

GAO

November 1986

# NUCLEAR WASTE

## Quarterly Report on DOE's Nuclear Waste Program as of September 30, 1986



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Resources, Community, and  
Economic Development Division

B-202377

November 5, 1986

The Honorable James A. McClure  
Chairman, Committee on Energy  
and Natural Resources  
United States Senate

The Honorable J. Bennett Johnston  
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's) 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 September 30, 1986. Activities during the quarter include the following:

- On May 28, 1986, the President approved potential first repository sites in Nevada, Texas, and Washington for detailed studies, called site characterization. Site characterization will provide the basis for deciding on the preferred site for the nation's first nuclear waste repository. During this quarter, OCRWM placed primary emphasis on preparing site characterization plans, which must be completed for each site before the exploratory shafts are constructed. A continuing resolution passed in October 1986 provided no funding for drilling any exploratory shafts at any site in fiscal year 1987.
- Also on May 28, 1986, DOE announced an indefinite postponement of any site-specific work on a second repository. During the quarter, the Crystalline Repository Project Office, responsible for the second repository

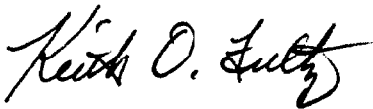
program activities, suspended siting activities and initiated planning for a broad-based technology development program.

--During this quarter, none of the pending court cases regarding nuclear waste were resolved, and nine new actions were initiated against DOE.

--The Nuclear Waste Fund collected over \$84.6 million in fees and investment income and obligated about \$144 million for program activities. The fund balance as of September 30, 1986, was about \$1.4 billion.

To determine the status of the program, 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 were unable to verify DOE's financial system data within the time frame of the report. We also attended a quarterly meeting with representatives from OCRWM and the first repository states and tribes.

We discussed the facts presented with cognizant DOE officials and incorporated their views where appropriate. However, we did not ask DOE officials to review and comment officially on a draft of this fact sheet. We are sending copies of this fact sheet to the Chairmen, Senate Committee on Governmental Affairs, House Committee on Government Operations, and 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.



Keith O. Fultz  
Associate Director

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ABBREVIATIONS

CPO	Crystalline Repository Project Office
DOE	Department of Energy
EPA	Environmental Protection Agency
GAO	General Accounting Office
MRS	monitored retrievable storage
NRC	Nuclear Regulatory Commission
NWPA	Nuclear Waste Policy Act
OCRWM	Office of Civilian Radioactive Waste Management



## SECTION 1

### OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT ACTIVITIES DIRECTED TOWARD LEGISLATED REQUIREMENTS DURING THE JULY-SEPTEMBER 1986 QUARTER

#### BACKGROUND

In February 1983 the Department of Energy (DOE) formally identified nine areas in six states as potentially acceptable sites for the first permanent repository for high-level nuclear waste. The Nuclear Waste Policy Act of 1982 (NWPA) required the Secretary of Energy to recommend to the President by January 1, 1985, three sites for further geologic testing, called site characterization studies. DOE nominated five sites in May 1986, accompanied by final environmental assessments as required by NWPA, and recommended three of the sites to the President. On May 28, 1986, the President approved the three sites.

NWPA also requires that the Secretary of Energy 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 without congressional authorization. DOE began its site screening process for the second repository in 1983 and identified, 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 and the uncertainty about when a second repository might be needed. The 12 areas identified for the second repository are no longer under active consideration.

DOE concluded last year that a monitored retrievable storage (MRS) facility should be an integral part of the waste management system and should be used to repackage and consolidate spent nuclear fuel before shipment to a repository. In April 1985 DOE identified three sites in Tennessee as potential locations for the MRS facility. However, because of litigation concerning the state participation process, DOE officials said they have not been allowed to submit a proposal for construction of an MRS to the Congress as required by NWPA.

Program costs are paid from NWPA's Nuclear Waste Fund, which receives fees from owners of spent nuclear fuel. In April 1986 DOE estimated the full cost of the program with two repositories and no MRS to be between \$23.6 billion and \$32.3 billion (in constant 1985 dollars) depending on the repository site combination.

