



Office of Inspector General

---

OFFICE OF CYBER  
ASSESSMENTS AND DATA  
ANALYTICS

AUDIT REPORT

THE DEPARTMENT OF ENERGY NUCLEAR WASTE  
FUND'S FISCAL YEAR 2022 FINANCIAL STATEMENT  
AUDIT

DOE-OIG-23-05  
NOVEMBER 2022



**Department of Energy**  
Washington, DC 20585

November 15, 2022

MEMORANDUM FOR THE CHIEF OPERATING OFFICER, OFFICE OF NUCLEAR ENERGY; AND THE DIRECTOR, OFFICE OF STANDARD CONTRACT MANAGEMENT

A handwritten signature in cursive script that reads "Kshemendra Paul".

FROM: Kshemendra Paul  
Assistant Inspector General  
for Cyber Assessments and Data Analytics  
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on The Department of Energy Nuclear Waste Fund's Fiscal Year 2022 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, 2022, and 2021, 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 (KPMG) to conduct the audit, subject to our review. KPMG 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 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 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-23-05

**INDEPENDENT AUDITORS' REPORT**

**UNITED STATES DEPARTMENT OF ENERGY**

**NUCLEAR WASTE FUND**

**ANNUAL FINANCIAL REPORT**

**As of and for the Years Ended**

**September 30, 2022 and 2021**

November 8, 2022

UNITED STATES DEPARTMENT OF ENERGY  
NUCLEAR WASTE FUND

Annual Financial Report  
September 30, 2022 and September 30, 2021

Table of Contents

	<b>Page</b>
Independent Auditors' Report	3
Management's Discussion and Analysis	
Reporting Entity	6
Fiscal Year 2022 and 2021 Financial Performance	8
Analysis of Systems, Controls and Legal Compliance	9
Financial Results	
Balance Sheets	11
Statements of Net Cost	12
Statements of Changes in Net Position	13
Statements of Budgetary Resources	14
Notes to Financial Statements	15
Other Information	
Schedule I – Schedule of Cumulative Net First and Second Repository Costs	29
Schedule II – Schedule of Cumulative Billings and Interest and Deferred Revenue	30



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

## Independent Auditors' Report

Inspector General, United States Department of Energy  
 Director, Office of Standard Contract Management and  
 Chief Operating Officer, Office of Nuclear Energy:

### Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Department of Energy Nuclear Waste Fund (Nuclear Waste Fund), which comprise the balance sheets as of September 30, 2022, and 2021, 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. 22-01, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 22-01 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 Nuclear Waste Fund as of September 30, 2022, and 2021, 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 of Energy 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 Nuclear Waste Fund has recorded an estimate of its liability related to this matter of \$31.0 billion and \$30.9 billion as of September 30, 2022, and 2021, 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 *Annual 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 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, 2022, we considered the 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 Nuclear Waste Fund's internal control. Accordingly, we do not express an opinion on the effectiveness of the 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 Nuclear Waste Fund's financial statements as of and for the year ended September 30, 2022 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. 22-01.

*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 Nuclear Waste Fund's internal control or compliance. Accordingly, this communication is not suitable for any other purpose.

**KPMG LLP**

Washington, D.C.  
November 8, 2022

**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 (Secretary) 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, DOE 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 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 for America's Nuclear Future (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 NRC. 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 the 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 which (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

**Attachment**

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.

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)*. On September 23, 2022, the State of Nevada filed a motion to re-open the adjudicatory proceedings for the Yucca Mountain license application for the limited purpose of filing three motions for summary disposition, in the hopes that the Commission would dismiss the application. Several parties filed responses in opposition to the motion. DOE did not respond to the motion. The Commission has not yet ruled on the motion.

