February 2015

The following is a compendium of news reports over the preceding month that may be of interest to our AG offices who are dealing with DOE sites or general nuclear waste issues. Neither the National Association of Attorneys General nor the National Attorneys General Training & Research Institute expresses a view as to the accuracy of news accounts, nor as to the position expounded by the authors of the hyperlinked articles.

FEDERAL

DEPARTMENT OF ENERGY (DOE)

In an effort to secure bidders, the DOE modified contractual language that initially required that contractors pay all cost overruns exceeding $150 million. This new five-year contract, set to begin in 2016, also involves maintaining the spent nuclear fuel program at the Idaho National Laboratory and handling the delayed shipments of radioactive waste.

DOE’s Office of Enterprise Assessments conducted a review of the federal contractor operating the Waste Isolation Pilot Plant (WIPP) and concluded that the facility’s safety conditions are inadequate and the contractor’s plan to protect underground workers during an emergency is insufficient. One aspect of the report focused on the recovery plan involving diesel equipment with restricted airflows because the fuel is used to power critical pieces of equipment like generators, forklifts, and others used in roof-bolting that stabilize the interior of the cavern. These pieces of equipment would be essential during an emergency situation.

DOE is challenging the $54 million fine levied against it by the New Mexico Department of the Environment for violations at the WIPP and Los Alamos National Laboratory (LANL). DOE and the contractors are requesting a hearing to contest the fines, arguing that the fine is unwarranted and should be reduced or forgiven altogether. Moreover, they argue that attention and focus should instead be placed on reopening WIPP and resuming the waste operation program at LANL. The parties continue settlement discussions as the matter proceeds.

DOE and Idaho have been in communication concerning DOE’s ability to bring nuclear waste into the State for research so long as conditions concerning noncompliance issues are met in advance. Before granting a one-time extension to receive spent nuclear fuel rods, Idaho is demanding compliance with the 1995 settlement agreement. If Idaho and DOE reach a formal agreement, it could generate up to about $20 million in revenue annually for the State through the end of the decade. Former governors have been critical of Governor Otter’s decision to permit additional fuel rods to enter the State and noted concerns about waste affecting the aquifer.
NUCLEAR REGULATORY COMMISSION

The NRC is accepting public comments on Entergy’s decommissioning plan concerning the next phase following the closure of the Vermont Yankee nuclear power plant. The comment period is open until at least March 23, 2015. A copy of the press release and instructions on sending comments can be found here.

STATE

Storage, Recycling, or Disposal of Radioactive & Hazardous Waste

Commentary has been offered in the Bulletin of the Atomic Scientists concerning legislation that creates the Manhattan Project National Historical Park (that includes portions of Hanford, Oak Ridge, and Los Alamos). The piece touches upon the importance of recording history but raises concerns that a museum will give the false impression that nuclear activity is no longer in existence.

An article delves into a cost-benefit analysis of relying upon nuclear as an energy source while assessing the state of affairs of the nuclear energy industry. It also examines how States such as California, Vermont, and Wisconsin have closed aging plants whereas others have been suspended in Maryland, New York, Texas, and Florida. The article notes that some existing, newer nuclear plants exceed budgets and fail to meet deadline schedules, causing problems for investors to seriously question whether nuclear power is viable economically. Finally, attention is given to rate hikes affecting consumers and the impact that this will have on them and states.

UPDATES – WASTE AND LABORATORY SITES

HANFORD

Washington State filed a responsive pleading, alleging that DOE may be attempting to decrease annual spending at Hanford by delaying the construction of a vitrification plant and not removing waste timely from leaking tanks. DOE has requested an amended deadline schedule, arguing that the current schedule cannot realistically be met and that the costs to meet current schedules are exorbitantly high, unrealistic, and therefore need to be adjusted.

A piece in Time Magazine examines the history of Hanford and how entrepreneurs in the 1950s were incorrect in their assessment concerning the profit that could be earned from radioactive waste. Additionally, it assesses the costs associated with cleaning up Hanford and its impact on the environment.

