appropriated		Total
	Funds	Special Funds	
Unobligated budgetary resources			
Available	\$ 421	\$ 3,370	\$ 3,791
Obligated balance not yet disbursed			
Undelivered orders	2,811	14,429	17,240
Accounts payable and other liabilities	45	340	385
Budgetary resources invested in Treasury securities	-	978	978
<b>Total FY 2021 Fund Balance with Treasury</b>	<b>\$ 3,277</b>	<b>\$ 19,117</b>	<b>\$ 22,394</b>

<b>As of September 30, 2020</b>	Appropriated		Total
	Funds	Special Funds	
Unobligated budgetary resources			
Available	\$ 1,622	\$ 2,716	\$ 4,338
Obligated balance not yet disbursed			
Undelivered orders	2,292	3,902	6,194
Accounts payable and other liabilities	223	106	329
Budgetary resources invested in Treasury securities	-	(4,723)	(4,723)
<b>Total FY 2020 Fund Balance with Treasury</b>	<b>\$ 4,136</b>	<b>\$ 2,001</b>	<b>\$ 6,137</b>

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**(4) Investments, Net**

For the fiscal years ended September 30, 2021 and 2020, the NWF received proceeds from the maturity of securities of \$4,143,547 and \$1,822,506, respectively.

Investments in U.S. Treasury securities held as of September 30, 2021 and 2020 of each year consisted of the following:

	<b>FY 2021</b>						
	Cost/ Acquisition Value	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Net Investments	Unrealized Gain / (Loss)	Market / Fair Value
<b>Intragovernmental Securities and Investments:</b>							
Non-Marketable: Market Based:	\$ 55,318,509	Effective Interest Yield	\$ 11,135,295	\$ 112,079	\$ 44,295,293	\$ 8,065,005	\$ 52,360,298
<b>Total Intragovernmental Securities and Investments</b>	<b>\$ 55,318,509</b>		<b>\$ 11,135,295</b>	<b>\$ 112,079</b>	<b>\$ 44,295,293</b>	<b>\$ 8,065,005</b>	<b>\$ 52,360,298</b>

	<b>FY 2020</b>						
	Cost/ Acquisition Value	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Net Investments	Unrealized Gain / (Loss)	Market / Fair Value
<b>Intragovernmental Securities and Investments:</b>							
Non-Marketable: Market Based:	\$ 54,665,600	Effective Interest Yield	\$ 12,138,646	\$ 122,150	\$ 42,649,104	\$ 11,634,180	\$ 54,283,284
<b>Total Intragovernmental Securities and Investments</b>	<b>\$ 54,665,600</b>		<b>\$ 12,138,646</b>	<b>\$ 122,150</b>	<b>\$ 42,649,104</b>	<b>\$ 11,634,180</b>	<b>\$ 54,283,284</b>

Pursuant to statutory authorization, fees collected from owners and generators of SNF that are in excess of those needed to pay current program costs are invested in Treasury securities. The federal government does not set aside assets to pay for expenditures associated with the funds for which the Department holds Treasury securities. These Treasury securities are an asset to the Department and a liability to Treasury. Because the Department and Treasury are both parts of the federal government, these assets and liabilities offset each other from the standpoint of the federal government, as a whole. For this reason, they do not represent an asset or a liability in the U.S. Government-wide financial statements. Treasury securities provide the Department with authority to draw upon the U.S. Treasury to make expenditures, subject to available appropriations and OMB apportionments. When the Department requires redemption of these securities, the federal government finances those expenditures out of accumulated cash balances by raising taxes or other receipts, by borrowing from the public, repaying less debt, or by curtailing other expenditures. This is the same way the federal government finances all other expenditures.

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**(5) Accounts Receivable Due from Utilities**

Owners and generators of civilian SNF have entered into contracts with the Department for disposal services and for payment of fees to the NWF.

The NWPA specifies two types of fees to be paid to the NWF for disposal services: (a) a one-time charge per kilogram of heavy metal in solidified SNF existing prior to April 7, 1983; and (b) a one mil per kWh fee on all net electricity generated and sold by civilian nuclear power reactors on and after April 7, 1983. The kWh fees are due when billed. The contracts between the Department and the owners and generators of the waste provide three options for payment of the one-time spent fuel fee, one of which must have been selected by September 30, 1985, or within two years of contract execution. The options were:

1. Payment of the amount due, plus interest earned from April 7, 1983, in 40 quarterly installments with the final payment due on or before the first scheduled delivery of SNF to the Department;
2. Payment of the amount due, plus interest from April 7, 1983, in a single payment any time prior to the first delivery of SNF to the Department; or
3. Payment of the amount due any time prior to September 30, 1985, or two years after contract execution, in the form of a single payment, with no interest due.

