



Office of Inspector General

OFFICE OF CYBER
ASSESSMENTS AND DATA
ANALYTICS

AUDIT REPORT

THE DEPARTMENT OF ENERGY NUCLEAR WASTE
FUND'S FISCAL YEAR 2023 FINANCIAL STATEMENT
AUDIT

DOE-OIG-24-02
NOVEMBER 2023



Department of Energy
Washington, DC 20585

November 14, 2023

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

A handwritten signature in cursive script, reading "Kshemendra Paul", is positioned above the typed name.

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 2023 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, 2023, and 2022, and the related statements of net cost, changes in net position, and combined 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, 2023, and 2022, 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.

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 financial statements. 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 Chief Financial Officer, CF-2

Audit Report: DOE-OIG-24-02

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

ANNUAL FINANCIAL REPORT

**As of and for the Years Ended
September 30, 2023 and 2022**

November 8, 2023

UNITED STATES DEPARTMENT OF ENERGY
NUCLEAR WASTE FUND

Annual Financial Report
September 30, 2023 and September 30, 2022

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KPMG LLP
 Suite 12000
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 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 Audit of the Financial Statements

Opinion

We have audited the financial statements of the United States Department of Energy Nuclear Waste Fund (Nuclear Waste Fund), which comprise the balance sheets as of September 30, 2023 and 2022, and the related statements of net costs, changes in net position, and combined statements of budgetary resources for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Nuclear Waste Fund as of September 30, 2023 and 2022, and its net costs, changes in net position, budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS), the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 24-01, *Audit Requirements for Federal Financial Statements*. Our responsibilities under those standards and OMB Bulletin No. 24-01 are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Nuclear Waste Fund and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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 \$34.1 billion and \$31.0 billion as of September 30, 2023, and 2022, respectively. Our opinion is not modified with respect to this matter.

Other Matter - 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 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.

KPMG LLP is 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.



Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with U.S. generally accepted accounting principles, and for 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' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and OMB Bulletin No. 24-01 will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and OMB Bulletin No. 24-01, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit 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 Nuclear Waste Fund's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

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 is the responsibility of management and, 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 GAAS, 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

Management is responsible for the other information included in the *Annual Financial Report*. The other information comprises the Other Information - Schedule I and Other Information - Schedule II but does not



include the financial statements and our auditors' report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements as of and for the year ended September 30, 2023, 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 or significant deficiencies may exist that were not identified.

Report on 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, 2023 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. 24-01.

Purpose of the Reporting Required by Government Auditing Standards

The purpose of the communication described in the Report on Internal Control Over Financial Reporting and the Report on Compliance and Other Matters sections 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, 2023

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 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.

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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.

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.

Under the Nuclear Waste Disposal Appropriation account, Congress appropriated \$20 million for both FY 2021 and FY 2022 for the Department to proceed with planning a consent-based approach to federal consolidated interim storage. Accordingly, the Department has completed planning activities for a consent-based approach to site one or more federal consolidated interim storage facilities in the near term which will be followed by a disposal facility some years after. For FY 2023, Congress appropriated \$53 million for the Office of Nuclear Energy's Integrated Waste Management System (IWMS) subprogram within the Fuel Cycle R&D program. The \$53 million covered ongoing IWMS activities and also reflected funding for federal consolidated interim storage activities that was previously funded under the Nuclear Waste Disposal Appropriation, as well as a ramp-up in activities to develop a consent-based process for federal consolidated interim storage. Also under the Nuclear Waste Disposal Appropriation account, Congress appropriated \$7.5 million for both FY 2021 and FY 2022, and \$10.2 million for FY 2023 for NWF Oversight including management of the NWF, administration of the Standard Contract, legal services, and maintenance of the Yucca Mountain site. 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 2023 and 2022 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 NAWPA 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 NAWPA 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, 2023, cumulative billings from fees and the DNWDA, totaled approximately \$25.4 billion; and cumulative interest earnings and other revenue totaled approximately \$36.3 billion. As of September 30, 2023, 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, 2023 and 2022, the U.S. Treasury securities held by the NWF were \$47.7 billion and \$46.0 billion, respectively, and had a fair value of \$45.7 billion and \$45.9 billion, respectively.

