

**Department of Energy**

Washington, DC 20585

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Mr. Ralph Phelps, Chair  
Northern New Mexico Citizen's  
Advisory Board  
1660 Old Pecos Trail, Suite-B  
Santa Fe, New Mexico 87505

Dear Chairman Phelps:

Thank you for your letter regarding the Department of Energy's (DOE's) unfunded liabilities, and for providing recommendations to the Office of Environmental Management (EM). Given the magnitude of unfunded liabilities throughout the DOE complex, your concerns are both understandable and appreciated. Many of your recommendations have already been implemented and others will be evaluated as EM moves forward. EM considers this issue to be an important part of our program, and, with other DOE elements, is committed to addressing the Department's existing unfunded liabilities. Presently, under the American Recovery and Reinvestment Act (Recovery Act), EM is continuing to accelerate the safe and timely disposition of unfunded liabilities.

EM's Office of Strategic Planning and Analysis is responsible for identifying, tracking, and accounting for those unfunded liabilities that are candidates for transfer into the EM program. EM, in working with the other line organizations in DOE, has a comprehensive technical process in place to determine how unfunded liabilities, including excess facilities, material, and wastes, are transferred into EM from other DOE organizations (refer to attachment). This process follows established DOE Orders and procedures for determining the suitability for transfer of these excess DOE liabilities into the EM program.

In February 2009, EM agreed to accept more than seventy excess facilities and materials/wastes from the Office of Science (SC), the Office of Nuclear Energy (NE), and the National Nuclear Security Administration (NNSA), respectively. EM will formally accept the liabilities only when funding is made available to begin and complete the cleanup work.

Recovery Act funding has allowed EM to address a number of these liabilities already, with completion of cleanup expected by the end of fiscal year (FY) 2011. Moreover, EM understands the necessity of funding this work as soon as practicable. However, given existing cleanup priorities within EM's budget planning profiles, the earliest EM can accommodate any more of these liabilities without re-prioritizing existing baseline work scope is FY 2017. EM is continuing to work with SC, NE, and NNSA to determine how best to request additional appropriations that would permit EM to address these liabilities at an earlier time.

Additionally, your letter referenced the *DOE Fiscal Year 2009 Agency Financial Report*, which shows that EM has approximately \$180 billion in unfunded liability. The \$180 billion



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### **An Overview of the Office of Environmental Management's (EM) Excess Facilities and Materials/Wastes Transfer Criteria**

EM has a comprehensive process in place to determine if cleanup liabilities including excess facilities and materials/wastes are suitable for transfer to EM from other Departmental Program Offices and the National Nuclear Security Administration (NNSA). DOE Order 430.1B, *Real Property Asset Management*, is the primary directive used and establishes the process, requirements, and criteria for managing excess facilities. In addition, EM adheres to the DOE Guide 430.1-5, *Transition Implementation Guide*, which contains guidance on the approach used to determine whether the excess facilities meet the criteria to be transferred to EM. Also, additional details and specifications regarding excess facilities and materials/wastes transfers into the EM program can be found in EM's *Standard Operating Policies and Procedures (SOPP) #34, Excess Facility Transfer to the Office of Environmental Management*.

#### **The criteria implemented by EM to determine the suitability for transfer of an excess facility into the EM program includes but not limited to:**

- 1) The excess facility is "mission contaminated," defined as chemical or radioactive contamination resulting from mission operations, and not from construction activities and associated materials, such as, but not limited to, asbestos, lead-based paint and PCBs in light ballasts;
- 2) The excess facility must be certified as excess (surplus) to Departmental mission needs, not just the mission needs of the requiring Department Program Office or NNSA;
- 3) The excess facility must be an individual, self contained facility, and not a room, wing or annex of a larger operating complex; and
- 4) If a portion of an excess facility is proposed for transfer, a physical segregation of common systems (e.g. ventilation) and utilities and infrastructure shall be accomplished or funded by the Program Office or NNSA requesting the transfer.

#### **The criteria implemented by EM to determine the suitability for transfer of wastes/materials into the EM program includes but not limited to:**

- 1) Materials/wastes have to be excess and not a strategic asset that must be retained;
- 2) Be defined as transuranic waste (TRU) requiring disposition at the Waste Isolation Pilot Plant; or
- 3) Require specialized treatment/processing and have no existing disposition path, thereby requiring EM expertise. Due to the exceptional considerations regarding special nuclear materials and spent nuclear fuel, the transfer of these are determined on a case-by-case basis.


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referenced encompasses the current projected work scope contained in the EM portfolio. Any of the excess facilities, materials, and wastes that EM has agreed to accept when funding is available, would not be included in the \$180 billion. Those costs are included within the Department's other environmental liability categories because other DOE Program Offices and NNSA currently owns those facilities, materials, and wastes.

I would like to thank the Northern New Mexico Citizens' Advisory Board and all members of the EM Site Specific Advisory Board for your dedication and commitment in proactively supporting the EM mission over many years, and I look forward to working with you on addressing DOE's unfunded liabilities.

If you have additional questions regarding this issue, please contact me, or Mr. Jay Rhoderick, Director of the Office of Strategic Planning and Analysis, at (301) 903-7211.

Sincerely,



Merle L. Sykes  
Chief Business Officer for  
Environmental Management

Attachment