September 2014

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)

As part of a continuing environmental cleanup effort and preparation to eventually transfer the land at Los Alamos National Laboratory to the county, two large water towers were removed in an area where the world’s first plutonium processing structure was constructed and tritium research was conducted. The materials will be disposed of for scrap-metal recycling, which is deemed to provide a financial credit to the overall project and support sustainability objectives.

In preparation for future transfer of nuclear waste by rail, the DOE has solicited ideas from companies regarding which rail cars are needed to support moving waste in 150-ton casks. Additionally, a public solicitation has been extended, seeking responses for consideration on whether the federal government should buy or lease the rail cars. However, the federal government does not anticipate moving any waste to an interim site prior to 2021.

NUCLEAR REGULATORY COMMISSION (NRC) FINAL RULE ON WASTE STORAGE

In response to the D.C. Circuit Court ruling from June 2012 that vacated the NRC’s decision (the Waste Confidence Decision) addressing nuclear waste storage at reactors, the agency has submitted a final draft rule to replace the prior iteration. The new version is referred to as the Environmental Impacts of Continued Storage of Spent Nuclear Fuel Beyond the Licensed Life for Operation of a Reactor. As the name suggests, the NRC rule also endeavors to tackle concerns about environmental impacts of continued storage at these locations, given apprehensions about potential leaks and fires. The proposed final rule can be found here. Upon approval, the rule will take effect within 30 days of publication. Additionally, the five-member commission that monitors the NRC voted to lift a licensing ban after approving the agency’s proposed plan, paving the way to resume the licensing and relicensing of nuclear reactors. Some environmental groups are critical of the NRC final rule, believing that it failed to adequately settle the issues the Court raised. Some of these groups have cited the dangers associated with leaking, citing the Indian Point Reactor in New York that is releasing radioactive water into the Hudson River. The US House of Representatives Energy and Commerce Committee previously issued a
letter to NRC Chairman Macfarlane seeking an answer as to when the moratorium on licensing would terminate; the Committee has since commended the NRC for voting to lift the ban and approving the final rule.

**STATE**

Storage, Recycling, or Disposal of Radioactive & Hazardous Waste

Some local officials in Loving County, a thinly populated area with a population of approximately 95 people spread throughout a large stretch of land in Texas, is vying to become a new site to store spent radioactive waste from closed reactor plants at least temporarily until Congress or the federal government identifies a permanent location. These officials also support storing waste permanently because the planned permanent repository, Yucca Mountain, is no longer a viable option and the interim location at the Waste Isolation Power Plant is closed indefinitely for the moment. Those in Loving County who promote waste storage believe that such a venture will improve the infrastructure and life for its residents, and even those who oppose believe that storage in this part of Texas is inevitable. Most recently and despite a radiation leak accident at the Waste Isolation Power Plant resulting in its closure, there is pressure among local residents for it to reopen and a locale in Texas wants a nuclear waste dump placed in its county because these projects produce jobs and bring considerable federal dollars to the towns. For instance, WIPP employs over a thousand jobs and has an annual budget exceeding more than $200 million; since it opened, the federal government has allocated over $6 billion to its operation. Additionally, plenty of radioactive waste must be warehoused, but there are limited facilities to store it and some areas reject receiving it to store altogether. Therefore, more money is available to localities that seek to receive and store it.

Despite some opposition, state lawmakers in Texas approved an amendment that will permit depleted uranium to be stored at a dump in Andrews County, which is west of Dallas. The Texas Commission on Environmental Quality agreed to increase the amount of waste from 2.3 million cubic feet to 9 million and rendered the amendment without receipt of public comment.

Following the recent approval of the NRC final rule for nuclear waste storage, the Tennessee Valley Authority (TVA) seeks to proceed with licensing a new facility that will store nuclear waste onsite from one or more of its reactors and hopes to begin power generation by December 2015. For the past ten years, the TVA stored its waste from nuclear plants in dry casks, but it hails the NRC decision as it makes plans for radioactive waste storage.

Transatomic Power recently received $2 million in funding for technological advances to dispose of nuclear waste. The company proposes a safer form of disposal via a custom made molten salt reactor that can eat waste and is resistant to meltdowns. It is anticipated that commercial production could begin as early as 2020.
UPDATES – WASTE SITES

AIKEN, SOUTH CAROLINA - SAVANNAH RIVER SITE (SRS)

Following a meeting with DOE Secretary Ernest Moniz, South Carolina elected officials from Aiken and other leaders in attendance questioned him about the federal government’s commitment to funding the continued building at the MOX site, whether any updates were available on a permanent disposal site, collaboration on private and public sector missions at Savannah River, and job and educational opportunities for local residents.