SITE CHARACTERIZATION PLANS  
FOR THE THREE SELECTED SITES

On May 28, 1986, the President approved three potential repository sites for detailed studies, called site characterization. The sites are Yucca Mountain, Nevada; Deaf Smith, Texas; and Hanford, Washington. Site characterization will provide the basis for deciding on the preferred site for the nation's first nuclear waste repository. 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).

During site characterization, scientific data will be collected and evaluated at each site to determine if a repository at that location would create unreasonable risks to public health and safety. DOE will construct surface and underground testing facilities and access roads and employ between 200 to 500 people at each site. Two exploratory shafts will be drilled or mined at each site to anticipated repository depths (1,000 to 4,000 feet) for testing and research purposes. A second shaft is necessary for the safety of operating personnel. Some on-site work has been conducted at the federally owned sites (Yucca Mountain and Hanford) and is continuing. DOE expected to begin sinking shafts at these two sites in fiscal year 1987; however, in October 1986 Office of Civilian Radioactive Waste Management (OCRWM) officials said that such construction would not begin until after 1987 because funds were not provided for drilling exploratory shafts in fiscal year 1987. No on-site work has been conducted at the Texas site where private land must be acquired. As of the end of the quarter, the costs of site characterization were estimated to be \$595 million for Yucca Mountain, \$738 million for Hanford, and \$806 million for Deaf Smith County (constant 1985 dollars).

During the quarter ending September 30, 1986, OCRWM continued the preparation of site characterization plans, which must be completed for each site before the exploratory shafts are constructed. Each plan, as required by the act, is expected to identify uncertainties, limitations, and issues concerning each site's potential to be a repository that need investigation as well as describe detailed programs for site characterization work. DOE expects the plans to be vehicles for early NRC, state, Indian tribe, and public input on DOE's data-gathering and development work. DOE project offices for the three sites are preparing these plans while DOE headquarters offices are coordinating their efforts. DOE expects to release final site characterization plans in January 1987 (Nevada), February 1987



(Washington), and December 1987 (Texas). A 90-day comment period will be provided during which public hearings will be held. DOE intends to provide supplements to the plans based on comments received.

After the plans are completed, DOE officials expect site characterization work to take about 5 years. While site characterization is underway, DOE will conduct concurrent environmental and socioeconomic studies to assess the potential impacts of repository development and operation. These studies will support the preparation of an environmental impact statement, including plans to mitigate any significant adverse impacts for the selected site.

#### THE SECOND REPOSITORY PROGRAM

On May 28, 1986, the Secretary of Energy indefinitely postponed site-specific work on a second geologic repository. During the quarter ending September 30, 1986, the Crystalline Repository Project Office (CPO), responsible for the second repository program activities, suspended siting activities and initiated planning for a broad-based technology development program.

During the quarter the CPO provided phase-down guidance to Battelle Memorial Institute, the DOE contractor responsible for overall crystalline repository project implementation and management. The CPO guidance included the phase-down of second repository activities that were either site-specific or did not support technology development. In accordance with the Secretary's announcement, all activities related to finalizing the Area Recommendation Report were also suspended with the exception of cataloging the comments received on the draft report issued January 16, 1986. DOE expects this cataloging to be completed in early 1987.

Under a proposed reorganization, the CPO Technology Development Branch would develop and implement an integrated technology program for identifying and resolving technical issues on siting a second repository. The overall objective of the proposed technology development program is to identify, develop, and evaluate methods, techniques, procedures, and materials related to waste isolation concepts and to develop various assessment techniques for characterizing a site and predicting performance. This would include siting strategies, evaluating alternative rock media for repositories, and conducting performance assessments of repository systems. Each area would be studied on a nonsite-specific basis. DOE expects siting activities for a second repository to restart around 1995.

The technology development program also proposes to provide assistance to help resolve first repository program technical issues and to participate in multiple international nuclear waste programs. These international programs are aimed at ensuring that the maximum benefit is derived from research being conducted in foreign programs, including crystalline rock studies in Canada, Sweden, France, and Switzerland as well as other rock media being studied in Belgium and Italy.

