

February 1987

NUCLEAR WASTE

Quarterly Report on DOE's Nuclear Waste Program as of December 31, 1986





United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-202377

February 19, 1987

The Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate

The Honorable James A. McClure
Ranking Minority Member
Committee on Energy and Natural Resources
United States Senate

On March 26, 1984, you requested that we provide quarterly status reports on the Department of Energy's (DOE) implementation of its nuclear waste program. (See section 4 for a list of previous quarterly reports.) The Nuclear Waste Policy Act of 1982 (Public Law 97-425) established a comprehensive national program to construct geologic repositories for the permanent disposal of high-level radioactive nuclear waste. The act also established within DOE the Office of Civilian Radioactive Waste Management (OCRWM) to carry out the act's provisions and established the Nuclear Waste Fund to finance the program.

This fact sheet provides the status of DOE's nuclear waste program activities for the quarter ending December 31, 1986. Activities during the quarter include the following:

- OCRWM placed primary emphasis on preparing site characterization plans, which must be completed to show detailed testing plans for each potential repository site before the exploratory shafts are constructed. Site characterization of three sites approved by the President on May 28, 1986, will provide the basis for deciding on the preferred site for the nation's first nuclear waste repository.
- In November 1986 DOE established a Repository Technology and Transportation Division that consists of two branches to manage responsibilities related to development of repository technology and transportation of high-level waste. As part of this division, a repository technology program branch was established to develop a technology base for the second

repository and to provide support in resolving generic technical issues regarding repository development. DOE established this branch as a result of the Secretary of Energy's May 1986 decision to postpone site-specific work on a second repository.

--On November 25, 1986, the U.S. Court of Appeals for the Sixth Circuit issued a decision on the monitored retrievable storage (MRS) litigation. The court ruled that the Nuclear Waste Policy Act does not require DOE to consult with any state before it submits the MRS proposal to the Congress. This ruling overturned a February 1986 U.S. District Court decision that DOE did not properly consult with Tennessee on developing the MRS proposal. However, Tennessee has requested and received on January 7, 1987, a 30-day stay prohibiting DOE from submitting the MRS proposal. During this 30-day period Tennessee plans to ask to have the suit heard before the Supreme Court.

--The Nuclear Waste Fund collected over \$175.2 million in fees and investment income and obligated about \$171 million for program activities. The fund balance as of December 31, 1986, was about \$1.5 billion.

In addition, on January 28, 1987, DOE released for public comment a draft amendment to its Mission Plan--the nuclear waste program's principal planning document. In the amendment, DOE extended for 5 years its target date for beginning repository operations from 1998 to 2003 and announced other related program changes.

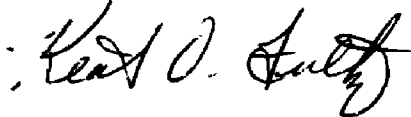
To determine the status of the activities discussed in this fact sheet, we interviewed those DOE officials responsible for planning and managing the waste program, responding to litigation, and managing its financial activities. We obtained DOE program documents, publications, correspondence and studies, related legal documents, and financial data. We did not verify DOE's financial system data because this verification could not be accomplished within the time frame of this review.

We discussed the facts presented with cognizant DOE officials and incorporated their views where appropriate. These officials told us that the fact sheet accurately reflects the program's status for the quarter ending December 31, 1986. As a result, we did not ask DOE officials to review and comment officially on a draft of this fact sheet. We are sending copies to the Chairman of the Senate Committee on Governmental Affairs, the House Committee on Government Operations, and the

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House Committee on Energy and Commerce; the Secretary of Energy; the Nuclear Regulatory Commission; and other interested parties. If you have further questions, please contact me at (202) 275-1441.

Major contributors are listed in appendix I.

A handwritten signature in cursive script that reads "Keith O. Fultz". The signature is written in dark ink and is positioned above the typed name.

Keith O. Fultz
Associate Director

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ABBREVIATIONS

CRO	Crystalline Repository Project Office
DOE	Department of Energy
EPA	Environmental Protection Agency
GAO	General Accounting Office
MRS	monitored retrievable storage
NAS	National Academy of Sciences
NRC	Nuclear Regulatory Commission
NWPA	Nuclear Waste Policy Act
OCRWM	Office of Civilian Radioactive Waste Management
RTP	Repository Technology Program

SECTION 1

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT ACTIVITIES DIRECTED TOWARD LEGISLATED REQUIREMENTS DURING OCTOBER-DECEMBER 1986 QUARTER

Background

The Nuclear Waste Policy Act of 1982 (NWPA) established a comprehensive national program for the safe management, storage, and permanent disposal of highly radioactive nuclear waste in deep underground facilities (repositories). The estimated cost of the program is between \$24 billion and \$32 billion.

