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 issued seven basic ordering agreements to address remediation and cleanup activities, including but not limited to, treating low-level and mixed low-level waste in addition to treating liquid and solid substances and waste regulated under the Toxic Substances Control Act. Seven separate contractors were selected following a solicitation that was issued in March 2015, and each agreement will last for five years.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Following the DOE’s application for re-certification very soon after the radiological release at the Waste Isolation Pilot Plant, EPA has arranged for a public comment period in determining whether to re-certify DOE’s application for the Waste Isolation Pilot Plant. DOE reportedly did not discuss the radiation leak in its re-certification application, but EPA wants to offer the public the opportunity to comment on this issue as well. Information pertaining to the EPA comment period can be found here. Thus far, EPA has not set a deadline for the comment period.

GOVERNMENT ACCOUNTABILITY OFFICE (GAO)

The GAO released a highly critical report on the National Nuclear Security Administration (NNSA), an agency within the DOE, concerning ongoing failures and its lack of oversight and qualified staff to better monitor private contractors it hires at eight nuclear facilities. Billions of taxpayer dollars are spent to manage the nuclear weapons facilities. The report noted that one of the principal problems facing NNSA is the authority given to contractors to self-report any problems. According to the GAO report, NNSA staff noted that the contractors are unwilling to be sufficiently self-critical when assessing their performance, which results in poor management at the sites. The full report may be found here.
A panel of federal officials, including DOE Environmental Management Acting Assistant Secretary Mark Whitney and NNSA Principal Deputy Administrator Madelyn R. Creedon, appeared before the U.S. House Subcommittee on Oversight and Investigations in a hearing entitled, “Oversight Failures Behind the Radiological Incident at DOE’s Waste Isolation Pilot Plant.” The full transcript, advanced witness testimony, and a video of the hearing may be found here. The House panel was very critical of DOE and, particularly of NNSA for their continued security and safety lapses and their failure to appropriately oversee the nuclear federal facilities. In particular, the lawmakers commented on various security breaches, including the disappearance of classified computer disks at Los Alamos in 2004 and the 2012 incident involving an 82 year-old nun at one of the nation’s most secure facilities. The Committee on Energy and Commerce Democratic Staff also prepared a memo for the subcommittee in advance of the hearing that summarizes the history behind the request for a report and notes oversight failures. A copy of the memo can be found here.

Sen. Ron Wyden, D-Ore, announced during a hearing before the Senate Energy and Natural Resources Committee that he will delay the nomination on Monica C. Regalbuto to serve as Assistant Secretary of Energy for Environmental Management indefinitely until he believes that DOE has taken appropriate action to address the hostile culture against those wishing to serve as whistleblowers and its alleged failings to clean up “even one gallon of high-level radioactive nuclear waste after 25 years.” The Senator noted that Ms. Regalbuto is certainly qualified to perform the job, but he has taken such a position because addressing challenges at Hanford can no longer be ignored or postponed.

Rep. Michael Conaway (R-Tx) (who also serves as chairman of the House Agriculture Committee) is working on a draft bill with Waste Control Specialist (WCS). The Interim Consolidated Storage Act of 2015 is a draft bill that will amend the Nuclear Waste Policy Act of 1982 and permit the DOE Secretary to enter into contracts for temporary storage sites to hold certain types of high-level waste and spent nuclear fuel. The private entities would also be responsible for the monitoring of the facilities. Some have questioned how this new legislation will impact efforts to revive talks and encourage movement on opening Yucca Mountain as the permanent storage site for these wastes. Proponents argue that this legislation will help minimize lawsuits filed against the federal government for failing to abide by compliance agreements to remove and store waste in a timely manner. A copy of the proposed legislation can be found here.

STATE

Storage, Recycling, or Disposal of Radioactive & Hazardous Waste

As an alternative to the lack of movement on Yucca Mountain serving as a repository, the author of this article, a senior vice president of a company engaged in nuclear energy work, proposes other viable options that could be available in the private industry. First, he supports the solution proposed by WCS to build and operate a consolidated interim storage facility as proposed on pending congressional legislation. The author further notes that allowing WCS to operate in such a capacity is a cost-effective and supportive solution, particularly given that WCS has announced its intentions to file a license application to build and operate a consolidated interim storage facility. Second, he highlights that, given
WCS’s posture of readiness to ease the problem, Congress must provide clarity on how to move forward concerning storing used nuclear fuel and high-level waste and use of the Nuclear Waste Fund for such purposes. Currently, the Nuclear Waste Fund does not permit storage at temporary locations that the author supports.