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, 2023 and 2022, the combined deferred revenue balance was \$50.2 billion and \$48.5 billion, respectively. The increase from investment income and net gains from the maturity of securities was \$1.7 billion for both FY 2023 and FY 2022.

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, 2023 and 2022, the estimate of the remaining liability from SNF litigation was \$34.1 billion and \$31.0 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 2023 and FY 2022 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

Departmental Initiatives: In the Consolidated Appropriations Acts, 2021, 2022, and 2023 Congress appropriated funds to the Department for nuclear waste disposal activities, including interim storage activities. The accompanying Congressional reports requested the Department move forward under existing authority to identify potential sites for Federal interim storage facilities using a consent-based siting process.

- In FY 2021, Nuclear Energy (NE) formed a team of personnel to focus on implementing a Federal interim storage facility following a consent-based process and continued ongoing technical work to support eventual interim storage, disposal, SNF transportation, and related future waste management program operations.
- In December 2021, NE issued a Request for Information (RFI) on Using a Consent-Based Siting Process to Identify Federal Interim Storage Facilities. In September 2022, NE issued a comment summary and analysis of the 225 comments received in response to the RFI. In addition, extensive outreach has been conducted to raise awareness of DOE's consent-based siting program through digital information distribution, public webinars,

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virtual and in-person presentations to interested stakeholders, technical organizations, community groups, nongovernmental and governmental organizations, and others.

- In September 2022, NE issued a Community Engagement on Consent-Based Siting funding opportunity announcement, providing \$16 million for communities interested in learning more about consent-based siting, management of spent nuclear fuel, and interim storage facility siting considerations. In December 2022, following receipt of FY23 appropriations, NE was able to increase the available funding amount to \$26 million. Applications closed in January 2023 (deadline was extended to accommodate multiple requests). Awardees were announced in early June 2023.
- In April 2023, NE issued an updated DOE Consent-Based Siting Process for Federal Consolidated Interim Storage of Spent Nuclear Fuel (Process). The updated Process document builds on DOE's 2017 draft process and incorporated public input from the prior year's request for information and other venues, reflects the current focus on a federal interim storage capability, and puts an emphasis on equity and environmental justice considerations.
- In spring 2023, NE established a mission validation independent review team to perform peer review of technical documentation necessary to meet the requirements of DOE Order 413.3B, Program and Project Management for the Acquisition of Capital Assets. The review team is on schedule to submit the document package for DOE review of the mission need for a federal consolidated interim storage capability by the end of 2023.
- In July 2023, NE held a kick-off meeting for the funding opportunity awardees – known as the Consent-Based Siting Consortia – and began working with them as partners through cooperative agreements.

DOE's ongoing efforts to improve include continued work with multidisciplinary teams of social and behavioral scientists, communicators, environmental scientists, technical experts, and others to advance consent-based siting, storage design, transportation preparations, and other program areas. NE continued engagement with State and Tribal government representatives to prepare for future large-scale spent nuclear fuel transportation via cooperative agreements to facilitate information exchange and coordination among States and Tribes.

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

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UNITED STATES DEPARTMENT OF ENERGY
NUCLEAR WASTE FUND
 Balance Sheets
 As of September 30, 2023 and 2022
 (Dollars in thousands)