NWPA required the Secretary of Energy to recommend to the President by January 1, 1985, three sites as candidates for the nation's first permanent repository for high-level nuclear waste. DOE nominated five sites in May 1986, accompanied by the final environmental assessments as required by NWPA, and recommended three of the sites to the President for further geologic testing, called site characterization studies. On May 28, 1986, the President approved the three sites--Yucca Mountain in Nevada, Deaf Smith County in Texas, and Hanford in Washington.

NWPA also required the Secretary of Energy to recommend to the President, by July 1, 1989, at least three potential sites for a second repository. The President is required to recommend to the Congress a final site for the second repository by March 31, 1990. No construction may be done on the second repository without congressional authorization. DOE began a site-screening process for the second repository in 1983 and had proposed, in a draft Area Recommendation Report issued in January 1986, 12 areas in 7 states as potentially acceptable sites. However, on May 28, 1986, DOE indefinitely postponed plans for any site-specific work on a second repository because of progress made in siting the first repository, a decline in the estimated quantities of spent fuel to be generated by nuclear power plants, and uncertainty as to when a second repository might be needed. The 12 areas identified for the second repository are no longer under active consideration.

DOE has concluded that a monitored retrievable storage (MRS) facility would significantly improve the performance of the nuclear waste management system. Its primary purpose would be to receive, temporarily store, and prepare spent nuclear fuel from commercial reactors for disposal in a geologic repository. In April 1985 DOE identified three sites in Tennessee as potential locations for the MRS facility. However, because of litigation concerning the state's participation in the MRS siting process, DOE has not submitted a proposal for construction of an MRS to the Congress.

SITE CHARACTERIZATION PLANS
FOR THE THREE SELECTED SITES

According to DOE, the site characterization phase of the waste program began immediately following the President's approval of the three candidate repository sites. The objectives of site characterization are to (1) determine the geologic, hydrologic, and geochemical conditions at each recommended site; (2) provide information needed to design a package for the disposal of spent fuel and high-level radioactive waste that will meet the licensing requirements of the Nuclear Regulatory Commission (NRC); (3) provide information for the design of the repository facility; and (4) evaluate whether the site can meet the requirements of NRC and the Environmental Protection Agency (EPA). According to past DOE estimates, the site characterization phase is expected to last about 5 years and cost from \$780 million to \$980 million for each site (in 1985 dollars).

During site characterization, field work consists of surface-based investigations (such as geologic mapping and geophysical surveys), as well as underground investigations conducted by means of deep and shallow boreholes that will be used for groundwater monitoring, laboratory testing, and other scientific studies. DOE also plans to conduct investigations at repository depth (1,000-4,000 feet) by constructing and using exploratory shafts and underground test facilities. DOE is planning to sink two exploratory shafts at each candidate site--the first shaft primarily for conducting tests, the second shaft primarily for the safety of operating personnel. Studies of the host rock and other surrounding rock will assess the effect of the environment on the packages containing nuclear waste.

Some research and development activities that can generally be described as site characterization have been done at two of the three sites, Yucca Mountain and Hanford, both located on federally owned land. However, site characterization activities associated with the exploratory shafts have not begun and are contingent upon DOE's completion of a site characterization plan for each of the three sites. NWPA requires the preparation of such plans prior to the initiation of exploratory shaft construction. Prior to shaft construction at each site, the Secretary of Energy will submit the plan to NRC, the governor and legislature of the state in which the candidate site is located, the governing body of affected Indian tribes, and the public. DOE expected to begin sinking shafts at the Yucca Mountain and Hanford sites in fiscal year 1987. However, funds were not provided for drilling exploratory shafts in fiscal year 1987.

The site characterization plans are also required by NRC licensing procedures for the disposal of high-level waste as contained in 10 CFR Part 60. The plans are intended to be umbrella documents that will (1) provide mechanisms for

identifying the specific issues at a proposed repository site and (2) identify specific research needed to obtain data for resolving those issues at an early time in order to avoid delays in the licensing process. The plans will become the focus for discussions with NRC on site-specific issues and test programs during the site characterization phase.

