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FACT SHEET: 2019 Idaho Nuclear Clean-up and Research Agreement

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INTRODUCTION

Governor Brad Little and Attorney General Lawrence Wasden reached an agreement with the U.S. Department of Energy (DOE) in November of 2019 that provides a path to resolve breaches by the Department of Energy of the state's 1995 Settlement Agreement. The agreement, referenced as the "2019 Supplemental Agreement," is consistent with the intent of the 1995 Settlement Agreement. It is a significant development that advances Idaho's efforts to remove legacy nuclear waste from Idaho while also supporting national security interests and the essential research mission of INL as the lead national laboratory for nuclear energy research.

HISTORY

The DOE currently is in breach of two central provisions of the 1995 Settlement Agreement:

1. The DOE's duty to treat all remaining liquid nuclear high level waste in Idaho by turning it into a safer, more manageable solid (Section E.5); and
2. The DOE's duty to remove transuranic waste from Idaho (Section B.1), which was caused in large part by two unrelated accidents that shut down the DOE Waste Isolation Pilot Plant in New Mexico for a number of years.

To address the breaches, Idaho previously invoked the remedy allowed by the 1995 Settlement Agreement – prohibiting shipments of spent nuclear fuel to Idaho. Since then, the state and DOE have been in a long-running dispute over if and when the DOE can bring spent nuclear fuel to Idaho.

Because the DOE has now agreed in writing how it will cure each of those breaches, the state has agreed to allow the DOE to receive spent nuclear fuel at the INL for research purposes only, under the conditions discussed below.

KEY ELEMENTS OF THE 2019 SUPPLEMENTAL AGREEMENT

The 2019 Supplemental Agreement charts a path forward:

1. By agreeing on how the DOE will cure each of the current breaches (more on each below);
2. By requiring additional clean-up by the DOE (discussed below);
3. By incentivizing the DOE to complete each of the clean-up projects by allowing small quantities of spent nuclear fuel to be brought to Idaho for research; and
4. By strengthening the INL research mission and role, established in the 1995 Settlement Agreement (Section F.1), as the lead National Laboratory for spent nuclear fuel research.

In order to bring the first shipment of approximately 100 pounds of heavy metal of research spent nuclear fuel to Idaho from the Byron Nuclear Generating Station in Illinois, the DOE must:

1. First prove to Idaho that the process for treating the remaining liquid high level waste will work by using the treatment facility to produce one full canister of treated waste;
This ensures the Department of Energy has a viable and proven way to treat the liquid waste at the INL by converting it into a safer, more manageable dry form.
2. Ensure that at least 55% of all transuranic waste shipped to the Waste Isolation Pilot Plant comes from Idaho, and ensure that Idaho also gets priority for other additional unused shipments to the facility;
This ensures the transuranic waste in Idaho will be removed from the state in the most expeditious manner possible.
3. Remove at least an additional 300 pounds of special nuclear material (Uranium, Plutonium, or Enriched Uranium) from Idaho by the end of 2021;
4. Continue to treat additional spent nuclear fuel, at the rate of 165 pounds per year on a three-year average through 2028, which will result in Sodium Bonded EBR II Driver Fuel Pins being converted to a safer, more manageable state; and

Items (3) and (4) are clean up commitments the DOE has agreed to in addition to those set out in the 1995 Settlement Agreement.

5. Remain in compliance with all other terms of the 1995 Settlement Agreement.

In addition to the above requirements, the DOE must continue treating the remaining liquid high level waste at the INL and produce at least 100 canisters of treated waste in order to bring in any additional research quantities of spent nuclear fuel beyond the first shipment of approximately 100 pounds. Once and so long as the DOE does so, it will have the discretion to bring additional spent nuclear fuel for research to the INL.

What the 2019 Supplemental Agreement does NOT do:

1. It does not allow the DOE to bring spent nuclear fuel to Idaho for any purpose other than for research; therefore, it does not allow the DOE to bring other types of nuclear fuel to Idaho for storage purposes;
2. It does not change the requirements of the 1995 Settlement Agreement for the handling and removal of spent nuclear fuel from Idaho by 2035; and
3. It does not change or increase the cap on the amount of DOE nuclear waste in Idaho, as established in the 1995 Settlement Agreement.

This agreement recognizes that while the DOE has been out of compliance with the 1995 Settlement Agreement, it has taken a number of steps that have made Idaho cleaner and safer, including:

1. Removing more than 31,500 cubic meters of transuranic waste from Idaho;
2. Exhuming more than 5 acres of buried transuranic waste and packaging more than 9,000 cubic meters of buried transuranic waste for shipment out of Idaho;
3. Removing more than 13,800 cubic meters of low-level waste from Idaho; and
4. Removing more than 330,000 pounds of heavy metal nuclear material (such as Uranium, Plutonium, and Thorium) from Idaho.