	FY 2023	FY 2022
ASSETS		
Intragovernmental:		
Fund Balance with Treasury ^(Note 5)	\$ 21,056	\$ 28,184
Investments, Net ^(Note 6)	47,689,482	46,014,826
Total Intragovernmental Assets	47,710,538	46,043,010
With the public:		
Accounts Receivable Due from Utilities ^(Note 7)	2,550,247	2,436,115
General Property, Plant, and Equipment, Net ^(Notes 8)	17	19
Other Assets	-	1,027
Total with the public	2,550,264	2,437,161
Total Assets	\$ 50,260,802	\$ 48,480,171
LIABILITIES		
Intragovernmental: ^(Note 9)		
Accounts Payable	\$ 95	\$ 309
Deferred Revenue ^(Notes 7 and 10)	631,286	633,684
Total Intragovernmental Liabilities	631,381	633,993
With the public:		
Accounts Payable and Other Liabilities	872	1,238
Deferred Revenue ^(Note 11)	49,609,144	47,818,231
Commitments and Contingencies ^(Note 9)	34,145,204	31,024,258
Total with the public	84,755,220	79,843,727
Total Liabilities ^(Note 9)	85,386,601	79,477,714
NET POSITION		
Unexpended Appropriations - Funds from Dedicated Collections	17,495	24,538
Unexpended Appropriations - Funds from other than Dedicated Collections	1,910	2,177
Cumulative Results of Operations - Funds from Dedicated Collections	-	-
Cumulative Results of Operations - Funds from other than Dedicated Collections	(34,145,204)	(31,024,258)
Total Net Position	(34,125,799)	(30,997,543)
Total Liabilities and Net Position	\$ 50,260,802	\$ 48,480,171

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, 2023 and 2022
(Dollars in thousands)

	FY 2023	FY 2022
First Repository Costs	\$ 424	\$ 265
All Other Program Costs:		
Program Support	7,460	6,606
Transfers of Appropriations ^(State 1)	3,945	3,800
Waste Acceptance, Storage and Transportation	7,043	13,002
Total All Other Program Costs	18,448	23,408
Total First Repository and Other Program Costs	18,872	23,673
Less Earned Revenues ^(State 2)	(18,872)	(23,673)
Net First Repository Costs & Other Program Costs	-	-
Estimated costs for waste acceptance obligations	3,661,146	1,189,827
Net Cost of Operations	\$ 3,661,146	\$ 1,189,827

The accompanying notes are an integral part of these statements.

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UNITED STATES DEPARTMENT OF ENERGY
 NUCLEAR WASTE FUND
 Statements of Changes in Net Position
 For the Fiscal Years Ended September 30, 2023 and 2022
 (Dollars in thousands)

	FY 2023	FY 2022
UNEXPENDED APPROPRIATIONS <small>(from Memoranda - Note 11)</small>		
Beginning Balance	\$ 26,715	\$ 20,727
Budgetary Financing Sources Related to Appropriations:		
Appropriations Received <small>(Note 7)</small>	-	20,000
Appropriations Used	(7,310)	(14,012)
Total Budgetary Financing Sources Related to Appropriations	(7,310)	5,988
Ending Balance - Unexpended Appropriations	19,405	26,715
CUMULATIVE RESULTS OF OPERATIONS <small>(from Memoranda - Note 11)</small>		
Beginning Balance	\$ (31,024,258)	\$ (20,877,550)
Other Financing Sources (Non-Exchange):		
Imputed Financing from Costs Absorbed by Others	540,200	1,043,119
Total Other Financing Sources	540,200	1,043,119
Net Cost of Operations	(3,661,146)	(1,189,827)
Net Change	(3,120,946)	(146,708)
Ending Balance - Cumulative Results of Operations	\$ (34,145,204)	\$ (31,024,258)
Total Net Position	\$ (34,125,799)	\$ (30,997,543)