NRC and DOE met in May 1986 in an attempt to facilitate the development of the site characterization plans in a timely and reasonable manner. As an outcome of this meeting, it was anticipated that (1) the length of the plans would be limited to less than 3,000 pages, plus attachments; (2) each plan would present the complete rationale for the site characterization program, but discussion of the test program would be limited to a description of broadbased investigations; and (3) detailed test descriptions and procedures would be provided in study plans at least 6 months before they would be conducted.

During the quarter, preparation of site characterization plans for the Yucca Mountain and Hanford sites was the primary activity of the project offices. Each project office has developed a management plan to coordinate the writing and assembly of the plans. Project office officials told us in November and December 1986 that they expect to complete the Yucca Mountain plan in April 1987, the Hanford plan in July 1987, and the Deaf Smith site plan in spring 1988. DOE officials told us that the Deaf Smith site plan will require more time to prepare because the project office responsible for its preparation was busy completing environmental assessments that accompanied DOE's site recommendations. They also stated that the Hanford and Yucca Mountain sites had the advantage of being federally owned sites where some characterization work has been done.

REPOSITORY TECHNOLOGY AND TRANSPORTATION DIVISION ESTABLISHED

In November 1986 DOE established in its Chicago Operations Office a Repository Technology and Transportation Division to manage responsibilities related to development of repository technology and transportation of high-level waste. DOE believes the new division strengthens waste management capabilities by integrating these two programs under a single division director while promoting cross utilization of information and personnel.

The Repository Technology Program (RTP) branch was established to develop an integrated technology base for the second repository and to provide support in the resolution of generic technical issues regarding geologic repository development. DOE established the RTP branch as a result of the Secretary's May 28, 1986, decision to postpone indefinitely site-specific second repository activities formerly under the direction of the Crystalline Repository Project Office.

The RTP branch will focus its efforts on the identification and resolution of technical issues that are not site-specific while evaluating the feasibility of various geologic media, including, but not limited to, crystalline rock. The proposed technology development program will identify, develop, and evaluate methods, techniques, procedures, and materials related to waste isolation concepts and develop various assessment techniques for characterizing a site and predicting performance. This would include siting strategies, evaluation of alternative rock media for repositories, and performance assessments of repository systems. Each technical area would be studied on a non-site-specific basis.

THE MRS PROPOSAL

On November 25, 1986, a three-judge panel from the U.S. Court of Appeals for the Sixth Circuit ruled that under NWPA the Federal Courts of Appeals have original jurisdiction over actions involving consultation and cooperation requirements applicable to MRS. The panel further held that NWPA does not require the Secretary of Energy to consult with any state before he sends the Congress his proposal for the location and construction of one or more MRS facilities. This decision overturned a February 1986 U.S. District Court ruling that DOE violated NWPA by failing to consult and cooperate with Tennessee in the MRS siting process and an injunction that prohibited DOE from submitting the MRS proposal to the Congress.

As a result of the appeals courts' decision, Tennessee filed a petition for stay or extraordinary writ of injunction on November 25, 1986. Two days later DOE responded with a motion in opposition to a stay or injunction and with a counter-motion for immediate issuance of mandate or dissolution of injunction. On December 1, 1986, Tennessee filed a motion in opposition to DOE's counter-motion.

On December 4, 1986, Tennessee filed a petition for rehearing with a suggestion that the case be reheard by the appeals courts' full 12-judge panel. The court denied this motion on December 31, 1986, and on January 5, 1987, Tennessee requested a further injunction to allow time for an appeal to the U.S. Supreme Court. The court granted a further stay on January 7 for 30 days and, if an appeal is filed, a further stay until a Supreme Court decision is reached.

OTHER ACTIVITIES

--On October 10, 1986, DOE's Inspector General's Office issued a report on the accuracy of fees paid by the civilian power industry to the Nuclear Waste Fund. The report concluded that adequate controls exist to determine and collect ongoing fees. However, the report

also indicated there was a problem concerning one-time fees. Specifically, 14 utilities opted to defer payment of the one-time fee until January 1998, as permitted by their contract with DOE. Of these only three placed restrictions on the funds now being collected from their ratepayers to cover the required payments. Several utilities were using the funds collected for their one-time fee payment to finance other activities such as construction and operating expenses. In the absence of restrictions to protect funds collected to finance the one-time fees, the Inspector General concluded it is possible that one or more utilities may be unable at some future time to meet their contractual obligation. The report recommended that DOE encourage public utility commissions to pay amounts for the one-time fee immediately or require that the money collected be placed in restrictive-use accounts.