Under options (1) and (2), interest accrues from April 7, 1983 to the date of first payment at the 13-week U.S. Treasury bill rate compounded quarterly. Under option (1), beginning with the first payment, interest is calculated at the 10-year Treasury note rate in effect at the time.

In fiscal year 2021, no payments of one-time accrued spent fuel fees or accrued interest were received. In fiscal year 2020, payments of \$46,781 of one-time accrued spent fuel fees and \$135,600 of accrued interest were received from owners and generators of civilian SNF.

Per the NWPA, the Secretary of Energy shall annually review the adequacy of the fees established. In the event the Secretary of Energy determines either insufficient or excess revenue is being collected, the Secretary of Energy shall propose an adjustment to the fee to ensure full cost recovery. Because the U.S. Court of Appeals for the District of Columbia Circuit found the Department did not have a legitimate basis to evaluate or assess the ongoing kWh fee, the court directed the Department to propose to Congress a reduction of the ongoing kWh fee to zero. Such proposal became effective on May 16, 2014. In August 2014, the Department collected the remaining ongoing fee receivable balances. The circumstances have remained unchanged for FY 2021 and FY 2020 and no ongoing kWh fees were assessed or collected.

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**(5) Accounts Receivable Due from Utilities (continued)**

Accounts receivable due from utilities at September 30 of each year were as follows:

	<u>FY 2021</u>		<u>FY 2020</u>
Accounts receivable:			
One-time spent nuclear fuel fees:			
Accounts receivable - one-time spent nuclear fuel fees			
Option (1)	\$ 144,363	\$	144,363
Option (2)	475,172		475,172
Total accounts receivable one-time spent nuclear fuel fees	<u>619,535</u>		<u>619,535</u>
Accrued interest on one-time spent nuclear fuel fees:			
Option (1)	417,759		417,389
Option (2)	1,382,196		1,381,026
Total accrued interest on one-time spent nuclear fuel fees	<u>1,799,955</u>		<u>1,798,415</u>
Total accounts receivable due from utilities	<u>\$ 2,419,490</u>	\$	<u>2,417,950</u>

**(6) General Property, Plant, and Equipment, Net**

General property, plant, and equipment and related accumulated depreciation consisted of the following as of September 30, 2021 and 2020:

	<u>FY 2021</u>		<u>FY 2020</u>
General property, plant, and equipment	\$ 6,249	\$	6,606
Less accumulated depreciation	(6,229)		(6,584)
General property, plant, and equipment, net	<u>\$ 20</u>	\$	<u>22</u>



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**(7) Transactions with the Department and Other Federal Government Agencies**

The NWPA authorized the Secretary of Energy to carry out the provisions of the NWPA and created the Nuclear Waste Fund in the U.S. Treasury. The investment and borrowing powers of the NWF are limited to transactions with the U.S. Treasury. In discharging its obligations under the NWPA, the Department contracts for services with numerous contractors including other Federal Government agencies. Further, significant administrative services are provided by the Department.

As of September 30, 2021 and 2020, NWF owed other Federal Government agencies \$23 and \$223, respectively. For the fiscal years ended September 30, 2021 and 2020, NWF incurred costs of \$2,282 and \$1,341, respectively, for services and goods provided by other Federal Government agencies. In addition to these incurred costs, NWF made Congressional authorized transfers from the NWF to the Nuclear Waste Technical Review Board in the amount of \$3,600 in both fiscal year 2021 and 2020.

NWF has entered into Memoranda of Agreement (MOA) with the Department's Office of Environmental Management and the Department's Office of Naval Nuclear Propulsion. The MOA established the terms and conditions for acceptance of Department-owned SNF and HLW (Defense Waste) for disposal. The estimated liabilities are included in the 2008 TSLCC that is used to calculate the estimate of the Department's share of total current and future program costs for Defense Waste. The Department has paid amounts in excess of its estimated share of costs and as a result has no liability to NWF as of September 30, 2021 and 2020.