**Attorney General Maura Healey** from Massachusetts prepared a letter to U.S. Senators James M. Inhofe, Barbara Boxer, Shelley Moore Capito, and Thomas R. Carper concerning support for reintroduction of three separate pieces of legislation. General Healey’s letter notes the importance of ensuring the security and safety of spent nuclear fuel storage that is currently being stored within states at either decommissioned or currently operating sites. She specifically asked for reintroduction of the following three pieces of legislation: the Safe and Secure Decommissioning Act of 2015 (S. 944), the Nuclear Plant Decommissioning Act (S. 964), and the Dry Cask Storage Act of 2015 (S. 945).

The editor of Nuclear Power International, a medium that provides for the obtaining and sharing of relevant information in the nuclear power industry, wrote an opinion piece concerning potentially viable options for nuclear waste storage until a permanent storage site is available. The latest developments to temporarily store various types of waste, including spent nuclear fuel, involve building a facility in Andrews, Texas, that could be licensed in as early as three years and begin accepting waste by 2020. There is also an alternative available to store interim used fuel and high-level radioactive waste in underground canisters in New Mexico. She also briefly summarizes the history concerning nuclear plant operators charging customers since the 1970s for eventual storage of the produced waste and the subsequent elimination of this charge following a decision by the D.C. Circuit in *In Re Aiken*.

**Nuclear Energy and Radioactivity Updates**

Researchers from Rutgers University participated in an experiment where they successfully isolated bacteria that may be pivotal in purifying contaminated groundwater from nuclear weapons. The research took place at DOE’s Integrated Field-Scale Subsurface Research Challenge Site in Rifle, Colorado. The objective was to study whether microorganisms can lock uranium that results in cleaning up nuclear waste. In particular, the research showed that, when the newly discovered bacteria interacted with uranium compounds in water, the uranium became immobile. Instead of breathing oxygen, the bacteria breathed uranium, which led to the uranium being dissolved in the groundwater and likely will result in uncontaminated surface water. The full research findings and article may be found [here](#).

**UPDATES – WASTE AND LABORATORY SITES**

**HANFORD**

**Areva, Inc. and Kurion**, two companies specializing in nuclear energy solutions and cleanup, respectively, have partnered to work on a cleanup project for Hanford. Together, the two are expected to offer new technologies available to assist with decommissioning efforts related to waste processing, stabilization, and separation.

The Editorial Board with the Union-Bulletin wrote a piece fully supporting Washington Attorney General **Bob Ferguson** in his efforts to make DOE comply with deadlines imposed in the parties’ court-enforced
consent decree. The Board noted that the DOE has continued to ask for extensions and now asks for another until the Fall of 2023. The Attorney General wants DOE to take sufficient steps to protect workers; this issue has become a point of contention for the parties. DOE maintains, for instance, that a requirement for most workers to use air respirators will reduce efficiency anywhere from 30-70 percent, thereby justifying the increased deadline.

**Washington Closure Hanford**, the contractor handling the River Corridor Closure, has been granted an extension of a year on its contract to September 30, 2016, enabling it to continue focusing on finishing trench work at the 618-10 Burial Ground and placing Building 324 in a maintenance mode until future demolition can begin. It is anticipated that work at the Hanford onsite landfill will also continue as planned.

**PADUCAH GASEOUS DIFFUSION PLANT (PADUCAH)**

The DOE reported that efforts are being made to remediate trichloroethane groundwater contamination at Paducah. To date, more than 260 borings have been made to about 60 feet in depth as part of the effort to decontaminate the water.

DOE Environmental Management announced that it has completed demolition of the last thirty-two inactive facilities that were slated to be removed as part of the scope of work before commercial uranium enrichment operations were completed at Paducah. This now demolished area originally was constructed in 1956 and produced a particular type of uranium for enrichment during the Cold War until it stopped operating in 1977. In total, enough waste was generated from the decontamination and demolition to cover one 15-foot deep football field.

**LAWRENCE BERKELEY NATIONAL LABORATORY (LAWRENCE)**

A joint venture is set to begin at Lawrence to demolish 3 buildings and floor slabs, including a chemistry building that was constructed in the 1940s, an industrial and scientific research facility, and an accompanying storage facility. The Bevatron, which was previously considered to be one of the world’s leading particle accelerators that operated until 1993, is currently housed in one of the buildings scheduled to be demolished. Upon completion of the deactivation and demolition activities, cleanup will begin to decontaminate the soil for restoration in accordance with the DOE’s mission.

