



## Department of Energy

Washington, DC 20585

February 2, 2016

The Honorable John Shimkus  
Chairman  
Subcommittee on Environment and the Economy  
Committee on Energy and Commerce  
U. S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

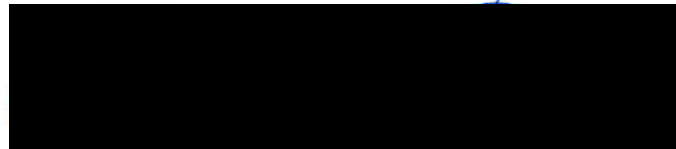
On October 28, 2015, Mark Whitney, Principal Deputy Assistant Secretary for Environmental Management, testified regarding "Update on Low-Level Radioactive Waste Disposal Issues."

Enclosed are answers to two questions that you submitted for the hearing record.

Also enclosed is an Insert for the Record that was requested by Representative Larry Bucshon to complete the hearing record.

If you need any additional information or further assistance, please contact me or Lillian Owen, Office of Congressional and Intergovernmental Affairs at (202) 586-5450.

Sincerely,



Janine Benner  
Deputy Assistant Secretary for House Affairs  
Congressional and Intergovernmental Affairs

Enclosures

cc: The Honorable Paul Tonko  
Ranking Member



## QUESTIONS FROM CHAIRMAN JOHN SHIMKUS

- Q1. Does DOE have disposal plan for depleted uranium, as required by the USEC Privatization Act?
- A1. The USEC Privatization Act (Pub. L. No. 104-134, Title III, Chapter 1, Subchapter A, 110 Stat. 1321-355) provides the option for certain private sector generators of depleted uranium, namely the United States Enrichment Corporation (USEC) in connection with its operation of the gaseous diffusion plants, or any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility, to request that DOE accept its depleted uranium for disposal if the depleted uranium is ultimately determined to be low-level radioactive waste. The USEC Privatization Act does not specifically require development of a disposition plan for this depleted uranium, however. If such generators were to request that DOE accept depleted uranium for disposal, DOE would utilize currently available disposal options, subject to the generator's reimbursement of DOE's costs for disposal of the depleted uranium, including a pro rata share of any capital costs associated with disposal.
- Q1a. Will NRC's ongoing actions relating to Part 61 rulemaking affect DOE's disposal plans? If so, how? If not, why not?
- A1a. Currently, there are both DOE-owned and commercial facilities authorized to dispose of depleted uranium. Both options would be evaluated by DOE, if an enrichment facility licensee requested DOE to accept its depleted uranium for disposal. All commercial facilities will have to meet the Part 61 regulatory requirements, and the NRC's ongoing actions will affect these commercial alternatives. Even though the NRC actions are not directly applicable to DOE's disposal facilities operated pursuant to DOE's Atomic Energy Act authorities, DOE fully considers lessons learned from the NRC rulemaking process and uses this as an opportunity to improve the DOE's self-regulated disposal procedures.
- Q2. DOE is proposing two new on-site disposal cells at Portsmouth & Oak Ridge.
- Q2a. Did the Department solicit pricing from commercial entities through a Request for Proposal process for off-site disposal options?

A2a. No, a Request for Proposal process was not used. At Portsmouth, unit pricing/cost information was obtained from commercial disposal facilities' published data for inclusion in the cost evaluation of alternatives. At Oak Ridge, the cost estimate to dispose of the waste off-site was developed using current pricing under DOE contracts with commercial waste disposal facilities.

Q2b. Does DOE include off-site commercial disposal costs as part of their evaluation prior to proposing new on-site disposal cells? If so, how area those evaluations included in the project management decision process? If not, why not?

A2b. The Department evaluates all disposal options in determining the need for new on-site cells, including off-site commercial facilities; this evaluation considers the commercial disposal costs as well as the packaging and transportation costs associated with use of off-site facilities. These evaluations are included in the project management decision process and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process.

For sites such as Portsmouth and Oak Ridge, where cleanup is proceeding under CERCLA, the decision-making process to develop, evaluate, and select among remedial alternatives — including disposal facility options — is designed to be comprehensive and robust; in addition, the cleanup is proceeding with oversight and concurrence by the U.S. Environmental Protection Agency (EPA) and the state where the cleanup is being conducted. One of the benchmarks being used at this site is DOE Order 435.1, which addresses radioactive waste disposal.

Once sufficient data is available, alternatives are evaluated in detail using the National Contingency Plan's nine evaluation criteria, which reflect CERCLA statutory requirements and preferences. The nine criteria are:

- overall protection of human health and the environment;
- compliance with applicable or relevant and appropriate requirements (ARARs);
- long-term effectiveness and permanence;
- reduction of toxicity, mobility, or volume through treatment;
- short-term effectiveness;
- implementability;
- cost;

- State acceptance; and
- community acceptance.

In general, the alternatives are analyzed individually against each criterion and then compared against one another to determine their respective strengths and weaknesses and to identify the key trade-offs that must be balanced for the site. The results of the detailed analysis are compiled, and the best remedy is selected consistent with the CERCLA and NCP criteria. A Remedial Investigation/Feasibility Study (RI/FS) document, which contains the detailed alternatives analysis, is completed under signature of the DOE, EPA, and the relevant state. The RI/FS is followed by a Proposed Plan that is used as the basis for selection of a preferred alternative and to solicit public comments. Public comments are addressed and incorporated into the final Record of Decision (ROD). The ROD identifies the CERCLA remedial action to be implemented.

As part of the CERCLA remedy selection process for Portsmouth and Oak Ridge, DOE also included the cost to dispose of the waste off-site as an option considered in the RI/FS documents which evaluated new on-site disposal cells.

Since the disposal cells are capital asset projects, they will also follow the process outlined in DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

857 Has the NRC worked with the DOE to develop a disposal pathway  
858 for depleted uranium?

859 Mr. Whitney. Sir, I believe those discussions are ongoing.  
860 We have had discussions and they are ongoing.

861 Mr. Bucshon. Okay. I don't have the date here. When was  
862 the privatization act? When were you first directed to that?

863 Mr. Whitney. And I don't know either. I would have to get  
864 back with you on that.

865 Mr. Bucshon. It is always surprising me in hearings where  
866 Congress has said to do things, like, 10 years before and we are  
867 still talking about it. But this may not be one of those  
868 instances.

869 Will the NRC's current Part 61 rule making affect the DOE's  
870 plans to dispose of depleted uranium at commercial disposal sites?

871 Mr. Whitney. I don't believe it would.

872 Mr. Bucshon. Okay. And what would the effect of the DOE's  
873 disposal plans for depleted uranium -- effect on the DOE's  
874 disposal plans for depleted uranium if the NRC decides to  
875 incorporate greater than Class C and transuranic waste as part  
876 of their Part 61 rule making?

877 Mr. Whitney. It is unclear to me at this point, sir.

878 One, it would depend on the ultimate disposal pathway for  
879 the depleted uranium, of course, and then what the final rule  
880 making is.

COMMITTEE: HOUSE ENERGY AND COMMERCE  
SUBCOMMITTEE: ENVIRONMENT AND THE ECONOMY  
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WITNESS: MARK WHITNEY  
PAGE: 40, LINE: 861

INSERT FOR THE RECORD

The USEC Privatization Act was enacted in 1996.