As of September 30, 2021, the total cumulative share of costs for the Department's Defense Waste is estimated to be \$2,458,225 based on the methodology published in the Federal Register in August 1987 and interest owed is estimated to amount to \$672,737. As of September 30, 2021 and 2020, \$634,826 and \$636,677, respectively, was included in intragovernmental deferred revenue representing the Department's Defense HLW fees in the NWF in excess of the Department's cost share to-date.

**(8) Liabilities Not Covered by Budgetary Resources**

A summary of liabilities covered and not covered by budgetary resources as of September 30, 2021 and 2020 is as follows:

	<b>FY 2021</b>	<b>FY 2020</b>
Liabilities not covered by budgetary resources:		
Intragovernmental		
Deferred revenue (Note 10)	\$ 634,826	\$ 636,677
Non-Intragovernmental		
Deferred revenue (Note 10)	46,080,796	44,432,294
Commitments and contingencies (Note 9)	30,877,550	30,604,161
Total liabilities not covered by budgetary resources	<u>77,593,172</u>	<u>75,673,132</u>
Liabilities covered by budgetary resources:		
Intragovernmental		
Accounts payable	23	223
Non-Intragovernmental		
Accounts payable and other liabilities	825	106
Total liabilities covered by budgetary resources	<u>848</u>	<u>329</u>
Total Liabilities	<u>\$ 77,594,020</u>	<u>\$ 75,673,461</u>

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**(9) Commitments and Contingencies**

*Spent Nuclear Fuel Litigation*

In accordance with the NWPA, the Department entered into more than 69 Standard Contracts with utilities in which, in return for payment of fees into the NWF, the Department agreed to begin disposal of SNF by January 31, 1998. Because the Department has no facility available to receive SNF under the NWPA, it has been unable to begin disposal of the utilities' SNF as required by the contracts. Significant litigation claiming damages for partial breach of contract has ensued as a result of this delay.

To date, 43 suits have been settled involving utilities that collectively own 81 percent of the nuclear reactors subject to litigation for partial breach of contract. Under the terms of the settlements, the Judgment Fund, 31 U.S.C. 1304, paid \$6.5 billion as of September 30, 2021 to the settling utilities for delay damages they have incurred through September 30, 2021. In addition, 67 cases have been resolved by 59 final unappealable judgments and eight voluntary withdrawals with no damages. Eight of the unappealable judgments resulted in an award of no damages by the trial court and the 51 remaining cases resulted in a total of \$2.5 billion in damages that have been paid by the Judgment Fund as of September 30, 2021. An additional 17 cases remain pending the Court of Federal Claims. Liability is probable in these cases, and in many of these cases orders have already been entered establishing the Government's liability and the only outstanding issue to be litigated is the amount of damages to be awarded.

Over two decades ago, the industry was reported to estimate that damages for all utilities with which the Department has contracts ultimately would be at least \$50 billion. The Department believed that this industry estimate was highly inflated. At that time, the disposition of cases that had either been settled or subject to a judgment in the trial court suggested that the Government's ultimate liability was likely to be significantly less than that estimate. The Government is not aware of any industry update of the old \$50 billion estimate or how the original estimate was derived. Accordingly, the Department uses settlements as the basis for estimating the Government's aggregate SNF litigation. The Department's SNF litigation liability is updated to include the effects of final judgments and settlements as well as payments to date from the Judgment Fund. Additional payments under these settled and adjudicated cases may be made if the utilities incur additional costs resulting from the Department's delay in acceptance of SNF. The Department believes its assumptions and methodology provide a reasonable basis for the contingent liability estimate. Based on these settlement estimates, the total liability estimate as of September 30, 2021 was \$39.9 billion. After deducting the cumulative amount paid of \$9.0 billion as of September 30, 2021 under these settlements and as a result of final judgments, the remaining liability is estimated to be approximately \$30.9 billion. Under current law, any damages or settlements in this litigation will be paid out of the Judgment Fund. The Department's contingent liability estimate for SNF litigation is reported net of amounts paid to date from the Judgment Fund.