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, 2023 and 2022 (Dollars in thousands)		
	FY 2023	FY 2022
BUDGETARY RESOURCES		
Unobligated Balance from Prior Year Budget Authority, Net	\$ 21,855	\$ 10,124
Appropriations ⁽⁹⁰⁴⁴⁻¹⁾	<u>10,205</u>	<u>27,500</u>
Total Budgetary Resources	<u>\$ 32,060</u>	<u>\$ 37,624</u>
STATUS OF BUDGETARY RESOURCES		
New Obligations and Upward Adjustments (Total) ⁽⁹⁰⁴⁴⁻¹⁾	\$ 23,777	\$ 15,781
Unobligated Balance, End of Year		
Apportioned, Unexpended Accounts	2,095	18,187
Except from Apportionment, Unexpended Accounts	6,188	3,656
Unobligated Balance, End of Year	<u>8,283</u>	<u>21,843</u>
Total Budgetary Resources	<u>\$ 32,060</u>	<u>\$ 37,624</u>
OUTLAYS, NET		
Outlays, Net	\$ 14,472	\$ 20,206
Distributed Offsetting Receipts	<u>(1,649,264)</u>	<u>(1,745,580)</u>
Nuclear Waste Fund Outlays, Net	<u>\$ (1,634,792)</u>	<u>\$ (1,725,374)</u>

The accompanying notes are an integral part of these statements.

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

Notes to Financial Statements
September 30, 2023 and September 30, 2022

(Dollars in thousands unless otherwise noted)

(I) 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 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. Under the Nuclear Waste Disposal Appropriation account, Congress appropriated \$20 million for both FY 2021 and FY 2022 for the Department to proceed with planning a consent-based approach to federal consolidated interim storage. Accordingly, the Department has completed planning activities for a consent-based approach to site one or more federal consolidated interim storage facilities in the near term which will be followed by a disposal facility some

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years after. For FY 2023, Congress appropriated \$53 million for the Department's Office of Nuclear Energy's Integrated Waste Management System (IWMS) subprogram within the Fuel Cycle R&D program. The \$53 million covered ongoing IWMS activities and also reflected funding for federal consolidated interim storage activities that was previously funded under the Nuclear Waste Disposal Appropriation account, as well as a ramp-up in activities to develop a consent-based process for federal consolidated interim storage. Federal consolidated interim storage is contingent upon Congress providing adequate ongoing appropriations and amending the NWPA. Also under the Nuclear Waste Disposal Appropriation account, Congress appropriated \$7.5 million for both FY 2021 and FY 2022, and \$10.2 million for FY 2023 for NWF Oversight including management of the NWF, administration of the Standard Contract, legal services, and maintenance of the Yucca Mountain site (e.g., physical security, general site maintenance, and fulfilling environmental requirements).

(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. The financial statements have been prepared from the books and records of the Department for the NWF in accordance with accounting principles generally applicable 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, other billings, 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, other billings, 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 and has not changed since then.

Fees associated with the disposal of the Department's SNF and HLW under the Defense Nuclear Waste Appropriation and other funds used associated with the Nuclear Waste Disposal Appropriation, but derived from the General Fund, 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

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(2) Significant Accounting Policies (continued)

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. In the absence of better information, this TSLCC remains the best information available to calculate the Government's share of the deferred revenue balance attributable to the disposal of the defense waste.

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 FY 2021 includes \$20 million derived from the General Fund and \$7.5 million from the Nuclear Waste Fund, for each year. For FY 2023, \$10.2 million derived from the NWF was appropriated under the Nuclear Waste Disposal Appropriation account and there were no funds derived from the General Fund. In addition, NWF makes Congressional authorized transfers from the NWF to the Nuclear Waste Technical Review Board each fiscal year (see Footnote 7).

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, 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 NWF'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).

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(2) Significant Accounting Policies (continued)

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 repealed 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. 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, 2023 and 2022 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.

As of September 30, 2023	Defense Nuclear Waste Disposal	Nuclear Waste Disposal	Total
Unobligated budgetary resources			
Available	\$ -	\$ 8,282	\$ 8,282
Obligated balance not yet disbursed			
Undelivered orders	1,910	10,992	12,902
Accounts payable and other liabilities	21	358	379
Budgetary resources invested in Treasury securities	-	(9,707)	(9,707)
Total FY 2023 Fund Balance with Treasury	\$ 1,931	\$ 10,328	\$ 12,259
As of September 30, 2022	Defense Nuclear Waste Disposal	Nuclear Waste Disposal	Total
Unobligated budgetary resources			
Available	\$ 169	\$ 21,074	\$ 21,243
Obligated balance not yet disbursed			
Undelivered orders	2,008	10,593	12,601
Accounts payable and other liabilities	112	472	584
Budgetary resources invested in Treasury securities	-	(6,846)	(6,846)
Total FY 2022 Fund Balance with Treasury	\$ 2,289	\$ 26,298	\$ 28,587

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(4) Investments, Net

For the fiscal years ended September 30, 2023 and 2022, the NWF received proceeds from the maturity of securities of \$3,123,865 and \$3,570,649, respectively.