The restructuring of the Crystalline Repository Project Office has resulted in a proposed reduction of authorized DOE personnel from 28 full time equivalent in fiscal year 1986 to 12 in fiscal year 1987. Likewise, proposed funding for the second repository program, now focusing on technology development, has been reduced from \$79 million to \$23 million for fiscal year 1987.

### THE MRS PROPOSAL

NWPA required DOE to submit a proposal to the Congress by June 1, 1985, for the construction of one or more monitored retrievable storage facilities. In April 1985, after an analysis of various sites and facility designs, DOE concluded that the Oak Ridge, Tennessee, area was the preferred site for an MRS facility.

Although the MRS proposal was completed in February 1986, DOE has not submitted it to the Congress. After the state of Tennessee filed a lawsuit, the U.S. District Court in Nashville enjoined DOE from formally submitting the proposal because DOE failed to consult and cooperate with the state as required by the act.

DOE appealed this decision to the U.S. Court of Appeals for the Sixth Circuit. On July 24, 1986, the court of appeals heard oral arguments concerning this case. (See section 3 for more details on this litigation.) As of September 30, 1986, no decision had been reached by the three-judge panel. Pending the court's decision, DOE is enjoined by the district court from submitting the MRS proposal to the Congress.

If MRS is approved by the Congress, NWPA requires that MRS facilities be licensed by NRC. On May 27, 1986, NRC released a proposed rule for public comment in the Federal Register entitled Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste. NRC is proposing additional language to existing regulations (10 CFR 72) providing for licensing the storage of spent fuel and high-level waste in an MRS. The revised regulations will establish requirements, procedures, and criteria for issuing a license to DOE to receive, transfer, package, and store in an MRS spent fuel, high-level waste, and associated radioactive

materials from commercial reactors. The comment period for the proposed revisions was through August 25, 1986.

According to an NRC official, as of September 30, 1986, 182 comments had been received. Very few comments were technical in nature; most were from Tennessee individuals objecting to an MRS in their state. As of the end of the quarter, NRC was analyzing these comments.

#### OTHER ACTIVITIES

The following program activities also occurred during the quarter.

- In August 1986 OCRWM issued a final Transportation Institutional Plan, which is intended to define a comprehensive process for effective interaction among those parties affected by the development of a national waste disposal transportation system.
- In September 1986 OCRWM drafted a 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.
- In July 1986 OCRWM formally requested assistance from the National Academy of Sciences in the site characterization phase of the repository program. The Academy agreed to provide DOE assistance, but the extent and nature of its involvement had not been determined by the end of the quarter.
- In Portland, Oregon, on August 13, 1986, OCRWM met with representatives of states and tribes affected by the first repository. Issues discussed included the rationale for recent decisions on the first and second repositories, future National Academy of Sciences involvement, and the scope of their future meetings.
- On July 25, 1986, OCRWM sent letters to the three states selected for site characterization and the affected Indian tribes. These letters, in accordance with Section 117(c) of the Nuclear Waste Policy Act of 1982, began the negotiations that DOE hopes will lead to formal, signed consultation and cooperation agreements. Meetings will be planned to review the scope and parameters of proposed agreements and to discuss provisions that might be common to each of the agreements. As of the end of the quarter, Washington was the only state that had responded.

SECTION 2

THE NUCLEAR WASTE FUND,

SEPTEMBER 30, 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 explain how the fund receives fees and makes disbursements.)<sup>1</sup> As of September 30, 1986, the fund had a balance of about \$1.4 billion. (See table 2.1.)

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<sup>1</sup>All fiscal year 1986 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.

Table 2.1: The Nuclear Waste Fund, September 30, 1986

Beginning fund balance (July 1, 1986)	\$1,457,783,610 <sup>a</sup>
Fees from waste owners (July-Sept. 1986)	57,687,935
Investment income collected (July-Sept. 1986)	<u>26,937,116</u>
Total funds available	<u>1,542,408,661</u>
Disbursements <sup>b</sup>	(96,490,001)
Change in cost of and face value of long-term investments	<u>(22,586,602)<sup>c</sup></u>
Fund balance, September 30, 1986	<u><u>\$1,423,332,058</u></u>
Cash balance, September 30, 1986	\$ 500,058
Funds invested, September 30, 1986	\$1,422,832,000
Unpaid obligations, September 30, 1986 <sup>d</sup>	\$ 246,725,880

<sup>a</sup>The ending balance shown in the last quarterly report was \$1,654,291,831. This beginning balance reflects long-term investment amounts based on face value of the investments rather than cost which was used previously. DOE accounting officials said that face value should be used in computing the fund balance.