- On November 7, 1986, DOE published for public comment a Notice of Proposed Rulemaking in the Federal Register that would amend the standard disposal contract between DOE and utilities in order to conform to a December 6, 1985, decision of the U.S. Court of Appeals for the District of Columbia. In this decision, the Court ruled that the 1-mill-per-kilowatt-hour fee contained in the standard disposal contract should be based on net generation of electricity rather than on gross generation of electricity as stated in the final rule.
- On November 19-21, 1986, the Office of Civilian Radioactive Waste Management met in New Orleans, Louisiana, with states and Indian tribes affected by the first repository siting decisions to discuss informally the definition of consultation and cooperation as it will be defined in a planned supplement to the Mission Plan--the nuclear waste management program's principal planning document.
- On November 20, 1986, DOE sent formal requests to begin the one-on-one consultation and cooperation negotiations to each of the three states selected for site characterization and the affected Indian tribes.
- On December 2, 1986, DOE published a Notice of Inquiry in the Federal Register. This Notice invited public comment for 60 days on the preferred method for calculating total disposal fees for high-level nuclear waste from atomic energy defense activities to be paid to the Nuclear Waste Fund.
- In December 1986, OCRWM issued a final safety plan to set forth management policies and general requirements for the safety of the public and personnel associated with the Civilian Radioactive Waste Management Program.

--On December 16-18, 1986, in Washington, D.C., the National Academy of Sciences (NAS) held a meeting with DOE officials and states and tribes affected by the first repository siting decisions. This meeting gave NAS an opportunity to meet the technical representatives of the affected first repository states and tribes. It also gave the states and tribes an opportunity to express their technical concerns on the site characterization phase.

SECTION 2

STATUS OF THE NUCLEAR WASTE FUND,
DECEMBER 31, 1986

NWPA established the Nuclear Waste Fund, a separate fund maintained by the Department of the Treasury, to finance the nuclear waste program. It receives fees paid by the owners and generators of high-level radioactive waste and disburses funds to finance OCRWM activities. (Previous quarterly reports listed in section 4 explain how the fund receives fees and makes disbursements.) As of December 31, 1986, the fund had a balance of about \$1.5 billion. (See table 2.1.)

Table 2.1: The Nuclear Waste Fund, December 31, 1986^a

Beginning fund balance (October 1, 1986)	\$1,423,332,058
Fees from waste owners (Oct.-Dec. 1986)	113,824,112
Investment income collected (Oct.-Dec. 1986)	61,368,079
 Total funds available	 <u>1,598,524,249</u>
Disbursements	(103,125,763) ^b
Change in cost of and face value of long-term investments	 <u>(40,394,752)^c</u>
 Fund balance, December 31, 1986	 <u><u>\$1,455,007,734</u></u>
Cash balance, December 31, 1986	\$ 2,627,734
Funds invested, December 31, 1986	\$1,452,380,000
Unpaid obligations, December 31, 1986	\$ 314,162,879 ^d

^aAll fiscal year 1987 dollar figures for section 2 are based on preliminary figures from DOE's financial information system. Final figures were not available until after this report's due date.

^bThese figures include amounts disbursed in October-December that were obligated in current and prior years.

^cActions such as early redemptions of Treasury Notes cause the face value to be reduced at that point in time. It does not, however, denote a loss to the fund.

^dThis figure includes amounts of undisbursed obligations remaining from current and prior years.

NUCLEAR WASTE FUND
RECEIPTS AND COSTS

DOE has contracted with 65 owners and generators of spent fuel for a 1-mill-per-kilowatt-hour fee to be paid quarterly into the fund to finance the waste program. No new contracts were signed this quarter. The fund began receiving quarterly fees late in fiscal year 1983 and as of December 31, 1986, had collected a total of about \$1.2 billion, of which about \$113.8 million was collected this quarter.

Owners of spent fuel generated before April 7, 1983, must pay a one-time fee into the Nuclear Waste Fund for the disposal of their spent fuel. This fee must be paid before delivery of spent fuel to the federal government. About \$1.5 million was collected during this quarter.

