January 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)

The State of New Mexico issued approximately 24 violations against two DOE facilities, Los Alamos National Laboratory (LANL) and the Waste Isolation Pilot Plant (WIPP). The sites were found to have lacked compliance with rules and regulations, including the packaging of plutonium at LANL that resulted in the subsequent fire and closure of WIPP. LANL was fined $36.6 million and New Mexico noted that the two DOE contractors that manage the site could not use federal funds to cover the fines. WIPP was also fined $17.7 million for the radioactive release and the truck fire that occurred in an underground shaft. Organizations that monitor the facilities and DOE activities maintain that the contractors stand to earn approximately $57 million for the prior fiscal year but that they should not benefit financially due to their poor performance at the two sites.

After talking for more than a year, the DOE and Nevada Governor Brian Sandoval have reached an agreement regarding the State receiving and burying (in a national government-secured reservation) at least 403 canisters of highly radioactive waste that include both uranium and its byproduct materials. Oak Ridge National Laboratory has been storing the materials for decades in a very dated warehouse, thus increasing public concerns and causing the State and DOE to take action.

NUCLEAR REGULATORY COMMISSION (NRC)

Stephen Burns has been selected by President Obama to replace Allison Macfarlane as the Chairman of the NRC. He has served as a Commissioner on the Commission for two months but has at least twenty-four years of experience in staff positions with various agencies, including the NRC, working on nuclear issues.
U.S. SENATE

U.S. Senator Lamar Alexander has offered his position on the NRC’s most recent safety evaluation, stating that the report provides further proof that licensing plans should move forward to permanently store nuclear waste at Yucca Mountain.

U.S. HOUSE OF REPRESENTATIVES

The U.S. House of Representatives approved legislation to create an historic park from sites in Tennessee, Washington, and New Mexico, all of which were involved in the development of the atomic bomb during the WW II Manhattan Project.

Tennessee Congressman Chuck Fleischmann will serve as Chairman of the Nuclear Cleanup Caucus. The caucus consists of lawmakers who have federal cleanup facilities in their respective states and are mandated to work towards ensuring success of the nation’s cleanup mission.

Commentary has been offered regarding the fact that the House has not provided any additional funding in its omnibus appropriations bill to the NRC that will permit it to finish its review of the Yucca Mountain license.

STATE

Storage, Recycling, or Disposal of Radioactive & Hazardous Waste

An analysis in the Bulletin of Atomic Scientists recommends exploring shale as an option to store spent nuclear fuel and other radioactive waste, given its properties for permeability and its tendency to grab dissolved waste and because there is such an abundance in the United States. Although concerns exist as to shale’s actual viability, other European countries have studied whether shale formations can serve as a repository. The analysis recommends that the U.S. expand its focus for a repository beyond the tuff found at Yucca Mountain.

Researchers continue their efforts in researching whether crystalline ceramic may be used (as opposed to glass) to assist with storage because it is deemed to be more stable to encase leftover material from spent nuclear fuel produced at power plants.

A blog has included the opinions of various energy experts who have worked on environmental and energy issues, including nuclear waste, to get their insights on what the United States should do about nuclear waste production and storage, U.S. policy, and the reprocessing of spent fuel. The submissions include commentary from Christine Todd Whitman, former governor and EPA administrator; Todd Myers, environmental director at the Washington Policy Center; Iván Martén, senior partner at the Boston Consulting Group; and Ariel Cohen, senior research fellow at the Heritage Foundation.

A company has received much criticism for giving consideration to submitting another licensing application to house even more hazardous waste at an Andrews County, Texas, site. Opponents argue that issuing the license and permitting additional waste is a major environmental hazard because the
repository would be placed only 14 feet above groundwater of the Ogallala Aquifer. This water body sits under eight states and supplies water for agriculture to a large part of Texas and Midwestern states.

**UPDATES – WASTE AND LABORATORY AND POWER PLANT SITES**

**HANFORD**

An editorial from the Seattle Times charges that the DOE has the responsibility of keeping Hanford workers safe and urges it to do so as a gesture to demonstrate that protecting workers is a priority. The Times urges DOE to take action independently before an impending lawsuit forces it to do so. Approximately 300 employees who work at the site were exposed to vapors that have caused a host of medical symptoms, including nosebleeds, headaches, watery eyes, burning skin, increased heart rate, respiratory challenges, coughing, dizziness, and nausea.

The Hanford Richland Operations Office has hired Stacy Charboneau permanently to serve as its manager, replacing Matt McCormick who retired last summer. She had worked at Hanford for 20 years in various positions but, among her many responsibilities as manager, her primary focus will involve removing the Plutonium Finishing plant by 2016. This task is difficult because the plant is the most contaminated and complex facility at Hanford, and concerns remain about sludge reaching the Columbia river.

DOE filed court pleadings, arguing that in order to comply with cleanup deadlines sought by Washington State, an additional $18 billion over the next 14 years would be required. DOE argues that this figure is too costly and should therefore be rejected by the Court and that the additional set of new deadlines is unrealistic to meet. Washington State argues that stricter oversight is necessary in order for DOE to take its responsibilities seriously, including exerting efforts to comply with current deadlines.

According to a U.S. Government Accountability Office report, the leaking tanks at Hanford are deteriorating faster than originally thought. One tank, in particular, is believed to be leaking at a higher rate of at least 640 gallons per year. Environmental groups and elected officials have called for DOE to take more concrete action because they believe that the current plan is insufficient to address the outstanding problems. A copy of the report can be found here.