Investments in U.S. Treasury securities held as of September 30, 2023 and 2022 of each year consisted of the following:

	FY 2023						
	Cost / Acquisition Value	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Net Investments	Unrealized Gain / (Loss)	Market / Fair Value
Intragovernmental Securities and Investments:							
		Effective Interest Yield					
Non-Marketable/Market Based:	\$ 60,437,781		\$ 12,906,845	\$ 138,546	\$ 47,689,482	\$ (1,975,970)	\$ 45,713,512
Total Intragovernmental Securities and Investments	\$ 60,437,781		\$ 12,906,845	\$ 138,546	\$ 47,689,482	\$ (1,975,970)	\$ 45,713,512
	FY 2022						
	Cost / Acquisition Value	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Net Investments	Unrealized Gain / (Loss)	Market / Fair Value
Intragovernmental Securities and Investments:							
		Effective Interest Yield					
Non-Marketable/Market Based:	\$ 56,631,694		\$ 10,728,239	\$ 111,371	\$ 46,014,826	\$ (124,798)	\$ 45,890,028
Total Intragovernmental Securities and Investments	\$ 56,631,694		\$ 10,728,239	\$ 111,371	\$ 46,014,826	\$ (124,798)	\$ 45,890,028

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 NWF holds Treasury securities. These Treasury securities are an asset to the NWF and a liability to Treasury. Because the NWF 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 NWF with authority to draw upon the U.S. Treasury to make expenditures, subject to available appropriations and OMB apportionments. When the NWF 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 2023, no payments of one-time spent fuel fees or accrued interest were received. 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.

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 2023 and FY 2022 and no ongoing kWh fees were assessed or collected.

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(5) Accounts Receivable Due from Utilities (continued)

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

	FY 2023	FY 2022
Accounts receivable:		
One-time spent nuclear fuel fees:		
Accounts receivable - one-time spent nuclear fuel fees		
Option (1)	\$ 144,273	\$ 144,273
Option (2)	475,172	475,172
Total accounts receivable one-time spent nuclear fuel fees	<u>619,445</u>	<u>619,445</u>
Accrued interest on one-time spent nuclear fuel fees:		
Option (1)	447,527	421,290
Option (2)	1,483,275	1,395,380
Total accrued interest on one-time spent nuclear fuel fees	<u>1,930,802</u>	<u>1,816,670</u>
Total accounts receivable due from utilities	<u>\$ 2,550,247</u>	<u>\$ 2,436,115</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, 2023 and 2022:

	FY 2023	FY 2022
General property, plant, and equipment	\$ 5,178	\$ 5,178
Less accumulated depreciation	(5,161)	(5,159)
General property, plant, and equipment, net	<u>\$ 17</u>	<u>\$ 19</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 such as Department of Justice, Department of Treasury, and Office of Personnel Management. Further, significant administrative services are provided by the Department.

As of September 30, 2023 and 2022, NWF owed other Federal Government agencies \$95 and \$303, respectively. For the fiscal years ended September 30, 2023 and 2022, NWF incurred costs of \$3,110 and \$1,913, 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 \$3,945 and \$3,800 for the fiscal years ended September 30, 2023 and 2022, respectively.

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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, 2023 and 2022.