The Department previously reported several developments that made it difficult to reasonably predict the amount of the Government's spent nuclear fuel litigation liability. The previous Administration requested funds for the Yucca Mountain licensing proceeding in the FY 2018, 2019, and 2020 Budget Requests. However, no appropriations were received. In the FY 2021 Budget Request, the prior Administration took a different approach and did not request any funds for the Yucca Mountain licensing proceeding but did request appropriated funds to develop and implement a consolidated interim storage program as part of a new, yet to be developed, integrated plan. The Consolidated Appropriations Act for 2021 appropriated \$20 million for the Department to proceed with planning for one or more federal consolidated interim storage facilities using a consent-based approach.

The current Administration began planning activities for a consent-based approach to implementation of one or more consolidated interim storage facilities in the near term, followed by a repository some years after. In the FY 2022 Budget Request, the Administration requested additional funds to work collaboratively with the public, communities,

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stakeholders, and governments at the Tribal, State, and local levels and intends to pursue a consent-based approach to site an interim storage facility or facilities and permanent disposal. As the Department intends to fulfill its contractual obligations upon the acceptance of spent nuclear fuel and high-level radioactive waste for transport from the reactor facilities, a preliminary operational date of the consolidated interim storage facility or facilities is factored into the liability calculation. The liability estimate assumes Congress amending the NWPA and providing adequate ongoing appropriations.

**(10) Deferred Revenue**

As described in Note 2, all fees, both kWh fees and Defense high-level radioactive waste fees, as well as the related interest and investment income, are recognized as revenue to the extent of expenses incurred. Amounts in excess of current expenses are deferred. Deferred revenue as of September 30, 2021 and 2020 was as follows:

	<u>FY 2021</u>	<u>FY 2020</u>
Intragovernmental		
Fees billed:		
Defense high-level waste fees	\$ 3,186	\$ 1,999
Interest:		
Income on investments	1,656,670	1,568,164
Non-intragovernmental		
Interest:		
One-time spent nuclear fuel fees	1,540	24,665
Other billings	-	90
Total billings and interest	<u>1,661,396</u>	<u>1,594,918</u>
Less earned revenue	<u>(14,745)</u>	<u>(7,100)</u>
Change in deferred revenue	1,646,651	1,587,818
Deferred revenue - beginning balance	<u>45,068,971</u>	<u>43,481,153</u>
Deferred revenue - ending balance	<u>\$ 46,715,622</u>	<u>\$ 45,068,971</u>

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**(11) Dedicated Collections**

	Dedicated Collections	All Other Funds	FY 2021	Dedicated Collections	All Other Funds	FY 2020
<b>Balance Sheet</b>						
<b>Assets</b>						
Fund Balance with Treasury	\$ 19,117	\$ 3,277	\$ 22,394	\$ 2,001	\$ 4,136	\$ 6,137
Investments, Net	44,295,293	-	44,295,293	42,649,104	-	42,649,104
Accounts Receivable	2,419,490	-	2,419,490	2,417,950	-	2,417,950
General Property, Plant, and Equipment, Net	18	2	20	19	3	22
Other Assets	-	-	-	-	-	-
<b>Total Assets</b>	<b>\$ 46,733,918</b>	<b>\$ 3,279</b>	<b>\$ 46,737,197</b>	<b>\$ 45,069,074</b>	<b>\$ 4,139</b>	<b>\$ 45,073,213</b>
<b>Liabilities and Net Position</b>						
Accounts Payable and Other Liabilities	\$ 803	\$ 45	\$ 848	\$ 106	\$ 223	\$ 329
Deferred Revenue	46,715,620	2	46,715,622	45,068,968	3	45,068,971
Pension and Other Actuarial Liabilities	-	-	-	-	-	-
Commitments and Contingencies	-	30,877,550	30,877,550	-	30,604,161	30,604,161
Unexpended Appropriations	17,495	3,232	20,727	-	3,913	3,913
Cumulative Results of Operations	-	(30,877,550)	(30,877,550)	-	(30,604,161)	(30,604,161)
<b>Total Liabilities and Net Position</b>	<b>\$ 46,733,918</b>	<b>\$ 3,279</b>	<b>\$ 46,737,197</b>	<b>\$ 45,069,074</b>	<b>\$ 4,139</b>	<b>\$ 45,073,213</b>
<b>Statement of Net Costs</b>						
Total First Repository and Other Program Costs	\$ 14,063	\$ 682	\$ 14,745	\$ 5,083	\$ 2,018	\$ 7,101
Less: Earned Revenues	(14,063)	(682)	(14,745)	(5,083)	(2,018)	(7,101)
Net First Repository Costs	-	-	-	-	-	-
Estimated costs for waste acceptance obligations	-	662,631	662,631	-	2,724,131	2,724,131
Net cost of operations	\$ -	\$ 662,631	\$ 662,631	\$ -	\$ 2,724,131	\$ 2,724,131
<b>Statement of Changes in Net Position</b>						
Beginning Balance - Unexpended Appropriations	\$ -	\$ 3,913	\$ 3,913	\$ -	\$ 5,912	\$ 5,912
Appropriations Received	20,000	-	20,000	-	-	-
Appropriations Used	(2,505)	(681)	(3,186)	-	(1,999)	(1,999)
Ending Balance - Unexpended Appropriations	17,495	3,232	20,727	-	3,913	3,913
Beginning Balance - Cumulative Results of Operations	\$ -	\$ (30,604,161)	\$ (30,604,161)	\$ -	\$ (28,536,455)	\$ (28,536,455)
Imputed Financing from Costs Absorbed by Others	-	389,242	389,242	-	656,425	656,425
Net Cost of Operations	-	(662,631)	(662,631)	-	(2,724,131)	(2,724,131)
Ending Balance - Cumulative Results of Operations	\$ -	\$ (30,877,550)	\$ (30,877,550)	\$ -	\$ (30,604,161)	\$ (30,604,161)
<b>Total Net Position</b>	<b>\$ 17,495</b>	<b>\$ (30,874,318)</b>	<b>\$ (30,856,823)</b>	<b>\$ -</b>	<b>\$ (30,600,248)</b>	<b>\$ (30,600,248)</b>