Funds to restart licensing activities for Yucca Mountain were requested in the FY 2018, 2019, and 2020 Budget Requests but not appropriated by Congress. Funds remaining prior to disbanding OCRWM were 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 Trump 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 Trump 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, 2021, provided a general appropriation of \$20 million for the Department to proceed with planning for federal consolidated interim storage using a consent-based approach and a \$7.5 million NWF appropriation for oversight activities. In the FY 2022 Budget Request, the Administration requested additional funds to pursue a consent-based approach with respect to

**Attachment**

siting a federal interim storage facility. The Consolidated Appropriations Act, 2022, appropriated \$20 million for the Department's continued activities related to federal consolidated interim storage and a \$7.5 million NWF appropriation for oversight activities. The funds are managed by the Department's 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 to dispose 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 to dispose 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.

**Fiscal Year 2022 and 2021 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 reduced the fee to zero 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, 2022, cumulative billings from fees and the DNWDA, totaled approximately \$25.4 billion; and cumulative interest earnings and other revenue totaled approximately \$34.5 billion. As of September 30, 2022, 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 \$11.5 billion.

As of September 30, 2022 and 2021, the U.S. Treasury securities held by the NWF were \$46.0 billion and \$44.3 billion, respectively, and had a fair value of \$45.9 billion and \$52.4 billion, respectively.

**Attachment**

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, 2022 and 2021, the combined deferred revenue balance was \$48.5 billion and \$46.7 billion, respectively. The increase from investment income and net gains from the maturity of securities was \$1.7 billion for both FY 2022 and FY 2021.

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, 2022 and 2021, the estimate of the remaining liability from SNF litigation was \$31.0 billion and \$30.9 billion, respectively. Judgments and settlements for damages related to the partial breach are paid by the Judgment Fund.

**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 2022 and FY 2021 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.

**Attachment**

**Actions Taken and Remaining**

The Consolidated Appropriations Act, 2021, appropriated \$20 million for the Department to proceed with planning for federal consolidated interim storage 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 or facilities and permanent disposal. The Consolidated Appropriations Act, 2022, appropriated \$20 million for the Department's continued activities related to federal consolidated interim storage. In addition, the FY 2023 Budget Request requests \$53 million for such activities, which reflects a ramp up of activities to support effective implementation of federal consolidated interim storage. Additionally, the Department continues to manage the 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, 2022 and 2021		
(Dollars in thousands)		
	FY 2022	FY 2021
<b>ASSETS</b>		
Intragovernmental:		
Fund Balance with Treasury <sup>(Note 3)</sup>	\$ 28,184	\$ 22,394
Investments, Net <sup>(Note 4)</sup>	46,014,826	44,295,293
Total Intragovernmental Assets	<u>46,043,010</u>	<u>44,317,687</u>
With the public:		
Accounts Receivable Due from Utilities <sup>(Note 5)</sup>	2,436,115	2,419,490
General Property, Plant, and Equipment, Net <sup>(Note 6)</sup>	19	20
Other Assets	1,027	-
Total with the public	<u>2,437,161</u>	<u>2,419,510</u>
Total Assets	<u>\$ 48,480,171</u>	<u>\$ 46,737,197</u>
<b>LIABILITIES</b>		
Intragovernmental: <sup>(Note 3)</sup>		
Accounts Payable	\$ 303	\$ 23
Deferred Revenue <sup>(Notes 7 and 10)</sup>	633,684	634,826
Total Intragovernmental Liabilities	<u>633,987</u>	<u>634,849</u>
With the public:		
Accounts Payable and Other Liabilities	1,238	825
Deferred Revenue <sup>(Note 10)</sup>	47,818,231	46,080,796
Commitments and Contingencies <sup>(Note 9)</sup>	31,024,258	30,877,550
Total with the public	<u>78,843,727</u>	<u>76,959,171</u>
Total Liabilities <sup>(Note 3)</sup>	<u>79,477,714</u>	<u>77,594,020</u>
<b>NET POSITION</b>		
Unexpended Appropriations - Funds from other than Dedicated Collections	26,715	20,727
Cumulative Results of Operations - Funds from other than Dedicated Collections	<u>(31,024,258)</u>	<u>(30,877,550)</u>
Total Net Position	<u>(30,997,543)</u>	<u>(30,856,823)</u>
Total Liabilities and Net Position	<u>\$ 48,480,171</u>	<u>\$ 46,737,197</u>