As of September 30, 2023, the total cumulative share of costs for the Department's Defense Waste is estimated to be \$2,463,088 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, 2023 and 2022, \$631,286 and \$633,684, 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, 2023 and 2022 is as follows:

	FY 2023	FY 2022
Liabilities not covered by budgetary resources:		
Intragovernmental		
Deferred revenue (Note 10)	\$ 631,286	\$ 633,684
Non-Intragovernmental		
Deferred revenue (Note 10)	49,609,144	47,818,231
Commitments and contingencies (Note 9)	34,145,204	31,024,258
Total liabilities not covered by budgetary resources	84,385,634	79,476,173
Liabilities covered by budgetary resources:		
Intragovernmental		
Accounts payable	95	303
Non-Intragovernmental		
Accounts payable and other liabilities	872	1,238
Total liabilities covered by budgetary resources	967	1,541
Total Liabilities	\$ 84,386,601	\$ 79,477,714

(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.

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

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\$7.9 billion as of September 30, 2023 to the settling utilities for delay damages they have incurred through September 30, 2023. In addition, 72 cases have been resolved by 64 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 56 remaining cases resulted in a total of \$2.7 billion in damages that have been paid by the Judgment Fund as of September 30, 2023. 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.

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, 2023 was in the range of between \$44.7 billion and \$51.6 billion. After deducting the cumulative amount paid of \$10.6 billion as of September 30, 2023 under these settlements and as a result of final judgments, the remaining liability is estimated to be in the range of between \$34.1 billion and \$41.0 billion. A key input to the estimate is the duration that each operating reactor will continue to operate. Given that a longer operating duration results in an increased amount of SNF generated, a longer operating duration also increases liability. Currently, most reactors are licensed to operate for 60 years. The Nuclear Regulatory Commission may also grant a "subsequent license renewal" which would extend a license by 20 years, for a total of 80 years. The liability estimate reflects a range of possible scenarios regarding the duration reactors will continue to operate. The Department has recognized as a liability the low end of that range. 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.

Under the Nuclear Waste Disposal Appropriation account, Congress appropriated \$20 million for both FY 2021 and FY 2022 for the Department to proceed with planning a consent-based approach to federal consolidated interim storage. Accordingly, the Department has completed planning activities for a consent-based approach to site one or more federal consolidated interim storage facilities in the near term which will be followed by a disposal facility some years after. For FY 2023, Congress appropriated \$53 million for the Office of Nuclear Energy's Integrated Waste Management System (IWMS) subprogram within the Fuel Cycle R&D program. The \$53 million covered ongoing IWMS activities and also reflected funding for federal consolidated interim storage activities that was previously funded under the Nuclear Waste Disposal Appropriation account, as well as a ramp-up in activities to develop a consent-based process for federal consolidated interim storage.

Given that 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 federal consolidated interim storage facility or facilities is factored into the liability calculation. On April 25, 2023, the Department released the *Consent-Based Siting Process for Federal Consolidated Interim Storage of Spent Nuclear Fuel*. Figure 1 on page 20 of that document illustrates the Department's roadmap for its consent-based siting process. The performance assumption used for the FY 2023 liability estimate is consistent with the sum of the upper ends of the ranges of durations provided for consent-based siting phases in this roadmap. The liability estimate is contingent upon Congress providing adequate ongoing appropriations and amending the NWPA. While the consent-based process is adaptive and further actions are required by Congress, this is the best information available upon which to base the liability estimate. Future determinations on how the Department will meet its obligations under the standard contracts could materially decrease or increase the SNF litigation liability.

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(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, 2023 and 2022 was as follows:

	FY 2023	FY 2022
Intragovernmental		
Fees billed:		
Defense high-level waste fees and other funds	\$ 7,310	\$ 14,012
Interest:		
Income on investments	1,685,946	1,728,975
Non-intragovernmental		
Interest:		
One-time spent nuclear fuel fees	114,131	16,979
Other billings	-	-
Total billings and interest	1,807,387	1,759,966
Less earned revenue	(18,872)	(23,673)
Change in deferred revenue	1,788,515	1,736,293
Deferred revenue - beginning balance	48,451,915	46,715,622
Deferred revenue - ending balance	<u>\$ 50,240,430</u>	<u>\$ 48,451,915</u>