The NWPA requires the owners and generators of nuclear waste to pay their share of disposal costs into the NWF and, to that end, established a fee for electricity generated and sold by civilian nuclear power reactors which the Department must collect and annually assess to determine its adequacy. A special fund within Treasury was created to account for the collection of those fees. Fees collected in excess of expenses incurred are invested in Treasury securities and any interest earned is available to pay expenditures related to radioactive waste disposal activities covered by the NWF as appropriated by Congress and allotted by OMB.

**(12) Explanation of Differences between the Statement of Budgetary Resources and the Budget of the United States Government**

The President's Budget for FY 2023, containing actual FY 2021 balances, is expected to be published and available on the OMB website in February 2022. The NWF FY 2020 *Statements of Budgetary Resources* reconciled to the Budget of the United States by combining both of the budgets for Defense Nuclear Waste Disposal (89-X-0244) and Nuclear Waste Disposal (89-X-5227). Budgetary resources and obligations incurred are reconciled to the Departmental balances as published in the Appendix to the Budget; distributed offsetting receipts and net outlays are reconciled to the Departmental Balances in the Federal Program by Agency and Account section of the Analytical Perspectives Volume of the President's Budget.

## Attachment

**UNITED STATES DEPARTMENT OF ENERGY  
NUCLEAR WASTE FUND**

Notes to Financial Statements  
September 30, 2021 and September 30, 2020

(Dollars in thousands unless otherwise noted)

**(13) Reconciliation of Net Cost to Outlays**

Beginning in FY 2019, SFFAS 53, *Budget and Accrual Reconciliation*, amended requirements for a reconciliation between budgetary and financial accounting information established by SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*, and replaced the Reconciliation of Net Cost of Operations to Budget. The Budget and Accrual Reconciliation explains the relationship between the entity's net outlays on a budgetary basis and the net cost of operations during the reporting period. This reconciliation serves not only to identify costs paid for in the past, and those that will be paid for in the future, but also assure integrity between budgetary and financial accounting. The table below illustrates this reconciliation by listing the key differences between net cost and net outlays.

Accounts receivable on the reconciliation relate to payments received for spent fuel fees and accrued interest, which resulted in a cash inflow, but did not impact net operating cost. Investments reflect the receipt of interest income on the investment portfolio, which results in a cash inflow, but is included in deferred revenue and not earned until future periods. Other liabilities represents the expense associated with the current year increase in the spent nuclear fuel contingent liability, which did not result in an outlay. Offsetting the spent nuclear fuel contingent liability increase in the other liabilities line was the recognition of deferred revenues commensurate to expenses incurred during the period. Costs paid by Treasury reflect an imputed expense included in net operating cost for payments made by the Treasury Judgment Fund, which does not result in a cash outflow for NWF.