<sup>b</sup>These figures include amounts disbursed in July-September which were obligated in current and prior years.

<sup>c</sup>Actions such as early redemptions of Treasury Notes cause the face value to be reduced.

<sup>d</sup>This figure includes amounts of undisbursed obligations remaining from current and prior years.

Source: DOE's financial information system.

NUCLEAR WASTE FUND  
RECEIPTS AND COSTS

DOE has contracted with 66 owners 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 September 30, 1986, had collected a total of about \$1.1 billion, of which about \$56.2 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 September 30, 1986, DOE collected daily overnight investments interest of about \$522,000 and long-term investments (90 days or more) of about \$26.4 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 expected to be about \$499 million. OCRWM will carryover \$21 million. 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 \$130.8 million for the five major cost activities. (See tables 2.2 and 2.3.)

Table 2.2: Nuclear Waste Program Appropriations

Carryover from years before	\$ 17,596,165
Fiscal year 1986 appropriation	<u>498,912,000</u>
Total for fiscal year 1986	<u>\$516,508,165</u>
Total amount obligated during fiscal year 1986	\$494,729,748
Appropriation carried to fiscal year 1987	\$ 21,778,417

Table 2.3: Nuclear Waste Fund Costs, September 30, 1986

<u>Funding category</u>	<u>First quarter FY86 costs</u>	<u>Second quarter FY86 costs</u>	<u>Third quarter FY86 costs</u>	<u>Fourth quarter FY86 costs</u>	<u>Cumulative FY86 costs</u>
<u>First repository</u>					
Development, construction, operations	\$ 47,462,811	\$ 67,384,221	\$66,829,848	\$100,244,567	\$281,921,447
Capital equipment	1,407,700	4,103,813	811,413	1,147,823	7,470,749
Plant acquisition and construction	-	-	-	-	-
Total	<u>48,870,511</u>	<u>71,488,034</u>	<u>67,641,261</u>	<u>101,392,390</u>	<u>289,392,196</u>
<u>Second repository</u>					
Development, construction, operations	5,384,680	6,593,538	8,260,612	5,874,715	26,113,545
Capital equipment	43,000	47,000	14,674	17,000	121,674
Plant acquisition and construction	-	-	-	-	-
Total	<u>5,427,680</u>	<u>6,640,538</u>	<u>8,275,286</u>	<u>5,891,715</u>	<u>26,235,219</u>
<u>Monitored retrievable storage</u>					
Development, construction, operations	1,560,873	1,495,070	1,394,723	1,450,007	5,900,673
Capital equipment	24,133	-	-	-	24,133
Plant acquisition and construction	-	-	-	-	-
Total	<u>1,585,006</u>	<u>1,495,070</u>	<u>1,394,723</u>	<u>1,450,007</u>	<u>5,924,806</u>
<u>Program management and technical support</u>					
Management and support	8,945,856	16,944,349	15,010,786	15,750,640	56,651,631
Capital equipment	63,012	76,849	341,941	288,046	769,848
Plant acquisition and construction	-	-	-	-	-
Total	<u>9,008,868</u>	<u>17,021,198</u>	<u>15,352,727</u>	<u>16,038,686</u>	<u>57,421,479</u>
<u>Transportation and system integration</u>					
Design, development, and testing	1,187,700	2,649,745	4,198,209	5,837,967	13,873,621
Capital equipment	-	350,052	360,560	151,987	862,599
Total	<u>1,187,700</u>	<u>2,999,797</u>	<u>4,558,769</u>	<u>5,989,954</u>	<u>14,736,220</u>
Total	\$ 66,079,765 =====	\$ 99,644,637 =====	\$97,222,766 =====	130,762,752 =====	\$393,709,920 =====

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 \$115.3 million and obligated about \$144 million. About \$131.6 million, 91 percent of the total amount obligated, was for contractor services. Since inception of the fund, OCRWM has obligated about \$1.2 billion for over 140 contracts.