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

## Attachment

UNITED STATES DEPARTMENT OF ENERGY  
 NUCLEAR WASTE FUND  
 Statements of Net Cost  
 For the Fiscal Years Ended September 30, 2022 and 2021  
 (Dollars in thousands)

	FY 2022	FY 2021
First Repository Costs	\$ 265	\$ 684
All Other Program Costs:		
Program Support	6,606	7,780
Transfers of Appropriations <sup>(Note 7)</sup>	3,800	3,600
Waste Acceptance, Storage and Transportation	13,002	2,681
Total All Other Program Costs	23,408	14,061
Total First Repository and Other Program Costs	23,673	14,745
Less Eamed Revenues <sup>(Note 10)</sup>	(23,673)	(14,745)
Net First Repository Costs & Other Program Costs	-	-
Estimated costs for waste acceptance obligations	1,189,827	662,631
Net Cost of Operations	\$ 1,189,827	\$ 662,631

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

## Attachment

UNITED STATES DEPARTMENT OF ENERGY  
 NUCLEAR WASTE FUND  
 Statements of Changes in Net Position  
 For the Fiscal Years Ended September 30, 2022 and 2021  
 (Dollars in thousands)

	FY 2022	FY 2021
<b>UNEXPENDED APPROPRIATIONS</b> <small>(combined totals - Note 11)</small>		
Beginning Balance	\$ 20,727	\$ 3,913
Budgetary Financing Sources Related to Appropriations:		
Appropriations Received <small>(Note 2)</small>	20,000	20,000
Appropriations Used	<u>(14,012)</u>	<u>(3,186)</u>
Total Budgetary Financing Sources Related to Appropriations	<u>5,988</u>	<u>16,814</u>
Ending Balance - Unexpended Appropriations	<u>26,715</u>	<u>20,727</u>
<b>CUMULATIVE RESULTS OF OPERATIONS</b> <small>(combined totals - Note 11)</small>		
Beginning Balance	\$ (30,877,550)	\$ (30,604,161)
Other Financing Sources (Non-Exchange):		
Imputed Financing from Costs Absorbed by Others	<u>1,043,119</u>	<u>389,242</u>
Total Other Financing Sources	1,043,119	389,242
Net Cost of Operations	<u>(1,189,827)</u>	<u>(662,631)</u>
Net Change	<u>(146,708)</u>	<u>(273,389)</u>
Ending Balance - Cumulative Results of Operations	<u>\$ (31,024,258)</u>	<u>\$ (30,877,550)</u>
Total Net Position	<u>\$ (30,997,543)</u>	<u>\$ (30,856,823)</u>

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

## Attachment

UNITED STATES DEPARTMENT OF ENERGY  
 NUCLEAR WASTE FUND  
 Statements of Budgetary Resources  
 For the Fiscal Years Ended September 30, 2022 and 2021  
 (Dollars in thousands)

	FY 2022	FY 2021
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance from Prior Year Budget Authority, Net	\$ 10,124	\$ 4,475
Appropriations <sup>(Note 2)</sup>	<u>27,500</u>	<u>\$ 27,500</u>
Total Budgetary Resources	<u>\$ 37,624</u>	<u>\$ 31,975</u>
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations and Upward Adjustments (Total) <sup>(Note 12)</sup>	\$ 15,781	\$ 21,864
Unobligated Balance, End of Year:		
Apportioned, Unexpired Accounts	18,187	6,741
Exempt from Apportionment, Unexpired Accounts	3,656	3,370
Unobligated Balance, End of Year	<u>21,843</u>	<u>10,111</u>
Total Budgetary Resources	<u>\$ 37,624</u>	<u>\$ 31,975</u>
<b>OUTLAYS, NET</b>		
Outlays, Net	\$ 20,206	\$ 10,624
Distributed Offsetting Receipts	<u>(1,745,580)</u>	<u>(1,687,123)</u>
Nuclear Waste Fund Outlays, Net	<u>\$ (1,725,374)</u>	<u>\$ (1,676,499)</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, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