WASTE ISOLATION PILOT PLANT (WIPP)

Deemed to be his first trip to WIPP following the accident, DOE Secretary Moniz had a scheduled visit to attend a town hall style meeting to discuss recovery efforts and the likelihood of WIPP reopening. Upon his visit, he vowed that the reopening of WIPP is a major priority for the DOE and has asked Congress for $100 million for cleanup efforts.

US Senators Tom Udall and Martin Heinrich assign blame to the federal Mine Safety and Health Administration (MSHA) for missing required inspections; the Senators initially raised the claim that failed inspections caused workers and the surrounding community to be at risk following the leak and fire that closed WIPP. Allegedly, the MSHA failed to conduct regular inspections because of a lack of clarity of its lawful authority and pending negotiations with DOE.

Independent air samples were required to test the air for radiation releases a week after the accident at WIPP, but they were never conducted because of a staff vacancy at the State Environment Department responsible for the testing. Moreover, the EPA subsequently reviewed records from air sample tests that were conducted in February and March and found inconsistencies in testing procedures, calculation methods, and evidence of contradictory data and missing documents.

Six months following the radiation leak accident at WIPP, investigators are still uncertain as to its cause. Although the WIPP repository did not cause the radiation leak because the explosive drum was packaged at the Los Alamos National Laboratory, ongoing safety concerns remain that another accident at WIPP is looming; these concerns stem from the fact that the same drums remain at the facility and over 30 safety lapses were discovered at the WIPP plant. The facility is expected to remain closed for at least another 18 months, causing extensive shipment delays from nuclear waste sites throughout the country and continued lapses in DOE’s compliance with legal agreements, including with Hanford and the Idaho National Laboratory.

YUCCA MOUNTAIN

Nevada lawmakers of the legislative Interim Finance Committee have set aside $1.4 million dollars preliminarily in advance of anticipated NRC hearings to challenge and/or study safety concerns related to the possibility of burying nuclear waste at Yucca Mountain.
**HANFORD – WASHINGTON**

Tours permitting visitors to learn about the Hanford site, its history and purpose, environmental cleanup efforts, soil contamination, and continued plans to remediate have been popular among the public for educational purposes and for them to obtain information given their concerns about environmental hazards. DOE spends a portion of its budget for this public education and outreach and after advertising in the beginning of the year, the tours were booked quickly.

**Oak Ridge**

The Oak Ridge Site Specific Advisory Board (ORSSAB), a federally appointed citizens’ panel, made specific recommendations to DOE concerning the handling of increased onsite waste disposal at Oak Ridge, where DOE has stated a need for additional capacity as a result of ongoing demolition projects. DOE has responded to the suggested recommendations that ORSSAB has proposed, and the recommendations and response to the proposal can be found here.

**INTERNATIONAL**

Former Prime Minister of Australia, Bob Hawke, supports using aboriginal land to serve as an international nuclear waste repository, claiming that it will eliminate the inequality and poverty gap among indigenous populations. Despite previously passed laws to make way for the nuclear waste site, concerns remain about the safety and health of its citizens but also about whether the geologic structure in these areas of Southern Australia and the Northern Territory can support a repository given its lack of immunity to earthquakes. Further, the article cites the WIPP accident as an oversees example when considering whether to promote an international repository in Australia, after the WIPP facility was originally deemed to be a highly unlikely spot for an accident, but instead, it experienced one within a mere 15 years of opening. DOE originally estimated that an accident would likely occur at WIPP once every 10,000 years or less.

A growing number of lawmakers from various jurisdictions in Michigan, such as the city council in Bad Axe, the Cheboygan County Board of Commissioners and Michigan Senate, Lake County, Alpena County, and Eaton County, are joining the effort to oppose the Ontario Power Generation plan to build a geologic repository near Lake Huron’s shoreline. These lawmakers recently approved a resolution or passed legislation opposing the plan.

The Saugeen Ojibway Nation, an aboriginal group in Canada, has entered the discussion and informed stakeholders that Ontario Power Generation (OPG) may not build a repository on or near their lands without their consent. Although plans to build the geologic repository in Kincardine have existed since 2005, the accident at the WIPP facility has raised heightened concerns and is being cited as an illustration as to why building a new waste repository should be approached with caution, though the OPG claims that the US accident would not occur in Canada because it would be more cautious and responsible with safety issues.