**OAK RIDGE TRANSURANIC WASTE PROCESSING CENTER (OAK RIDGE)**

DOE awarded a new contract to North Wind Solutions, LLC to handle waste processing services at Oak Ridge. Specifically, the contractor will manage and operate the nuclear facility, including handling the treatment and disposal of legacy waste. Including all available options (contracts involving a firm-fixed price, cost-plus-award-fee, indefinite delivery/indefinite quantity, and contract line items), the total term for the contracts and value are 5 years and $123.9 million.

**YUCCA MOUNTAIN**

Representative Darrell Issa (R-CA wrote an opinion piece that discusses the importance of funding Yucca Mountain and also criticizes Senate Minority Leader Harry Reid, President Obama, and his
administration. Rep. Issa alleges that the recent delay and deadlock have prevented efforts from continuing to move forward with the federally designated site that is expected to serve as the nation’s permanent repository.

Although no member within Congress has come forward taking ownership of a proposal to revive discussions on Yucca Mountain serving as a national repository, apparently a new one-page summary attempting to accomplish this goal has been issued. The summary reportedly highlights key provisions and permits the necessary land and water rights to resume movement. Limited copies of the proposed legislation were circulated on Capitol Hill and at DOE. As of now, House hearings on this proposal were originally planned to go forward in June but have since been postponed until later in the summer.

Inconsistent spending bills in the House and Senate may hinder any congressional efforts to revive recent discussions and movement on Yucca Mountain. For fiscal year 2016, the House passed a spending bill that included $150 million in funding to continue exploration efforts, but the Senate’s version included absolutely no funding. There are discussions about the possibility of separately funding interim storage sites, but ranking senators from the Energy and Water Appropriations Subcommittee have not committed entirely to the notion that it is best to fund alternative, interim storage options without first addressing Yucca.

WASTE ISOLATION PILOT PLANT (WIPP)

The New Mexico Department of Environment Secretary provided an update on the status of WIPP and noted that the waste area that was affected during the radiation release has since been entombed. The workers have closed off two particular areas referred to as Panel 6 and 7, where there were at least 422 containers filled with radioactive waste. Although the containers do not appear to have been compromised, efforts were taken to seal off the areas to hopefully prevent another release since the containers are filled with the same incompatible materials that caused the initial drum to rupture, resulting in a release and WIPP’s subsequent closure. It is anticipated that it will take years before WIPP is fully operational again, and it will cost more than a half-billion dollars to re-open the facility.

Before restricted operations recommence at WIPP, workers will practice with non-radioactive drums, and upon having confidence that work can be performed safely, they will switch to moving the actual waste. DOE anticipates that the real drums will be moved the following spring and that operations will resume once a permanent ventilation system is installed at the facility.

A new acting director has been hired to manage the field office at WIPP. Dana Bryson was a long-serving DOE employee, and he has replaced Joe Franco, who now works at Hanford. Bryson previously worked for the DOE Richland Operations Office, where he supervised cleanup and restoration efforts along the Columbia River corridor.

SAVANNAH RIVER SITE (SRS)

Grouting activities began at SRS on Tank 16 in an effort to close another tank that was previously filled with radioactive liquid waste. The storage tank is underground and is the first of the Type II tanks set to be closed. These tanks, the oldest ones at the site, were constructed between 1955 and 1956 and were required to be closed operationally, according to the federal facility agreement, by October 27, 2015.
INTERNATIONAL

Michigan lawmakers continue to voice their opposition to the building of an underground repository slated to store low- to medium-level waste involving 20 reactors operating within the province of Ontario. They have called for Secretary of State John Kerry to intervene and apply pressure on the Canadian government to oppose the site for fear that it will threaten the security of the nation’s largest freshwater system in the world (that also provides drinking water to at least 30 million people). They also argue that the planned project violates the Binational Great Lakes Water Quality Agreement. Canadian environmental groups have also opposed the deal, arguing that Ontario Power Generation (OPG) has tried to keep the project private and will eventually attempt to store more serious and higher level waste at the proposed site. OPG is the publicly owned utility that has been trying to build the repository for at least 15 years and has been critical of the United States legislators and states that have opposed its plan following the closure at WIPP. The Canadian Minister of Environment preliminarily and conditionally approved the project in May, which will be the first ever repository from limestone rock formations. The final decision was supposed to be issued in September, but instead, the government extended the time to permit a 90-day public comment period. The final determination will be delayed until December following Canada’s fall election. In response a Canadian citizen’s group has initiated a lawsuit in federal court, alleging that the review panel’s decision to approve the site is illegal and unreasonable.