**(1) Legislative Background**

The Nuclear Waste Policy Act of 1982 (NWPA) was signed into law on January 7, 1983. The NWPA 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 NWPA 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 NWPA, 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 Omnibus Budget Reconciliation Act of 1987, Title V, Subtitle A, which contained amendments to the NWPA. 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 Secretary of Energy (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 Secretary announced the formation of the Blue Ribbon Commission on America's Nuclear Future (BRC) to provide recommendations for developing a safe, long-term solution to managing the Nation's SNF and HLW. The BRC 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 Disposal 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

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

reassigned prior responsibilities for the operations of OCRWM and its assets and liabilities within the Department.

Funds to restart licensing activities for Yucca Mountain were requested in the FY 2018, 2019, and 2020 Budget Requests but not appropriated by Congress. In the FY 2021 Budget Request, appropriated funds were requested to develop and implement a consolidated interim storage program as part of a new, yet to be developed, integrated plan. The Consolidated Appropriations Act, 2021, provided a general appropriation of \$20 million for the Department to proceed with planning for federal consolidated interim storage using a consent-based approach and a \$7.5 million NWF appropriation for oversight activities.

In the FY 2022 Budget Request, the Administration requested additional funds to pursue a consent-based approach with respect to siting a federal interim storage facility or facilities. The Consolidated Appropriations Act, 2022, appropriated \$20 million for the Department's continued activities related to federal consolidated interim storage and a \$7.5 million NWF appropriation for oversight activities. Amending the NWPA will be necessary in order to construct a federal consolidated interim storage facility or facilities. The 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 Disposal 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.

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

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

**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 NWPA 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 both fiscal years 2022 and 2021, Congress appropriated \$0 from the Defense Nuclear Waste Disposal Appropriation and \$27.5 million from the Nuclear Waste Disposal Appropriation, respectively, to be used for nuclear waste disposal activities. The \$27.5 million of the Nuclear Waste Disposal Appropriation for both FY 2022 and FY2021 includes \$20 million derived from the General Fund and \$7.5 million from the Nuclear Waste Fund, for each year.

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*.

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

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

**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, provided to the government by non-federal sources, and 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 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.

**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.

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

Significant items subject to such estimates and assumptions include primarily commitments and contingencies related to SNF litigation (see Note 9).

**(3) Fund Balance with Treasury**

Summaries of the balances with the U.S. Treasury for the Defense Nuclear Waste Disposal and the Nuclear Waste Disposal funds as of September 30, 2022 and 2021 are presented below. The Defense Nuclear Waste Disposal fund's funding source is direct appropriations. The Nuclear Waste Disposal fund is a special fund with funding from both appropriated and non-appropriated sources.

<b>As of September 30, 2022</b>	Defense Nuclear Waste Disposal	Nuclear Waste Disposal	Total
Unobligated budgetary resources			
Available	\$ 169	\$ 21,674	\$ 21,843
Obligated balance not yet disbursed			
Undelivered orders	2,008	10,595	12,603
Accounts payable and other liabilities	112	472	584
Budgetary resources invested in Treasury securities	-	(6,846)	(6,846)
<b>Total FY 2022 Fund Balance with Treasury</b>	<b>\$ 2,289</b>	<b>\$ 25,895</b>	<b>\$ 28,184</b>

<b>As of September 30, 2021</b>	Defense Nuclear Waste Disposal	Nuclear Waste Disposal	Total
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>

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

**(4) Investments, Net**

For the fiscal years ended September 30, 2022 and 2021, the NWF received proceeds from the maturity of securities of \$3,570,649 and \$4,143,547, respectively.

