June 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)

DOE has reached a $73.5 million settlement agreement with the State of New Mexico to fund infrastructure projects as a means to settle the $54 million fines imposed against it and in forestalling future fines following the radiation leak at WIPP. Specifically, the agreement terms provide funding for the following projects: $34 million to improve roads and transportation routes near the WIPP site; $12 million to improve transuranic waste transportation routes; $10 million to upgrade critical water infrastructure near Los Alamos; $9.5 million to build engineering structures and increase monitoring efforts at Los Alamos; $5 million to construct emergency operations in Carlsbad; and $2.75 million to fund triennial compliance and operational review. Monies dedicated to cleanup efforts will not be used as payment for the settlement agreement. Instead, the settlement agreement will be partially funded through the unearned salaries of DOE contractors.

The DOE awarded Merrick and Company a contract to design equipment for handling and treating transuranic materials for a sludge treatment facility at the Oak Ridge National Laboratory (ORNL) under a project awarded to a consortium led by CH2M Hill.

UNITED STATES CONGRESS

The House Energy and Commerce Committee held a hearing to discuss various waste management issues regarding the proper storage in a geological repository of nuclear waste from power plants and from nuclear weapons’ production. Dr. Josephine Piccone, director of the Yucca Mountain Directorate at the U.S. Nuclear Regulatory Commission (NRC), testified before the Committee and discussed two requirements that must be satisfied before the NRC can move forward with any hearings concerning licensing Yucca Mountain: the question of federal ownership of land and water rights and completion of the supplemental environmental impact statement on groundwater. The National Resources Defense Counsel’s (NRDC) Geoff Gettus testified before the Committee, noting challenges at Yucca Mountain. A copy of Mr. Gettus’ statement can be found here.
Representatives John Shimkus (R-IL) and James Clyburn (D-SC) spoke to nuclear energy industry leaders at the Nuclear Energy Institute’s (NEI) annual conference. Representative Shimkus stated that bipartisan support exists in Congress to have a federal repository that stores nuclear waste and discussed the key safety evaluation performed on Yucca Mountain. Representative Clyburn noted that, despite critical developments in the energy sector, finding a solution to waste management remains the industry’s largest obstacle. The two presented their remarks soon after the House approved $150 million for the DOE and NRC to proceed with licensing Yucca Mountain.

The Senate Committee on Energy & Natural Resources took testimony at a hearing on legislation calling for creating an inventory of all federal land in one database or federal computer list. The bill, called the Federal Land Asset Inventory Reform (FLAIR) Act was introduced by Committee Chair Lisa Murkowski with hopes that the bill could help agencies determine what environmental clean-ups are needed and perhaps how to use the lands better. A copy of the bill can be found here.

Andy Fitz, Washington State Office of Attorney General senior attorney, testified before the House Energy and Commerce Subcommittee on Environment and the Economy. He noted that the Nuclear Waste Policy Act names Yucca Mountain as the nation’s repository, and although some believe that following the act is unwise, the method for pursuing that disagreement should not be through disregarding it, but rather through changing the law.

**STATE**

**Storage, Recycling, or Disposal of Radioactive & Hazardous Waste**

Following years of setbacks and cost overruns, various administration officials, lawmakers, and inspectors are evaluating whether future plans and operations at the South Carolina Mixed Oxide Fuel Fabrication (MOX) facility, should be terminated. According to a report released last year by DOE’s Inspector General, the MOX facility was originally estimated to cost about $1.6 billion with a completion date in 2007. However, the project’s estimated completion date has now been delayed to at least 2020 because of mismanagement, oversight issues, technical problems, and national security fears regarding access to the plutonium. Although the new estimates have been disputed, some argue that they could climb as high as $114 billion, which is well beyond the government’s projections.

Two recent developments advanced Waste Control Specialists’ (WCS) goal of storing high-level nuclear waste in Andrews County, Texas. The viability of the project depends upon steps at the federal level, but WCS may become a temporary storage facility for high-level nuclear waste if its license is approved. WCS is also moving forward with an application for a license before the NRC to eventually operate an independent spent fuel storage installation. WCS also announced that it entered into an agreement with AVERA Inc., a North Carolina-based contractor with experience in the nuclear industry, to help with the license application as well as operating the storage site, if approved.

The Cibola County Complex held a Mount Taylor Mine public hearing at which over 40 attendees were able to make comments to the New Mexico Mining and Minerals Division (NMMD). Rio Grande Resource, a General Atomics subsidiary, seeks to extend its Standby Status for the uranium mine, and the application includes an Updated Closeout Plan. At the hearing, several area residents spoke against
the renewal application, voicing their concerns about permanent storage of uranium mining wastes and arguing that Mount Taylor is a cultural resource for future generations.

A plan to build a new interim storage site for spent nuclear fuel in the Eddy County, New Mexico, area has been proposed. New Mexico’s two U.S. Senators, Tom Udall and Martin Heinrich, oppose the project, noting that they support the re-opening of WIPP and will not support this proposed plan until a viable option for long-term permanent storage has been prepared. The interim site is estimated to cost approximately $60 million and will take three years to construct.

Commissioner Greg R. White, of the Michigan Public Service Commission, wrote an editorial, giving his opinion on how the federal government should handle spent nuclear fuel. Most of his recommendations mirror what has already been recommended in the Blue Ribbon Commission report.

UPDATES – WASTE AND LABORATORY SITES

HANFORD

The Government Accountability Office (GAO) issued a new report that examines the DOE’s progress to treat 56 million gallons of underground radioactive waste in a project that has cost taxpayers about $19 million to date. The work originally was scheduled to be completed by 2011, but it is now anticipated that it will not be finished until at least 2019. According to the GAO, the delay has been due to poor planning, mismanagement issues, cost overruns, schedule delays, and safety concerns. However, the DOE still has not agreed to any new deadlines.

