

STATEMENT OF
MICHAEL W. OWEN
DIRECTOR, OFFICE OF LEGACY MANAGEMENT
DEPARTMENT OF ENERGY

BEFORE THE

SUBCOMMITTEE ON ENERGY AND WATER
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 6, 2008

Good morning Mr. Chairman, and distinguished Members of the Committee. My name is Michael Owen, and I am the Director of the Office of Legacy Management (LM) at the Department of Energy (DOE). The Office of Legacy Management is responsible for ensuring that DOE's post-closure responsibilities are met by providing long-term surveillance and maintenance, records management, workforce restructuring and benefits continuity, property management, and land use planning. By managing post-closure responsibilities, LM has better positioned the Department to continue focusing DOE programs and personnel on achieving the diverse missions of the Department, including assisting the Environmental Management program (EM) to concentrate its efforts on cleanup and risk reduction.

LEGACY MANAGEMENT MISSION AND VISION

LM's mission is to manage the Department's post-closure responsibilities and ensure the future protection of human health and the environment. LM manages the Departmental legacy responsibilities in a manner that best serves Department workers, communities, and the environment. This vision includes several elements:

- Human health and the environment are protected at closed sites, through effective environmental surveillance and maintenance. This often involves cooperative partnerships with stakeholders and State, Tribal, and local governments;
- Key records and critical information are preserved, protected and made publicly accessible;
- Effective oversight and management of health and pension benefits of the Department's former contract workforce, who have been instrumental to the success of our missions; and
- Federal land and other assets are returned to the most beneficial use consistent with the Department's mission requirements.

FISCAL YEAR 2009 REQUEST TIED TO DOE AND LM STRATEGIC GOALS

The Office of Legacy Management has an important role within the Department of Energy. LM supports implementation of the Department's Strategic Plan and has responsibility under Strategic Theme 4, Environmental Responsibility. Specifically, LM has responsibility for goal 4.2, Managing the Legacy. For Fiscal Year (FY) 2009, the President's request for LM activities is just under \$186 million, a reduction of approximately \$8 million from the FY 2008 budget request.

In the past, LM was funded by the Other Defense Activities (ODA) Appropriation and, through FY 2007, by the Energy Supply and Conservation (ES&C) Appropriation. However, in FY 2008 a new appropriation account "Legacy Management" was created and replaced the portion that had previously been within ES&C. In FY 2009 funding is being requested only under the ODA Appropriation. This shift is because, following remediation, the distinction between ODA and ES&C sites becomes negligible and, after transferring the closure sites of Rocky Flats and Fernald in FY 2008, the portion of the budget that would have been within the Legacy Management (formerly Energy Supply and Conservation) appropriation had decreased to less than 20 percent of the total budget request. I would now like to take this opportunity to explain our FY 2009 budget request from the perspective of LM's four strategic goals.

LM GOAL 1: PROTECT HUMAN HEALTH AND THE ENVIRONMENT THROUGH EFFECTIVE AND EFFICIENT LONG-TERM SURVEILLANCE AND MAINTENANCE

The Department's environmental legacy responsibilities stem primarily from the activities of the Department and predecessor agencies, particularly during World War II and the Cold War. For the Long Term Surveillance and Maintenance program, the total funding request for FY 2009 is \$48 million. This request will allow LM to monitor and conduct long-term treatment in accordance with legal, contractual, and regulatory agreements for 86 sites plus eight additional sites planned for transfer by the end of FY 2009. Functions include soil, water, and air monitoring, long-term treatment of contaminants, maintenance of contaminant treatment structures, and maintaining security for the sites and other resources associated with the sites. This request includes \$8.5 million for long term surveillance and maintenance activities at the Fernald Site and \$5.5 million for activities at the Rocky Flats Site.

We are also requesting \$15 million to monitor and conduct normal long term surveillance and monitoring activities at the eight Nevada off sites - mostly located in the Western States - which includes scheduled drilling of deep groundwater monitoring wells. Monitoring wells at these sites are very costly because the nuclear tests were conducted at extreme depths in order to minimize surface impacts. The placement of wells around these sites is decided upon after consultation with State regulatory authorities. The wells must be within deep aquifers and/or natural gas formations which have the potential to be impacted by radioactive contaminants from the nuclear tests.

LM GOAL 2: PRESERVE, PROTECT, AND MAKE ACCESSIBLE LEGACY RECORDS AND INFORMATION

In FY 2009, LM is requesting just over \$9 million for the Archives and Information Management (AIM) program. This activity provides records management services for LM's active program elements and maintains legacy archives of inherited collections. The archives and information management activity includes managing records over the standard record life-cycle and developing records retention schedules in conjunction with National Archives and Records Administration (NARA) requirements. These functions encompass operational records retention, records maintenance and use, records disposition processes and activities to ensure proper documentation of LM's environmental protection, environmental remediation, and hazardous waste disposition related policies and activities. The activity supports DOE stakeholders by processing claims associated with the Energy Employees Occupational Illness Compensation Program Act, Freedom of Information Act, Privacy Act and other information requests. The AIM program also provides LM's information management and technology needs to include planning, design and maintenance of the infrastructure and all aspects of information security. Additionally, the program includes funds to support the national and intergovernmental stakeholder activities such as technical libraries, public reading rooms, and educational outreach development.