Investments in U.S. Treasury securities held as of September 30, 2022 and 2021 of each year consisted of the following:

	<b>FY 2022</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>							
		Effective Interest					
Non-Marketable: Market Based:	\$ 56,631,694	Yield	\$ 10,728,239	\$ 111,371	\$ 46,014,827	\$ (124,798)	\$ 45,890,029
<b>Total Intragovernmental Securities and Investments</b>	<b>\$ 56,631,694</b>		<b>\$ 10,728,239</b>	<b>\$ 111,371</b>	<b>\$ 46,014,827</b>	<b>\$ (124,798)</b>	<b>\$ 45,890,029</b>

	<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>							
		Effective Interest					
Non-Marketable: Market Based:	\$ 55,318,509	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>

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.

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

**(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 2022, payments of \$90 of one-time accrued spent fuel fees and \$262 of accrued interest were received from owners and generators of civilian SNF. In fiscal year 2021, no payments of one-time accrued spent fuel fees or accrued interest were received.

Per the NWPA, the Secretary shall annually review the adequacy of the fees established. In the event the Secretary determines either insufficient or excess revenue is being collected, the Secretary 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 2022 and FY 2021 and no ongoing kWh fees were assessed or collected.

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

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

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

	<u>FY 2022</u>	<u>FY 2021</u>
Accounts receivable:		
One-time spent nuclear fuel fees:		
Accounts receivable - one-time spent nuclear fuel fees		
Option (1)	\$ 144,273	\$ 144,363
Option (2)	475,172	475,172
Total accounts receivable one-time spent nuclear fuel fees	<u>619,445</u>	<u>619,535</u>
Accrued interest on one-time spent nuclear fuel fees:		
Option (1)	421,290	417,759
Option (2)	1,395,380	1,382,196
Total accrued interest on one-time spent nuclear fuel fees	<u>1,816,670</u>	<u>1,799,955</u>
Total accounts receivable due from utilities	<u>\$ 2,436,115</u>	<u>\$ 2,419,490</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, 2022 and 2021:

	<u>FY 2022</u>	<u>FY 2021</u>
General property, plant, and equipment	\$ 5,178	\$ 6,249
Less accumulated depreciation	(5,159)	(6,229)
General property, plant, and equipment, net	<u>\$ 19</u>	<u>\$ 20</u>

**(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, 2022 and 2021, NWF owed other Federal Government agencies \$303 and \$23, respectively. For the fiscal years ended September 30, 2022 and 2021, NWF incurred costs of \$1,913 and \$2,282, 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 \$3,800 and \$3,600 for the fiscal years ended September 30, 2022 and 2021, respectively.

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

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, 2022 and 2021.

As of September 30, 2022, the total cumulative share of costs for the Department's Defense Waste is estimated to be \$2,460,423 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, 2022 and 2021, \$633,684 and \$634,826, 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, 2022 and 2021 is as follows:

	<u>FY 2022</u>	<u>FY 2021</u>
Liabilities not covered by budgetary resources:		
Intragovernmental		
Deferred revenue (Note 10)	\$ 633,684	\$ 634,826
Non-Intragovernmental		
Deferred revenue (Note 10)	47,818,231	46,080,796
Commitments and contingencies (Note 9)	31,024,258	30,877,550
Total liabilities not covered by budgetary resources	<u>79,476,173</u>	<u>77,593,172</u>
Liabilities covered by budgetary resources:		
Intragovernmental		
Accounts payable	303	23
Non-Intragovernmental		
Accounts payable and other liabilities	1,238	825
Total liabilities covered by budgetary resources	<u>1,541</u>	<u>848</u>
Total Liabilities	<u>\$ 79,477,714</u>	<u>\$ 77,594,020</u>

**(9) Commitments and Contingencies**

*SNF 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.