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(11) Dedicated Collections

	Dedicated Collections	Other than Dedicated Collections	FY 2023	Dedicated Collections	Other than Dedicated Collections	FY 2022
Balance Sheet						
Assets						
Fund Balance with Treasury	\$ 19,125	\$ 1,931	\$ 21,056	\$ 25,895	\$ 2,289	\$ 28,184
Investments, Net	47,689,482	-	47,689,482	46,014,826	-	46,014,826
Accounts Receivable	2,550,247	-	2,550,247	2,436,115	-	2,436,115
General Property, Plant, and Equipment, Net	16	1	17	17	2	19
Other Assets	-	-	-	1,027	-	1,027
Total Assets	\$ 50,258,870	\$ 1,932	\$ 50,260,802	\$ 48,477,880	\$ 2,291	\$ 48,480,171
Liabilities and Net Position						
Accounts Payable and Other Liabilities	\$ 946	\$ 21	\$ 967	\$ 1,429	\$ 112	\$ 1,541
Deferred Revenues	50,240,429	1	50,240,430	48,451,914	1	48,451,915
Pension and Other Actuarial Liabilities	-	-	-	-	-	-
Commitments and Contingencies	-	34,145,204	34,145,204	-	31,024,258	31,024,258
Unexpended Appropriations	17,495	1,910	19,405	34,538	2,177	26,715
Cumulative Results of Operations	-	(34,145,204)	(34,145,204)	-	(31,024,258)	(31,024,258)
Total Liabilities and Net Position	\$ 50,258,870	\$ 1,932	\$ 50,260,802	\$ 48,477,881	\$ 2,290	\$ 48,480,171
Statement of Net Costs						
Total First Repository and Other Program Costs	\$ 18,604	\$ 268	\$ 18,872	\$ 22,617	\$ 1,056	\$ 23,673
Less Earned Revenues	(18,604)	(268)	(18,872)	(22,617)	(1,056)	(23,673)
Net First Repository Costs	-	-	-	-	-	-
Estimated costs for waste acceptance obligations	-	3,661,146	3,661,146	-	1,189,827	1,189,827
Net cost of operations	\$ -	\$ 3,661,146	\$ 3,661,146	\$ -	\$ 1,189,827	\$ 1,189,827
Statement of Changes in Net Position						
Beginning Balance - Unexpended Appropriations	\$ 24,538	\$ 2,177	\$ 26,715	\$ 17,495	\$ 3,232	\$ 20,727
Appropriations Received	-	-	-	20,000	-	20,000
Appropriations Used	(7,043)	(267)	(7,310)	(12,958)	(1,054)	(14,012)
Ending Balance - Unexpended Appropriations	17,495	1,910	19,405	24,537	2,178	26,715
Beginning Balance - Cumulative Results of Operations	\$ -	\$ (31,024,258)	\$ (31,024,258)	\$ -	\$ (30,877,550)	\$ (30,877,550)
Inputted Financing from Costs Absorbed by Others	-	540,200	540,200	-	1,043,119	1,043,119
Net Cost of Operations	-	(3,661,146)	(3,661,146)	-	(1,189,827)	(1,189,827)
Ending Balance - Cumulative Results of Operations	\$ -	\$ (34,145,204)	\$ (34,145,204)	\$ -	\$ (31,024,258)	\$ (31,024,258)
Total Net Position	\$ 17,495	\$ (34,143,294)	\$ (34,125,799)	\$ 24,537	\$ (31,022,080)	\$ (30,997,543)

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

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

Notes to Financial Statements
September 30, 2023 and September 30, 2022

(Dollars in thousands unless otherwise noted)

(11) Dedicated Collections (continued)

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. For FY 2023, the Nuclear Waste Disposal appropriation of \$10.2 million was derived from the NWF, not the General Fund.