In FY 2009, the increased funding levels for the AIM program include costs associated with preparing to consolidate archived records into one facility. Currently, these records are located within five Federal Records Centers and consist of records for all 86 of LM's current sites as well as the eight additional sites coming to LM in FY 2009. With the planned lease of the new records facility, these records will be transferred to a single records storage facility in FY 2010.

LM GOAL 3: SUPPORT AN EFFECTIVE AND EFFICIENT WORK FORCE STRUCTURED TO ACCOMPLISH DEPARTMENTAL MISSIONS AND ASSURE CONTRACTOR WORKER PENSION AND MEDICAL BENEFITS

The largest portion of the LM budget for FY 2009 funds the Pensions and Benefit Continuity program. The total request for this program is \$112 million, a decrease of just over \$15 million from FY 2008. However, LM reduced its requirement by more than \$18 million due to the availability of prior year funds. Because this program contains a significant portion of LM's overall budget, I would like to provide more detail on the pension and benefit costs at specific sites.

The request for the Rocky Flats site is just over \$86 million in FY 2009. This funding will allow the Department to make the required Employment Retirement Income Security Act (ERISA) minimum contribution to the pension fund for retired contractor personnel and provide post-retirement benefits of medical, Medicare Part B, and life insurance to

contractor retirees. The FY 2009 funding request for pension and benefits at Rocky Flats is reduced because LM will use approximately \$10.7 million in FY 2006 carryover funds originally appropriated for a National Stewardship Contractor (NSC) to administer pension and benefit distribution. These funds are available because that approach was cancelled and an alternative system is being utilized.

At the Fernald site, \$10.2 million is requested to provide ERISA required contributions to the pension funds and post-retirement benefits (medical and life insurance) for former contractor retirees, a decrease of \$3 million from FY 2008. The decrease in funding reflects a reduction in pension costs. The reduction is due to a number of plan participants choosing to receive a lump sum settlement.

We are requesting \$5.1 million to provide required contributions to the pension funds and post-retirement benefits (medical and life insurance) for former contractor retirees from the Pinellas Plant. Again, this funding request is reduced because LM will use approximately \$1 million from carryover of appropriations from prior fiscal years.

LM is also responsible for providing benefits for activities and expenses associated with post-retirement life insurance and medical benefits at two United States Enrichment Corporation (USEC) Facilities, Paducah and Portsmouth. The costs for medical benefits have been increasing at a rate greater than the overall inflation rate. However, during FY 2009, the funding need of approximately \$16 million for these facilities will be partially met with approximately \$6 million in appropriations carried over from FY 2007. Therefore, LM is only requesting \$9.7 million in FY 2009. Despite the inflation in medical costs, using carryover funding will reduce the need for new appropriated funds while still meeting the Department's commitments.

LM GOAL 4: MANAGE LEGACY LANDS AND ASSETS, EMPHASIZING PROTECTIVE REAL AND PERSONAL PROPERTY REUSE AND DISPOSITION

LM is requesting approximately \$4 million for the Reuse and Property Management Program. Legacy Management is also charged with the transfer or reuse of sites that no longer support an ongoing Departmental mission and possible disposal of properties for beneficial reuse. As such, LM works with other agencies and organizations to transfer real property from the Department, and supports other Departmental elements in reviewing transition plans and closure plans to facilitate the transfer of real and personal property assets to other agencies, private organizations, or private interests. The Office of Legacy Management manages thousands of acres of land and other assets. When land is transferred to a private interest, it allows the land to be reused productively, reduces the Department's "footprint," and resumes payment of local property taxes.

ENVIRONMENTAL JUSTICE PROGRAM

Finally LM's FY 2009 budget requests just over \$1 million to fund the Environmental Justice program, an increase of about \$400,000 from last year's request. This important program allows the Department to promote environmental justice as specified by Executive Order 12898, issued on February 11, 1994. The Environmental Justice program provides assistance for a variety of activities that include: grants to communities to address environmental issues using expertise from Historically Black Colleges and Universities (HBCUs) and Minority Serving Institutions (MSIs); an intern program through the United Negro College Fund; working relationships with small towns, stakeholders, Tribal and local governments on environmental issues; and a Community Capacity Building Program to provide assistance to enable communities around DOE sites to address environmental issues. The additional funding will expand activities in the Southwest and establish an intern program for Native Americans and Hispanics.

CONCLUSION

In closing, as you can see from the President's FY 2009 budget request, the Office of Legacy Management is taking proactive steps to increase our efficiency and effectiveness by consolidating funds in one appropriations account and more importantly, using carryover funds from previously appropriated funding to reduce our FY 2009 budget request while fully meeting our commitments. As the second office in the entire Federal Government to receive designation by the Office of Management and Budget (OMB) as a High Performing Organization, LM's FY 2009 budget request continues our commitment to make prudent use of taxpayer dollars.

Mr. Chairman and distinguished Members of the Committee, this concludes my statement.