NWPA provides that when the amount of the Nuclear Waste Fund is in excess of current needs, DOE may request the Secretary of the Treasury to invest these excess funds in Treasury financial instruments in amounts as the Secretary of Energy determines appropriate. In the quarter ending December 31, 1986, DOE collected daily overnight investments interest of about \$486,000 and long-term investments (90 days or more) of about \$60.8 million.

OCRWM can obligate amounts from the Nuclear Waste Fund only as appropriated, regardless of the balance in the fund. OCRWM's appropriation for fiscal year 1986 totaled \$499 million. Appropriations for fiscal year 1987 are \$499 million, of which \$420 million is available immediately. The remaining \$79 million is available subject to prior approval of the Subcommittees on Energy and Water Development of the House and Senate Committees on Appropriations. It is also subject to certification by the Secretary of Energy that he has made a good faith effort to comply with the requirements of consultation with states selected for site characterization. The Secretary will also provide a detailed explanation of his efforts. No funds are provided for drilling of any exploratory shafts at any sites in fiscal year 1987.

OCRWM obligates funds by awarding contracts and grants, and also disburses funds for its civil service payroll and other program needs. Actual costs are recorded when invoices are received, and disbursements are recorded when payments are made. Obligations, costs, and disbursements are recorded in DOE's financial information system by the field finance offices that receive allocations from the fund. During the quarter, expenses totaled about \$81.9 million for the five major cost activities. (See table 2.3.)

Table 2.2: Nuclear Waste Program Appropriations

Carryover from prior years	\$ 17,596,165
Fiscal year 1987 appropriation	<u>499,000,000</u>
Total for fiscal year 1987	<u><u>\$516,596,165</u></u>
Total amount obligated during fiscal year 1987	\$170,540,825
Appropriation carried to fiscal year 1987	\$ 21,778,417

Table 2.3: Nuclear Waste Fund Costs, December 31, 1986

<u>Funding category</u>	<u>First quarter FY87 costs</u>	<u>Second quarter FY87 costs</u>	<u>Third quarter FY87 costs</u>	<u>Fourth quarter FY87 costs</u>	<u>Cumulative FY87 costs</u>
<u>First repository</u>					
Development, construction, operations	\$60,735,740	\$	\$	\$	\$
Capital equipment	871,284				
Plant acquisition and construction	-	-	-	-	-
Total	<u>61,607,024</u>				
<u>Second repository</u>					
Development, construction, operations	4,909,201				
Capital equipment	17,000				
Plant acquisition and construction	-	-	-	-	-
Total	<u>4,926,201</u>				
<u>Monitored retrievable storage</u>					
Development, construction, operations	97,866				
Capital equipment	-	-	-	-	-
Plant acquisition and construction	-	-	-	-	-
Total	<u>97,866</u>				
<u>Program management and technical support</u>					
Management and support	9,644,060				
Capital equipment	110,026				
Plant acquisition and construction	-	-	-	-	-
Total	<u>9,754,086</u>				
<u>Transportation and system integration</u>					
Design, development, and testing	5,325,946				
Capital equipment	<u>186,268</u>				
Total	<u>5,512,214</u>				
Total	<u>\$81,897,393</u>	\$	\$	\$	\$
	*****	*****	*****	*****	*****

Source: DOE's financial information system.

Most waste disposal activities have been and are being carried out by contractors. During the quarter DOE spent about \$72 million and obligated about \$171 million. About \$159 million, 90 percent of the total amount obligated, was for contractor services. Since inception of the fund, OCRWM has obligated about \$1.4 billion for over 140 contracts.

SECTION 3

LITIGATION RELATING TO THE NUCLEAR WASTE PROGRAM

During the quarter ending December 31, 1986, a decision was handed down by the U.S. Court of Appeals for the Sixth Circuit on the MRS litigation, but all avenues of appeal had not yet been exhausted by the state of Tennessee. None of the other pending cases had been resolved, and eight new petitions were filed during the quarter.

PENDING LITIGATION

In October 1986, DOE's motion to transfer the siting guidelines and first repository siting process cases to the U.S. Court of Appeals for the District of Columbia was denied. According to DOE, the pending and new cases have been consolidated, as requested by DOE, into three sets of cases within the U.S. Circuit Court of Appeals for the Ninth Circuit. The three sets of cases concern (1) DOE's siting guidelines; (2) various aspects of DOE's siting process for the first repository program, including the environmental assessments, the Secretary of Energy's and the President's role in nominating and selecting the three candidate sites, DOE's determination of preliminary suitability of the candidate sites, and DOE's decision to postpone the second repository program; and (3) various aspects of DOE's grant awards under the waste program. (See previous quarterly reports for more detailed information on the individual cases.)