	FY 2021			FY 2020		
	Intra-governmental	With the Public	Total	Intra-governmental	With the Public	Total
<b>Net Cost</b>	<b>\$ (1,264,732)</b>	<b>\$ 1,927,363</b>	<b>\$ 662,631</b>	<b>\$ (908,798)</b>	<b>\$ 3,632,929</b>	<b>\$ 2,724,131</b>
<b>Components of Net Cost Not Part of Budgetary Outlays</b>						
Property, plant, and equipment depreciation	\$ -	\$ (2)	\$ (2)	\$ -	\$ (20)	\$ (20)
<b>Increase/(decrease) in assets:</b>						
Accounts receivable	-	(0)	(0)	-	(182,381)	(182,381)
Investments	(1,687,123)	-	(1,687,123)	(1,561,680)	(0)	(1,561,680)
<b>(Increase)/decrease in liabilities not affecting Budget Outlays:</b>						
Accounts payable	161	(25)	136	(109)	138	29
Federal employee and veteran benefits payable	-	(645)	(645)	-	-	-
Advances from others and deferred revenue	-	11,560	11,560	-	5,101	5,101
Other liabilities	(425)	(273,389)	(273,814)	(1,601)	(2,067,704)	(2,069,305)
<b>Other financing sources:</b>						
Costs paid by Treasury and imputed to agency	(389,242)	-	(389,242)	(656,425)	-	(656,425)
<b>Total Components of Net Cost Not Part of Budget Outlays</b>	<b>\$ (2,076,629)</b>	<b>\$ (262,501)</b>	<b>\$ (2,339,130)</b>	<b>\$ (2,219,815)</b>	<b>\$ (2,244,866)</b>	<b>\$ (4,464,681)</b>
<b>Miscellaneous Items</b>						
Distributed offsetting receipts (Note 23)			(1,687,123)			(1,744,060)
<b>Net Outlays (Calculated Total)</b>	<b>\$ (3,341,361)</b>	<b>\$ 1,664,862</b>	<b>\$ (1,676,499)</b>	<b>\$ (3,128,613)</b>	<b>\$ 1,388,063</b>	<b>\$ (1,740,550)</b>
<b>Related Amounts on the Statement of Budgetary Resources</b>						
Outlays, net			\$ 10,624			\$ 3,510
Agency Outlays, Net			<u>\$ (1,676,499)</u>			<u>\$ (1,740,550)</u>

**Attachment**

**UNITED STATES DEPARTMENT OF ENERGY  
NUCLEAR WASTE FUND**

Other Information - Schedule I  
Schedule of Cumulative Net First and Second Repository Costs for the  
Thirty Nine Years Ended September 30, 2021 – **(Unaudited)**

(Dollars in thousands unless otherwise noted)

First Repository Costs	<u>\$ 7,526,680</u>
All Other Program Costs:	
Program Support	2,191,099
Transfers of Appropriations	688,697
Waste Acceptance, Storage and Transportation	780,510
Imputed and Other Costs	<u>152,506</u>
Total All Other Program Costs	<u>3,812,812</u>
Second Repository Costs	108,896
Total First and Second Repository Costs and Other Program Costs	11,448,388
Less Earned Revenue	<u>(11,429,852)</u>
Cumulative Net First and Second Repository Costs	<u>\$ 18,536</u>

## Attachment

**UNITED STATES DEPARTMENT OF ENERGY  
NUCLEAR WASTE FUND**

Other Information - Schedule II  
Schedule of Cumulative Billings and Interest and Deferred Revenue as of and for the  
Thirty Nine Years Ended September 30, 2021 – **(Unaudited)**

(Dollars in thousands unless otherwise noted)

Intragovernmental:

Fees billed:		
kWh fees	\$	996,143
One-time spent nuclear fuel fees		174,598
Defense high-level waste fees		3,768,350
Interest:		
Income on investments		29,469,029

Non-intragovernmental:

Fees billed:		
kWh fees:		18,308,083
One-time spent nuclear fuel fees		2,174,802
Interest:		
One-time spent nuclear fuel fees		2,546,794
Other billings		707,675
Total billings and interest		58,145,474
Less earned revenue		(11,429,852)
Deferred revenue	\$	<u>46,715,622</u>

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