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

To date, 44 suits have been settled involving utilities that collectively own 85 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 \$7.4 billion as of September 30, 2022 to the settling utilities for delay damages they have incurred through September 30, 2022. In addition, 70 cases have been resolved by 62 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 54 remaining cases resulted in a total of \$2.6 billion in damages that have been paid by the Judgment Fund as of September 30, 2022. An additional 16 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, 2022 was \$41.1 billion. After deducting the cumulative amount paid of \$10.1 billion as of September 30, 2022 under these settlements and as a result of final judgments, the remaining liability is estimated to be approximately \$31.0 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 likely liability. The Consolidated Appropriations Act, 2021, appropriated \$20 million for the Department to proceed with planning for federal consolidated interim storage using a consent-based approach.

In FY 2021, the 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 disposal facility 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 plans to and intends to pursue a consent-based approach to site an interim storage facility or facilities and permanent disposal. The Consolidated Appropriations Act, 2022, appropriated \$20 million for the Department's continued activities related to federal consolidated interim storage and the FY 2023 Budget Request requests \$53 million for such activities, which reflects a ramp-up of activities to support

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

effective implementation of federal consolidated interim storage. As the Department intends to fulfill its contractual obligations upon the acceptance of SNF and HLW 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 is contingent upon Congress amending the NWSA and providing adequate ongoing appropriations.

**(10) Deferred Revenue**

As described in Note 2, all fees, both kWh fees and Defense HLW 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, 2022 and 2021 was as follows:

	<b>FY 2022</b>	<b>FY 2021</b>
Intragovernmental		
Fees billed:		
Defense high-level waste fees	\$ 14,012	\$ 3,186
Interest:		
Income on investments	1,728,975	1,656,670
Non-intragovernmental		
Interest:		
One-time spent nuclear fuel fees	16,979	1,540
Other billings	-	-
Total billings and interest	1,759,966	1,661,396
Less earned revenue	(23,673)	(14,745)
Change in deferred revenue	1,736,293	1,646,651
Deferred revenue - beginning balance	46,715,622	45,068,971
Deferred revenue - ending balance	\$ 48,451,915	\$ 46,715,622