Besides the denial of DOE's motion to transfer, no significant action took place in the Ninth Circuit involving these cases, although several new petitions were filed. (See below.) On November 13, 1986, DOE filed a motion to consolidate siting guidelines cases (Category 1) and siting process cases (Category 2). The status of other ongoing cases and a listing of the new petitions filed this quarter are provided in the following sections.

State of Tennessee v. Herrington

On November 25, 1986, the U.S. Court of Appeals for the Sixth Circuit determined that the Nuclear Waste Policy Act does not require the Secretary of Energy to consult with any state before he sends the Congress his proposal for the location and construction of one or more MRS facilities. The decision reversed an earlier district court's ruling that the District Court had original jurisdiction and dismissed that court's injunction preventing DOE's submission of the proposal to the Congress.

On November 25, 1986, the state of Tennessee filed a petition for stay or extraordinary writ of injunction. The Secretary

responded on November 28, 1986, with a motion in opposition to a stay or injunction and with a counter-motion for immediate issuance of mandate or dissolution of injunction. The state of Tennessee filed a motion in opposition to the Department's counter-motion on December 1, 1986.

On December 4, 1986, the state of Tennessee filed a petition for rehearing with a suggestion that the case be reheard by the full 12-judge panel. This motion was denied on December 31, 1986. On January 5, 1987, the state of Tennessee requested a further stay of the injunction to allow time for an appeal to the U.S. Supreme Court. The Court of Appeals granted a further injunction on January 7 for 30 days and, if an appeal is filed, a further stay until a Supreme Court decision is reached.

National Resources Defense Council,
Inc., et al. v. the Environmental
Protection Agency and the United
States of America

The states of Maine, Minnesota, Texas, and Vermont and various environmental groups, including the Natural Resources Defense Council, Inc., and the Environmental Policy Institute, have filed suits challenging EPA's High-Level Waste Standards, which were published in September 1985. The suits were consolidated, and in March 1986 briefs were filed in the U.S. Court of Appeals for the First Circuit in Boston. These states and environmental groups allege that EPA standards are arbitrary and capricious and that the groundwater and individual protection provisions of the standards violate provisions of the Safe Drinking Water Act. As of the end of the quarter, the court had not yet announced its decision.

Lakes Environmental
Association v. DOE

On April 25, 1986, the Lakes Environmental Association, a group of local property owners in Maine, petitioned the U.S. Court of Appeals for the First Circuit to review and set aside certain aspects of the general siting guidelines and the screening methodology for the second repository. Although second repository siting activities were postponed, this case was still active as of the end of the quarter.

NEW LITIGATION THIS QUARTER

According to DOE's Office of General Counsel, there were eight new petitions filed during the quarter, challenging various aspects of the siting process for the first repository and the postponement of site-specific activities on the second repository. According to DOE, these petitions have or will be consolidated in the U.S. Court of Appeals for the Ninth Circuit

with the other cases challenging the first repository siting process. These cases raise the number of lawsuits pending to 43.

Public Utility District
(Clark County, State of
Washington) v. Herrington

On November 4, 1986, the Clark County Public Utility District petitioned the Ninth Circuit to review the five environmental assessments, nominations and recommendations of first repository candidate sites, preliminary determination of suitability for sites, President's approval of DOE's recommendations, and decision on the postponement of site-specific activities for a second repository. This court case falls into the environmental assessment category.

State of Mississippi v. DOE

On November 7, 1986, the state of Mississippi filed a petition in the D.C. Circuit Court. According to DOE, this petition has since been transferred to the Ninth Circuit. It challenges the Richton Dome's environmental assessment, nomination, recommendation, and designation as a potentially acceptable site for a repository.

Environmental Defense Fund
v. Herrington

On November 14, 1986, the Environmental Defense Fund filed a petition in the Ninth Circuit which challenged the five first repository site nominations, three environmental assessments, first repository site recommendations, and the decision to postpone site-specific work for a second repository.

Yakima Indian Nation v. Herrington

The Yakima Indian Nation filed a petition in the Ninth Circuit on November 19, 1986. It challenges the five environmental assessments, the nominations and recommendations of first repository sites, the President's approval of the three recommended sites, the three preliminary determinations on the recommended sites, the decision to postpone site-specific work on the second repository, and the denial of grant funds for litigation.