**YUCCA MOUNTAIN**

Before obtaining any final approval to use the Yucca Mountain as a national repository to store waste, the federal government will first have to secure water and land rights because there are considerable encumbrances on the land.

**WASTE ISOLATION PILOT PLANT (WIPP)**

A WIPP waste handler employee has sued Nuclear Waste Partnership (NWP) for lung injuries he alleges he sustained while underground when a salt-hauling truck caught fire. NWP was ordered to pay attorney’s fees and produce photos, video, and a map of the area where the incident occurred; the negligence case is scheduled for a full trial in August 2016.
Sean Dunagan, the research and development manager at Sandia National Laboratories, will assume a new responsibility handling the recovery efforts at WIPP. He is replacing Tom Teynor, who will return to Hanford.

The Carlsbad Environmental Monitoring and Research Center issued a final report on the events surrounding the WIPP closure that occurred in February 2014, concluding – after data collections – that the measured release was small and localized and that there are no tangible radiation-related health effects to the public or workers. The report can be found here.

Following an air-quality monitor alarm indicating a possible radiation release, employees at WIPP were evacuated. Upon further examination using radiological surveys and air-quality measurements, however, the signaled alarm was determined to be false.

Carlsbad Mayor Dale Janway wrote an editorial regarding his visit to WIPP, highlighting the progress that has been made in terms of taking steps to reopen, the issuance of fines, and other extended efforts.

**LOS ALAMOS NATIONAL LABORATORY (LANL)**

Despite criticism, documented security lapses, failure to meet goals, and poor monitoring at the facility that ultimately resulted in the barrel leak and closure at WIPP, DOE intends to issue a temporary contract to the same contractor, Los Alamos National Security, to handle cleanup efforts during the transition period while responsibilities are transferred to DOE’s Environmental Management.

Funding for LANL in the Congressional omnibus legislation was slated to take a $40 million decrease to cover cleanup activities. Some have contended that LANL is being punished for recent activities associated with its packaging of a drum that ultimately leaked at WIPP because a substantial increase in funding was shifted to WIPP. Additionally, fears about job losses at LANL have prompted companies that receive contracts to voice concerns about the decreased funding and its impact on future contracts being awarded.

Following the National Nuclear Security Administration’s annual evaluation, LANL contractor, Los Alamos National Security LLC, earned a significant fraction less than anticipated due to the WIPP closure incident and poor scores concerning the lab’s operation and infrastructure. Instead of receiving possible earnings of $63.4 million, it instead earned only $6.25 million.

**SAVANNAH RIVER (SRS)**

Permission to complete the cleanup and closure at the H Tank Farm at SRS has been granted by DOE Secretary Ernest Moniz. Tank 16, which is known to have leaked into the environment, is the first slated to close, followed by Tank 12, now that 99 percent of the waste has been removed. Afterwards, 27 additional tanks will be prepared for closure after they are cleaned and public review and state approval have been obtained.
IDAHO NATIONAL LABORATORY

Due to WIPP’s closure, the growing amount of radioactive waste in Idaho poses problems for DOE in meeting its deadlines to remove waste from the State. Much of the waste comes from the closed Rocky Flats Plant in Colorado. Because DOE failed to meet the December, 2014, deadline, the Idaho Department of Environmental Quality has stated that it will fine DOE $3600 per day – retroactive to January 1 – if the waste is not removed from the tanks by July 1 and, after that day, the amount will rise to $6000 per day.

SAN ONOFRE

Residents from Laguna Beach, CA, are requesting that the federal government expedite its efforts and remove spent nuclear fuel rods from the closed San Onofre facility. The facility closed after learning that thousands of pipes carrying radioactive water might be at risk. Southern California Edison owns roughly 80% of the facility and says that it is taking the proper safety precautions required by law but that the final decision of when and where to move the waste is up to the federal government.

CALLAWAY ENERGY CENTER (CEC)

Given CEC’s pending power plant renewal application before the NRC, the Missouri Coalition for the Environment (MCE) filed a petition to intervene in a matter opposing its license renewal. The MCE has threatened to appeal the agency’s decision to the U.S. Court of Appeals – along with MCE’s current challenge of the NRC’s new continued storage of spent nuclear fuel rule – if the NRC does not accept its petition for intervention.

VERMONT YANKEE NUCLEAR PLANT (VERMONT YANKEE)

Due to lack of viable options to remove spent nuclear fuel from power plant sites that have been decommissioned, the author notes that it could literally be at least 40 years or longer before the spent fuel – eventually moved to dry casks – is scheduled for disposal and removal from the Vermont Yankee physical site.

INTERNATIONAL

A decision on whether the Canadian government should approve a construction license for Ontario Power Generation (OPG) to build a repository is expected to be issued in mid-2015. The Director of government relations for OPG noted that the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality determined that the repository would not adversely affect the environment. However, environmental organizations, a former senior research scientist from OPG, and various Michigan State senators have passed resolutions in its Senate opposing the construction for
safety concerns, including its proximity to the Great Lakes, the fear of fault accidents, and other related environmental concerns.

Michael Binder, the head of the Canadian Nuclear Safety Commission, Canada’s nuclear regulatory agency, has stated publicly that the public’s concerns regarding the construction of a nuclear repository near the Great Lakes are unfounded. He noted specifically that the public’s perception is not in accord with the facts regarding the site and instead are driven by myths. Building the repository has raised safety concerns, especially in Michigan, because of its dependence upon the Great Lakes for tourism, fishing, and boating, all of which separately are more than billion dollar industries. Also, approximately 24 million U.S. residents reply upon the Great Lakes for their drinking water.

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