DOE is assessing next steps to remove radioactive waste from an underground tank after its retrieval technology, referred to as Mobile Arm Retrieval System, failed to operate properly. Accordingly, all work has been temporarily stopped after DOE has already spent $42 million on the technology.
YUCCA MOUNTAIN

A bill is expected to reach the House floor this summer concerning Yucca Mountain serving as a national repository, but the details continue to be worked out presently. There may also be financial incentives included in the bill to make it more attractive to Nevada in an effort to obtain the State’s support.

The NRC released the final two parts of the five-part review for Yucca Mountain and determined whether it is a safe option to serve as a permanent repository. NRC staff issued positive results in its safety evaluation but noted that the site is not ready for construction due to some land and water rights requirements. DOE also would have to complete an environmental impact statement on the site before any additional action may be taken. The five-part reviews are available here.

TENNESSEE VALLEY AUTHORITY (TVA)

TVA suspended construction of the Watts Bar 2 in 1985, but it is now scheduled to open later this year and provide 1,150 megawatts of electricity to the grid. The author of the hyperlinked article notes that, prior to Watts Bar’s reopening, outstanding questions remained regarding whether nuclear energy would be a viable option as an energy source. However, despite Watts Bar’s opening and two additional reactors that Southern Co and South Carolina Electric & Gas intend to construct, the author believes that more plants are necessary and recommends such action because they have a benign effect on the environment.

PRAIRIE ISLAND

Ron Johnson, president of the Prairie Island Indian Community’s Tribal counsel, continues to try and bring attention to the need for a national repository that could accept used nuclear fuel that is being stored within only 600 yards of residents at the Red Wing nuclear facility. Xcel Energy operates the Red Wing plant and has recently applied for an additional 20 year extension that was approved by the Minnesota Public Utilities Commission. The facility expects to house 98 dry casks to store the waste at the premises since a permanent repository is not available.

TONAWANDA LANDFILL

New York U.S. Senator Schumer requested that the Army Corps of Engineers finalize cleanup options for the landfill where radioactive waste was discovered in 1991 following a DOE conducted survey. The radioactive waste could pose a problem to the nearby community if it is exposed from soil erosion, though residents from Tonawanda already believe that this exposure has occurred following a rain or snowfall. The waste reportedly is buried only two feet below the surface of the soil.

WASTE ISOLATION PILOT PLANT (WIPP)

Additional roof bolting work is needed at WIPP after workers discovered, during an inspection, that a portion of the ceiling had collapsed. The location of the collapse has been restricted since November. No workers were harmed during the incident.
Following the closure of WIPP in February 2014, DOE and the WIPP contractor have stated that it could take an additional three years before full operations resume. Limited operations are expected to start in 2016, but work on a new ventilation system and exhaust shaft must be installed before any waste shipments could be accepted again. Deadlines have been imposed as part of the recovery plan, but the very first deadline has already been missed after a storage bunker affected by the leak did not close by New Year’s Day.

IDAHO NUCLEAR TECHNOLOGY & ENERGY CENTER

Idaho environmental regulators from the Idaho Department Environmental Quality have announced that they will fine DOE $3600.00 per day for missing mandated compliance dates. Liquid waste is currently sitting in aging tanks that do not meet regulatory standards. DOE was obligated to treat the waste or construct new tanks. However, DOE has missed deadlines originally set in 2012 and extended to 2014, resulting in fines that will increase to $6000 per day if DOE’s obligation is not met by July 1, 2015.

IDAHO NATIONAL LABORATORY (INL)

A treatment facility at INL has successfully finished a major test where liquid radioactive waste was converted into solid form. The facility is known to be glitch-prone, but the test has served to prove that 900,000 gallons of radioactive waste can, in fact, be turned into a solid form.