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

**(11) Dedicated Collections**

	Dedicated Collections	All Other Funds	FY 2022	Dedicated Collections	All Other Funds	FY 2021
<b>Balance Sheet</b>						
<b>Assets</b>						
Fund Balance with Treasury	\$ 25,895	\$ 2,289	\$ 28,184	\$ 19,117	\$ 3,277	\$ 22,394
Investments, Net	46,014,826	-	46,014,826	44,295,293	-	44,295,293
Accounts Receivable	2,436,115	-	2,436,115	2,419,490	-	2,419,490
General Property, Plant, and Equipment, Net	17	2	19	18	2	20
Other Assets	1,027	-	1,027	-	-	-
<b>Total Assets</b>	<b>\$ 48,477,880</b>	<b>\$ 2,291</b>	<b>\$ 48,480,171</b>	<b>\$ 46,733,918</b>	<b>\$ 3,279</b>	<b>\$ 46,737,197</b>
<b>Liabilities and Net Position</b>						
Accounts Payable and Other Liabilities	\$ 1,429	\$ 112	\$ 1,541	\$ 803	\$ 45	\$ 848
Deferred Revenue	48,451,914	1	48,451,915	46,715,620	2	46,715,622
Pension and Other Actuarial Liabilities	-	-	-	-	-	-
Commitments and Contingencies	-	31,024,258	31,024,258	-	30,877,550	30,877,550
Unexpended Appropriations	24,538	2,177	26,715	17,495	3,232	20,727
Cumulative Results of Operations	-	(31,024,258)	(31,024,258)	-	(30,877,550)	(30,877,550)
<b>Total Liabilities and Net Position</b>	<b>\$ 48,477,881</b>	<b>\$ 2,290</b>	<b>\$ 48,480,171</b>	<b>\$ 46,733,918</b>	<b>\$ 3,279</b>	<b>\$ 46,737,197</b>
<b>Statement of Net Costs</b>						
Total First Repository and Other Program Costs	\$ 22,617	\$ 1,056	\$ 23,673	\$ 14,063	\$ 682	\$ 14,745
Less: Earned Revenues	(22,617)	(1,056)	(23,673)	(14,063)	(682)	(14,745)
<b>Net First Repository Costs</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Estimated costs for waste acceptance obligations	-	1,189,827	1,189,827	-	662,631	662,631
<b>Net cost of operations</b>	<b>\$ -</b>	<b>\$ 1,189,827</b>	<b>\$ 1,189,827</b>	<b>\$ -</b>	<b>\$ 662,631</b>	<b>\$ 662,631</b>
<b>Statement of Changes in Net Position</b>						
Beginning Balance - Unexpended Appropriations	\$ 17,495	\$ 3,232	\$ 20,727	\$ -	\$ 3,913	\$ 3,913
Appropriations Received	20,000	-	20,000	20,000	-	20,000
Appropriations Used	(12,958)	(1,054)	(14,012)	(2,505)	(681)	(3,186)
<b>Ending Balance - Unexpended Appropriations</b>	<b>24,537</b>	<b>2,178</b>	<b>26,715</b>	<b>17,495</b>	<b>3,232</b>	<b>20,727</b>
Beginning Balance - Cumulative Results of Operations	\$ -	\$ (30,877,550)	\$ (30,877,550)	\$ -	\$ (30,604,161)	\$ (30,604,161)
Imputed Financing from Costs Absorbed by Others	-	1,043,119	1,043,119	-	389,242	389,242
Net Cost of Operations	-	(1,189,827)	(1,189,827)	-	(662,631)	(662,631)
<b>Ending Balance - Cumulative Results of Operations</b>	<b>\$ -</b>	<b>\$ (31,024,258)</b>	<b>\$ (31,024,258)</b>	<b>\$ -</b>	<b>\$ (30,877,550)</b>	<b>\$ (30,877,550)</b>
<b>Total Net Position</b>	<b>\$ 24,537</b>	<b>\$ (31,022,080)</b>	<b>\$ (30,997,543)</b>	<b>\$ 17,495</b>	<b>\$ (30,874,318)</b>	<b>\$ (30,856,823)</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.

The Nuclear Waste Disposal Appropriation included \$20 million appropriated by Congress from the Treasury's General Fund and \$7.5 million from the NWF in both FY 2021 and FY 2022. The funding from the General Fund was appropriated for the Department to proceed with planning for federal consolidated interim storage. All expenditure activity derived from the appropriated general funding source is tracked within the Department's financial system using a unique code, which is accounted for separately from the non-federal receipts that are the majority of the NWF funding source.

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

**(11) Dedicated Collections (continued)**

A summary of the status of funds appropriated from the General Fund of the Treasury, and the related historical expenditures within the Nuclear Waste Disposal Appropriation as of September 30, 2022 and 2021 are as follows:

**Status of Funds**

	<b>FY 2022</b>	<b>FY 2021</b>
Balance Brought Forward	17,516	-
Appropriations Received	20,000	20,000
Net Cost	(12,958)	(2,504)
Delivered Order Unpaid	37	20
Fund Balance with Treasury	<u>24,595</u>	<u>17,516</u>

**Net Cost**

	<b>FY 2022</b>	<b>FY 2021</b>	<b>Total</b>
First Repository Costs	(3)	-	(3)
Waste Acceptance, Storage, and Transportation	12,961	2,504	15,465
Total	<u>12,958</u>	<u>2,504</u>	<u>15,462</u>

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

The President's Budget for FY 2024, containing actual FY 2022 balances, is expected to be published and available on the OMB website in early 2023. The NWF FY 2021 *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.