A 2012 DOE Office of Planning and Budget finding states that the budget is the largest obstacle impacting environmental cleanup at Hanford. DOE developed a schedule for defense cleanup sites to ship their transuranic waste to WIPP for disposal, and Hanford’s transuranic waste (which is typically debris contaminated with plutonium) is scheduled to be shipped there. Hanford has to dispose of 20,000 containers of waste. Regardless of the final shipping site, issues persist that include potential contamination, costs of maintaining the infrastructure, the need to keep precipitation from infiltrating highly contaminated facilities, increased costs due to delayed cleanup, and the challenges associated with worker safety.

YUCCA MOUNTAIN

A 2016 spending bill for the DOE was released, containing $70 million for various nuclear waste programs. However, funding for Yucca Mountain was not included. In fact, Sen. Lamar Alexander (R-TN), Chairman of the Energy and Water Committee, supports the Yucca Mountain project as a permanent storage site, but he does not intend to take any additional action on this front until an energy and water appropriations bill is first introduced. House lawmakers have included $50 million for the NRC’s review of Yucca in their version of the 2016 energy and water funding bill.

Guest columnist Harish Sharma wrote an article that provides a brief historical account concerning the history and development surrounding Yucca Mountain serving as the nation’s national repository, including its designation as one and Senate Minority Leader Harry Reid’s efforts to prevent such action,
the recent incident at WIPP, DOE’s funding issues, and the NRC’s involvement in activity at Yucca Mountain.

**WASTE ISOLATION PILOT PLANT (WIPP)**

As a result of the *radiation leak* and closure of the plant for over a year, workers at the federal government’s nuclear waste repository in southern New Mexico are installing a temporary ventilation system that will increase airflow in the WIPP facility. Officials claim that more airflow will allow additional workers to be in the underground facility at any given time.

Workers have sealed off the first of *two storage bunkers* affected by the radiation leak at WIPP. The DOE reported that about 85% of the containers packed with waste similar to the one causing the leak have been isolated with the closure of the area known as Panel 6.

As the DOE challenges the fines New Mexico regulators imposed, new information has been revealed concerning safety lapses and the delay in WIPP’s reopening. Originally, WIPP was scheduled to reopen in 2016, but, according to the DOE and Nuclear Waste Partnership, the site is now expected to be closed for waste shipments until at least 2018.

**IDAHO NATIONAL LABORATORY (INL)**

In 2008, it was announced that the Integrated Waste Treatment Unit was expected to serve as the cornerstone for cleanup projects. The facility’s construction costs have run about $571 million, but the unit continues to remain in the testing phase. DOE and Idaho’s Department of Environmental Quality agreed to a revised timeline that it could take more than a year before waste treatment may begin. Documents demonstrate that millions of dollars each month are spent on the project, resulting in it exceeding the original estimates of $461 million. Following a series of malfunctions and other testing problems, some have paused to consider whether the facility will ever be able to safely treat waste.

Officials have noted that an Idaho nuclear facility can safely handle two shipments of spent fuel rods for research. Two former governors have noted their opposition to the State of Idaho receiving the shipment. However, Idaho stands to lose millions of dollars and potential jobs if the plan does not proceed.

**SAVANNAH RIVER SITE (SRS)**

Steel material from a dismantled radioactive waste storage building at SRS has been stored in a salvaged railroad boxcar that will be buried underground. Utilization of the boxcar method saved DOE nearly $32,000. Had DOE been unable to save this money, it would have been used to purchase eight storage containers. These containers would have functioned in the same manner as the boxcar. Savannah River Nuclear Solutions expects to finish the project by July of this year.

**SAN ONOFRE**

Members of the public, including consumers and advocates in San Diego, voiced concerns about their skyrocketing energy bills. They recently learned, through an investigation, that a private deal was
reached between Southern California Edison and some members of the California Public Utilities Commission, resulting in the public paying for most of a $4.7 billion settlement. The parties’ agreement included terms that inquiries into the failure of steam generators at the San Onofre nuclear power plant would not be investigated, and instead, that ratepayers would pay the bulk of the settlement. The public is now demanding answers as to how this agreement was reached without public input.

**INTERNATIONAL**

Canada’s federal Joint Review Panel Report (JRPR) concluded that the Ontario Power Generation’s (OPG) project to create a deep geological repository is not likely to cause significant adverse environmental effects given the measures contemplated to curb them. OPG seeks to build a repository to store Ontario’s low and intermediate level waste by burying up to 200,000 cubic meters of waste from its nuclear power plants. Despite JRPR’s favorable report and conclusions, hundreds of Canadian and U.S. environmentalists and communities have vigorously voiced disagreement. The environment minister and the federal cabinet have approximately 120 days to decide whether to approve the project.

Buffalo-area environmental organizations also argue that Canada’s plan to bury nuclear waste along Lake Huron’s shores is a threat not only to Canadians but to 40 million Great Lakes-area residents on both sides of the border. For this reason, Buffalo Niagara Riverkeeper joined in sending pleas to Secretary of State John Kerry and Canadian federal officials in opposition to OPG’s proposal.

After the JRPR recommended that the Canadian government approve OPG’s proposed plan to build a repository near Lake Huron, Michigan, Rep.Candice Miller (R-MI) disapproved of the proposal, citing the need to protect and preserve the social and economic well-being of millions of citizens.

Sen. Mark Kirk (R. IL), co-chair of the Senate Great Lakes Task Force, recently sent a letter to President Obama expressing concern over OPG’s proposal. Sen. Kirk urged the President to work with the Canadian government to delay final approval of the project, while he simultaneously called for an environmental review by the International Joint Commission.