



May 16, 2018

TO: Members, Subcommittee on Environment

FROM: Committee Majority Staff

RE: Hearing entitled “Legislative Hearing on H.R. 2278, the Responsible Disposal Reauthorization Act of 2017, and H.R. 2389, to reauthorize the West Valley demonstration project and for other purposes.”

I. INTRODUCTION

The Subcommittee on Environment will hold a hearing on Friday, May 18, 2018, at 9:00 a.m. in 2123 Rayburn House Office Building. The hearing is entitled “Legislative Hearing on H.R. 2278, the Responsible Disposal Reauthorization Act of 2017, and H.R. 2389, to reauthorize the West Valley demonstration project and for other purposes.”

II. WITNESSES

Panel 1

- The Honorable Tom Reed (NY-23), Member, U.S. House of Representatives.

Panel 2

- Mark Gilbertson, Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs, Office of Environmental Management, Department of Energy.

Panel 3

- Noah Shaw, General Counsel and Secretary, New York State Energy Research and Development Authority.

III. BACKGROUND

The Department of Energy’s (DOE) Office of Environmental Management (EM) oversees DOE’s legacy cleanup responsibilities from over seven decades of nuclear energy research and atomic energy defense activities. EM was established in 1989 to remediate sites contaminated with high-level radioactive waste (HLW), spent nuclear fuel, excess uranium and plutonium, and contaminated soil and groundwater. EM is the world’s largest environmental cleanup program and responsible for cleanup at 107 sites, spanning an area equivalent in size to Rhode Island and Delaware.¹ EM also manages leftover nuclear materials during cleanup and after the project is complete.

¹ Department of Energy, Office of Environmental Management, “About Us,” <https://www.energy.gov/em/about-us>

EM is responsible for cleanup at a variety of nuclear and non-nuclear sites, including portions of four national laboratories and sites such as the Hanford Reservation in Washington State, the West Valley demonstration project site in New York, and the Savannah River Site in South Carolina. Over the past 30 years, 91 of these sites have been successfully remediated, while work continues at the most challenging remaining sites.² Congress provided about \$6 billion in Fiscal Year (FY) 2018 for defense environmental cleanup activities.³

When EM completes a project, it is transferred to DOE's Office of Legacy Management (LM) for post-closure responsibilities, such as long-term surveillance and maintenance, records and property management, and community assistance.⁴ LM currently manages 92 sites categorized generally under the following programmatic frameworks: Uranium Mill Tailings Radiation Control Act (UMTRCA), Formerly Utilized Sites Remedial Action Program (FUSRAP), DOE Defense Decontamination and Decommissioning Program (D&D), and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and/or Resource Conservation and Recovery Act (RCRA).⁵ Congress provided \$137 million for the Office of Legacy Management (LM) in FY 2018.⁶

Uranium Mill Tailings Radiation Control Act of 1978 and the Grand Junction Disposal Site

Congress enacted the Uranium Mill Tailings Radiation Control Act of 1978⁷ (UMTRCA) to provide a framework and assign authority to the Secretary of Energy to dispose of uranium mill tailings. Tailings are a byproduct of mining and processing uranium ore and may contain residual radiation, which requires safe disposal. The purpose of UMTRCA is to partner with States, Indian tribes, and entities who maintain inactive mill tailings sites to remediate such sites and control those tailings. It further established a program to regulate tailings at active mill sites to minimize or eliminate radiation health hazards to the public.⁸

Section 112 of UMTRCA authorized the Secretary to operate a disposal site in Mesa County, Colorado (formerly known as the Cheney disposal cell) until 2023 or until the disposal site is filled to capacity, whichever comes first. In 1994, DOE completed construction on the first portion of the disposal site. Since 2003, LM has managed the disposal site and annual site inspections "to evaluate surface feature conditions, perform . . . necessary site maintenance, and monitor . . . groundwater to verify the disposal . . . site's' integrity."⁹ While DOE is responsible for the long-term maintenance and monitoring of the Grand Junction site, the Nuclear Regulatory

² EM "About Us."

³ Consolidated Appropriations Act, 2018. P.L. 115-141

⁴ Department of Energy, Office of Legacy Management, "About Us," Accessible at: <https://www.energy.gov/lm/about-us>

⁵ <https://www.energy.gov/lm/sites/lm-sites>

⁶ Consolidated Appropriations Act, 2018.

⁷ Uranium Mill Tailings Radiation Control Act of 1978, P.L. 95-604.

⁸ Section 2 UMTRCA

⁹ For more information on the site, see: https://www.lm.doe.gov/Grand_Junction_DP/Fact_Sheet_GJ.pdf

Commission (NRC) has an oversight role of the site and the disposal site must meet NRC standards.¹⁰

West Valley Demonstration Project

During the early stages the nation's development of commercial nuclear power, private industry sought to demonstrate the technical viability of reprocessing spent nuclear fuel. The State of New York acquired land near West Valley in the western part of the State and leased the land to a private entity, Nuclear Fuel Services (NFS), to prove reprocessing technology. From 1966 to 1972, NFS operated a reprocessing center, but decided to cease commercial operation in 1976. In 1980, NFS' lease with New York expired and the property reverted to State ownership.¹¹ This program is the nation's only experience with commercial reprocessing technology.

Congress passed the West Valley Demonstration Project Act¹² (WVDP) in 1980 to direct DOE to partner with New York State to decontaminate and decommission the site. The bill directed the Secretary of Energy to enter into a cooperative agreement with the State of New York for the purposes of certain facility management and cost share arrangements. The law authorized \$5 million for DOE in 1981. The legislation explicitly does not authorize the Federal Government to take ownership of any high-level radioactive waste at the site.

The site was originally licensed by the Atomic Energy Commission (AEC) during operation, and subsequently by the NRC after the AEC was dissolved in 1975. Under the WVDP Act, NRC's role is to review the decommissioning plan, consult with DOE on the form of the HLW cleanup, review safety reports, and monitor the project. NRC does not have a formal licensing role over DOE's operations at the site.¹³

EM manages the project on behalf of the Secretary. Congress provided \$75 million to DOE for the project in Fiscal Year 2018.

IV. SUMMARY OF LEGISLATION

A. H.R. 2278, the Responsible Disposal Reauthorization Act of 2017.

H.R. 2278, Responsible Disposal Reauthorization Act of 2017, was introduced by Representative Scott Tipton (CO) on May 1, 2017. The bill amends section 112(a)(1)(B) of the Uranium Mill Tailings Radiation Control Act of 1978 to extend the authorization of the disposal site in Mesa County, Colorado from September 30, 2023 to September 30, 2048.

B. H.R. 2389, to reauthorize the West Valley demonstration project.

¹⁰ NRC licensing for UMTRCA Title I sites is established in 10 CFR 40.27.

¹¹ For further information see: <https://www.wv.doe.gov/>

¹² West Valley Demonstration Project Act, P.L. 96-368.

¹³ For more information about NRC's role at the site, see: <https://www.nrc.gov/info-finder/decommissioning/complex/wv.html>

H.R. 2389, to reauthorize the West Valley demonstration project, was introduced by Representative Tom Reed (NY-23) on May 4, 2017. The bill amends section 3 of the West Valley Demonstration Project Act to reauthorize the West Valley Demonstration Project located in West Valley, New York, for FY 2017 through FY 2026. The bill directs that all high-level radioactive waste at the West Valley site shall be considered waste from atomic energy defense activities under section 2 of the Nuclear Waste Policy Act of 1982.

V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Andy Zach or Mary Martin of the Committee staff at (202) 225-2927.