LOS ALAMOS NATIONAL LABORATORY (LANL)

The DOE has paid only $21,576 to the Nuclear Waste Partnership (NWP), the contractor that runs LANL, for its performance at the facility. NWP could have received up to $8 million from potential incentives for the past fiscal year, but, following the radiation leak at the WIPP facility a year ago, the contractor was paid a significantly lesser sum. Some watch groups still criticize DOE for paying any funds to contractors for operational costs because disposal of waste programs at LANL have ceased altogether.

PARKS TOWNSHIP WASTE DUMP

The Army Corps of Engineers estimates that cleanup at the Parks Township Waste Dump will take at least 10 years and cost approximately $412 million. Thus far, $62 million has been already spent on the project, but cleanup efforts ceased following the Corps’ finding of unknown materials. The prior owners failed to maintain proper records identifying the waste at the site, thereby creating delays. The Corps will receive help on the project from additional federal agencies, all of which entered into a memorandum of understanding to assist, including the Nuclear Security Administration, Nuclear Regulatory Commission, and the DOE.
PILGRIM NUCLEAR POWER STATION

Due to diminishing space in pools that store nuclear fuel rods, Pilgrim Nuclear Power Station — the only nuclear power plant in Massachusetts — will begin storing the fuel in concrete and steel casks. The fuel rods in pools will be transferred to dry casks until a more viable, national storage solution is available.

VERMONT YANKEE NUCLEAR REACTOR

The Vermont Yankee Nuclear Reactor stopped supplying electricity to the New England region this month after operating for 42 years. The decommissioning process is the next phase of operation and could cost at least $1.24 billion and take up to 65 years before completion. The article questions the impact that the closure will have on consumers in terms of electricity rates and grid capacity. It is estimated that approximately 1,100 job losses will result from the closure, affecting Massachusetts, New Hampshire, and Vermont.

SAVANNAH RIVER SITE (SRS)

It was revealed that the federal Office of Management and Budget learned three years ago that operators at the SRS redirected about $750,000 reserved for cleanup efforts to support a project involving development of mini-nuclear reactors near the site. SIS operators claimed that they thought the funds could be used to support the initiative, but they were required to cease using the funds for the special program. The initiative, known as the small modular reactor program, was supposed to provide less expensive power nationally and throughout the globe where electricity is unreliable.

The Director of the South Carolina Department of Health and Environmental Control Catherine Templeton has resigned from her post. As Director of the largest State agency, she played a large role in the management of and attention to cleanup activities and deadline compliance at the SRS.

Commentary has been offered on whether the projected total price tag (totaling approximately $30 billion) is worth it for costs associated with the construction, operation, and decommissioning of the MOX Fuel Fabrication facility at the SRS. The author from the hyperlinked article who wrote the editorial raises questions about whether the fuel produced at MOX has a market because it is more costly than traditional uranium fuel. Edwin Lyman, a physicist, has noted that there are safer and less costly alternatives to the MOX facilities, such as immobilizing plutonium in hockey-puck-sized discs and using the downblending process (where plutonium is diluted into non-radioactive material).

According to new DOE estimates involving completion of cleanup efforts at SRS, updated projections of time and costs have been added. An additional 23 years are expected to complete the management program at a cost between $91-$109 billion, and several programs have been included in the projections to include spent nuclear fuel processing, solid and liquid waste disposition, and soil and groundwater remediation.

SAN ONOFRE NUCLEAR GENERATING STATION (SAN ONOFRE)

The Mayor of Laguna Beach has solicited assistance from every mayor in Orange County to obtain signatures in an effort to remove the spent nuclear fuel currently at San Onofre as soon as possible.
Residents have also become engaged through petitions and sent over 500 signed letters to the NRC, Department of Defense, and DOE. In addition to these efforts, experts met for a panel discussion to arrive at solutions on how nuclear waste policy could be made at the federal level and how residents might assist in the process.

**INTERNATIONAL**

Canadian officials prepared and issued a report on national radioactive waste management programs, including information on the Ontario Power Generation’s proposed repository site, finding that all the identified locations are safe and environmentally sound. Further review is necessary, but the report has also identified four additional communities for further study as viable options to house radioactive waste repositories.

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