Nuclear Waste Task Force v. DOE

In mid-November the Nuclear Waste Task Force filed a petition requesting a review of the postponement of site-specific work on the second repository.

People Against Nuclear Dumping
at Hanford v. Herrington

People Against Nuclear Dumping at Hanford filed a petition in the Ninth Circuit on November 19, 1986. This petition challenges the decision that Hanford is a potentially acceptable site. Also, the petition challenged Hanford's environmental assessments, nomination, recommendation, and the President's approval of the Hanford site recommendation. It also challenges the decision to postpone site-specific work on the second repository program.

International Union of Agricultural
and Industrial Workers v. DOE

The International Union of Agricultural and Industrial Workers filed a petition in the Fifth Circuit on November 20, 1986. It challenged the Deaf Smith environmental assessment and the recommendation and nomination of Deaf Smith, Texas, as a repository site. According to DOE officials, this petition was transferred to the Ninth Circuit on December 30, 1986.

State of Washington v. Herrington

The state of Washington petitioned the Ninth Circuit to review DOE's general guidelines for the recommendation of sites for nuclear waste repositories published on December 6, 1984. According to DOE, this petition was consolidated with the other guideline cases in the Ninth Circuit on November 23, 1986.

SECTION 4

GAO REPORTS ON THE NUCLEAR WASTE PROGRAM

ANNUAL REPORTS TO THE CONGRESS

Department of Energy's Initial Efforts to Implement the Nuclear Waste Policy Act of 1982 (GAO/RCED-85-27, Jan. 10, 1985).

Nuclear Waste Policy Act: 1984 Implementation Status, Progress, and Problems (GAO/RCED-85-100, Sept. 30, 1985).

QUARTERLY REPORTS TO THE
SENATE COMMITTEE ON ENERGY
AND NATURAL RESOURCES

Status of the Department of Energy's Implementation of the Nuclear Waste Policy Act of 1982 as of September 30, 1984 (GAO/RCED-85-42, Oct. 19, 1984).

Status of the Department of Energy's Implementation of the Nuclear Waste Policy Act of 1982 as of December 31, 1984 (GAO/RCED-85-65, Jan. 31, 1985).

Status of the Department of Energy's Implementation of the Nuclear Waste Policy Act of 1982 as of March 31, 1985 (GAO/RCED-85-116, Apr. 30, 1985).

Status of the Department of Energy's Implementation of the Nuclear Waste Policy Act of 1982 as of June 30, 1985 (GAO/RCED-85-156, Jul. 31, 1985).

Nuclear Waste: Quarterly Report on DOE's Nuclear Waste Program as of September 30, 1985 (GAO/RCED-86-42, Oct. 30, 1985).

Nuclear Waste: Quarterly Report on DOE's Nuclear Waste Program as of December 31, 1985 (GAO/RCED-86-86, Jan. 31, 1986).

Nuclear Waste: Quarterly Report on DOE's Nuclear Waste Program as of March 31, 1986 (GAO/RCED-86-154FS, Apr. 30, 1986).

Nuclear Waste: Quarterly Report on DOE's Nuclear Waste Program as of June 30, 1986 (GAO/RCED-86-206FS, Aug. 11, 1986).

Nuclear Waste: Quarterly Report on DOE's Nuclear Waste Program as of September 30, 1986 (GAO/RCED-87-48FS, Nov. 5, 1986).

OTHER CONGRESSIONAL REPORTS

Nuclear Waste: Monitored Retrievable Storage of Spent Nuclear Fuel (GAO/RCED-86-104FS, May 8, 1986).

Nuclear Waste: Impact of Savannah River Plant's Radioactive Waste Management Practices (GAO/RCED-86-143, Jul. 29, 1986).

Nuclear Waste: Issues Concerning DOE's Postponement of Second Repository Siting Activities (GAO/RCED-86-200FS, Jul. 30, 1986).

Nuclear Waste: Cost of DOE's Proposed Monitored Retrievable Storage Facility (GAO/RCED-86-198FS, Aug. 15, 1986).

REPORTS TO AGENCY OFFICIALS

Department of Energy's Program for Financial Assistance (GAO/RCED-86-4, Apr. 1, 1986).

OTHER DOCUMENTS

NUS Corp. et al., B-221863, June 20, 1986 (Decision).

Study of Legal Issues Concerning Postponement of the Second Repository Program, B-223315, B-223370, September 12, 1986.

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