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, 2023 and 2022 are as follows:

Status of Funds:

	FY 2023	FY 2022
Balance Brought Forward	24,595	17,516
Appropriations Received	-	20,000
Net Cost	(7,043)	(12,958)
Net Change in Delivered Order Unpaid	88	37
Fund Balance with Treasury	17,640	24,595

Net Cost

	FY 2023	FY 2022
First Repository Costs	-	(3)
Waste Acceptance, Storage, and Transportation	7,043	12,961
Total	7,043	12,958

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

The President's Budget for FY 2025, containing actual FY 2023 balances, is expected to be published and available on the OMB website in early 2024. The NWF FY 2022 *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.

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

Notes to Financial Statements
September 30, 2023 and September 30, 2022

(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 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 2023			FY 2022		
	Intra-governmental	With the Public	Total	Intra-governmental	With the Public	Total
Net Cost	\$ (1,146,001)	\$ 4,807,147	\$ 3,661,146	\$ (694,156)	\$ 1,883,983	\$ 1,189,827
Components of Net Cost Not Part of Budgetary Outlays						
Property, plant, and equipment depreciation	\$ -	\$ (2)	\$ (2)	\$ -	\$ (2)	\$ (2)
Property, plant, and equipment disposal & revaluation	\$ -	\$ -	\$ -	\$ -	\$ 2	\$ 2
Increase/(decrease) in assets:						
Accounts receivable	\$ -	\$ -	\$ -	\$ -	\$ (352)	\$ (352)
Investments	(1,640,263)	\$ -	(1,640,263)	(1,745,227)	\$ -	(1,745,227)
Advances and Prepayments	(1,027)	-	(1,027)	1,027	-	1,027
(Increase)/decrease in liabilities not affecting Budget Outlays:						
Accounts payable	220	(163)	57	(221)	52	(169)
Federal employee and veteran benefits payable	-	567	567	-	(495)	(495)
Advances from others and deferred revenue	-	11,562	11,562	-	9,658	9,658
Other liabilities	3,351	(3,120,985)	(3,117,632)	10,204	(146,728)	(136,524)
Other financing sources:						
Costs paid by Treasury and imputed to agency	(540,200)	-	(540,200)	(1,043,120)	-	(1,043,120)
Total Components of Net Cost Not Part of Budget Outlays	\$ (2,186,919)	\$ (2,109,619)	\$ (5,295,938)	\$ (2,777,337)	\$ (137,865)	\$ (2,915,202)
Miscellaneous Items						
Distributed offsetting receipts			(1,640,264)			(1,745,580)
Net Outlays (Calculated Total)	\$ (3,332,920)	\$ 1,698,128	\$ (1,634,792)	\$ (2,471,493)	\$ 1,746,118	\$ (1,725,375)
Related Amounts on the Statement of Budgetary Resources						
Outlays, net			\$ 14,472			\$ 20,206
Agency Outlays, Net			\$ (1,634,792)			\$ (1,725,375)

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

Other Information - Schedule I
Schedule of Cumulative Net First and Second Repository Costs for the
Forty-One Years Ended September 30, 2023 - (Unaudited)

(Dollars in thousands unless otherwise noted)

First Repository Costs	\$ 7,327,369
All Other Program Costs:	
Program Support	2,205,165
Transfer of Appropriations	696,442
Waste Acceptance, Storage and Transportation	800,555
Imputed and Other Costs	132,506
Total All Other Program Costs	<u>3,834,668</u>
Second Repository Costs	108,896
Total First and Second Repository Costs and Other Program Costs	11,490,933
Less: Earned Revenue	<u>(11,472,397)</u>
Cumulative Net First and Second Repository Costs	\$ <u>18,536</u>

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**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-One Years Ended September 30, 2023 - (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 and other funds	3,789,672
Interest:	
Income on investments	32,883,950
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	2,677,904
Other billings	707,675
Total billings and interest	<u>61,712,537</u>
Less earned revenue	<u>(11,472,397)</u>
Deferred revenue	<u>\$ 50,240,140</u>

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