**(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

## Attachment

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

Notes to Financial Statements  
September 30, 2022 and September 30, 2021

(Dollars in thousands unless otherwise noted)

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 represent the expense associated with the current year increase in the SNF contingent liability, which did not result in an outlay. Offsetting the SNF 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 2022			FY 2021		
	Intra-governmental	With the Public	Total	Intra-governmental	With the Public	Total
<b>Net Cost</b>	<b>\$ (694,156)</b>	<b>\$ 1,883,983</b>	<b>\$ 1,189,827</b>	<b>\$ (1,264,732)</b>	<b>\$ 1,927,363</b>	<b>\$ 662,631</b>
<b>Components of Net Cost Not Part of Budgetary Outlays</b>						
Property, plant, and equipment depreciation	\$ -	\$ (2)	\$ (2)	\$ -	\$ (2)	\$ (2)
Property, plant, and equipment disposal & reevaluation	\$ -	\$ 2	\$ 2	\$ -	\$ -	\$ -
<b>Increase/(decrease) in assets:</b>						
Accounts receivable	-	(352)	(352)	-	-	-
Investments	(1,745,227)	-	(1,745,227)	(1,687,123)	-	(1,687,123)
Advances and Prepayments	1,027	-	1,027	-	-	-
<b>(Increase)/decrease in liabilities not affecting Budget Outlays:</b>						
Accounts payable	(221)	52	(169)	161	(25)	136
Federal employee and veteran benefits payable	-	(495)	(495)	-	(645)	(645)
Advances from others and deferred revenue	-	9,658	9,658	-	11,500	11,500
Other liabilities	10,204	(146,728)	(136,524)	(425)	(273,389)	(273,814)
<b>Other financing sources:</b>						
Costs paid by Treasury and imputed to agency	(1,043,120)	-	(1,043,120)	(389,242)	-	(389,242)
<b>Total Components of Net Cost Not Part of Budget Outlays</b>	<b>\$ (2,777,337)</b>	<b>\$ (137,865)</b>	<b>\$ (2,915,202)</b>	<b>\$ (2,076,620)</b>	<b>\$ (262,501)</b>	<b>\$ (2,339,130)</b>
<b>Miscellaneous Items</b>						
Distributed offsetting receipts (Note 23)			(1,745,580)			(1,687,123)
<b>Net Outlays (Calculated Total)</b>	<b>\$ (3,471,493)</b>	<b>\$ 1,746,118</b>	<b>\$ (1,725,375)</b>	<b>\$ (3,341,261)</b>	<b>\$ 1,664,862</b>	<b>\$ (1,676,499)</b>
<b>Related Amounts on the Statement of Budgetary Resources</b>						
Outlays, net			\$ 20,206			\$ 10,624
Agency Outlays, Net			\$ (1,725,375)			\$ (1,676,499)

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

Other Information - Schedule I  
Schedule of Cumulative Net First and Second Repository Costs for the  
Forty Years Ended September 30, 2022 – **(Unaudited)**

(Dollars in thousands unless otherwise noted)

First Repository Costs	\$ 7,526,945
All Other Program Costs:	
Program Support	2,197,705
Transfers of Appropriations	692,497
Waste Acceptance, Storage and Transportation	793,512
Imputed and Other Costs	152,506
Total All Other Program Costs	<u>3,836,220</u>
Second Repository Costs	108,896
Total First and Second Repository Costs and Other Program Costs	11,472,061
Less Earned Revenue	<u>(11,453,525)</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 Forty Years Ended September 30, 2022 – **(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		3,782,363
Interest:		
Income on investments		31,198,004

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		2,563,772
Other billings		<u>707,675</u>
Total billings and interest		59,905,440
Less earned revenue		<u>(11,453,525)</u>
Deferred revenue	\$	<u>48,451,915</u>

## FEEDBACK

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We aim to make our reports as responsive as possible and ask you to consider sharing your thoughts with us.

Please send your comments, suggestions, and feedback to [OIG.Reports@hq.doe.gov](mailto:OIG.Reports@hq.doe.gov) and include your name, contact information, and the report number. You may also mail comments to us:

Office of Inspector General (IG-12)  
Department of Energy  
Washington, DC 20585

If you want to discuss this report or your comments with a member of the Office of Inspector General staff, please contact our office at 202-586-1818. For media-related inquiries, please call 202-586-7406.