SECTION 3  
LITIGATION RELATING  
TO THE NUCLEAR WASTE PROGRAM

During the quarter ending September 30, 1986, none of the pending court cases involving the nuclear waste program were resolved. Nine new petitions were filed requesting court reviews of DOE actions.

PENDING CASES

On July 1, 1986, DOE filed a motion with the U.S. Court of Appeals for the Ninth Circuit to transfer to the U.S. Court of Appeals for the District of Columbia (1) all of the siting guidelines cases (which had been previously consolidated in the Ninth Circuit) and (2) the petitions filed last quarter by Nevada, Texas, Washington, the National Parks and Conservation Association, and the Sierra Club, requesting a court review of the final environmental assessments and/or the first repository nomination, recommendation and selection process. (See the previous quarterly report (RCED-86-206FS, Aug. 11, 1986, pp. 16-18) for a more complete description of these cases.) In its motion, which was pending as of the end of this quarter, DOE argues that such a transfer would be for the convenience of the parties and take advantage of the District Court's national perspective.

Details on pending cases not included in the above motion, are described in the following sections.

Nevada, et al. v. Herrington

On May 28, 1986, the day the Secretary of Energy announced the first repository candidate sites, the state of Nevada filed five petitions in the Ninth Circuit. Four directly concern DOE's first repository siting process as it relates to the Yucca Mountain site and are included in DOE's motion for transfer. The other petition asked the court to prohibit site characterization until DOE awards the state its grant request for funds enabling the state to seek judicial review of the Secretary's and President's action. That petition is not affected by the motion for transfer and has been consolidated with a similar petition filed by the state of Washington's Department of Ecology. (See p. 18.) Nevada has filed its brief, but Washington and DOE have not yet filed theirs. No date has been set for oral arguments.

Natural Resources Defense Council,  
Inc., et al. v. EPA 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. They also allege that EPA violated the Administrative Procedures Act by not providing adequate notice to permit a genuine opportunity to comment on the proposed standards.

Tennessee v. Herrington

On August 20, 1985, the state of Tennessee filed suit in the U.S. District Court in Nashville, alleging that any DOE proposal to request authority from the Congress to construct an MRS facility in Tennessee would violate NWPA. Tennessee contends that DOE did not consult with the state before conducting a study to determine the suitability of three Tennessee locations for the facility. Tennessee requested that the Secretary of Energy be enjoined from presenting any proposal to the Congress for an MRS facility in Tennessee until the requirements of the act have been fulfilled.

On October 21, 1985, DOE asked the court to dismiss the case, contending that the District Court lacked jurisdiction. The District Court determined on November 12, 1985, however, that it does have jurisdiction, and on February 5, 1986, concluded that DOE violated the act by failing to consult and cooperate with the state's governor and legislature in the MRS siting process. On February 7, 1986, the District Court permanently enjoined DOE from making any proposal to the Congress that relies on siting studies developed prior to consultation and cooperation with Tennessee.

On February 13, 1986, DOE asked the U.S. Court of Appeals for the Sixth Circuit to (1) reverse the District Court's decision, (2) dissolve the injunction, or (3) stay the injunction pending the outcome of the appeal. On March 6, 1986, the circuit court denied DOE's request to dissolve or stay the injunction. Oral arguments were held in late July 1986 and as of September 30, 1986, the parties were awaiting the court's 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. The Association expressed concern about the Sebago Lake area being identified in the draft Area Recommendation Report as a proposed potentially acceptable site for a nuclear waste repository. Although second repository siting activities were postponed, this case was still active as of the end of the quarter.

## NEW LITIGATION THIS QUARTER

### Washington and the Nuclear Waste Board v. Herrington

On September 19, 1986, the state of Washington and its Nuclear Waste Board petitioned the U.S. Court of Appeals for the Ninth Circuit for declaratory relief in reference to its earlier petition requesting a court review of DOE's postponement of second repository site-specific activities. The petition requested that the court declare that DOE's indefinite postponement of site-specific second repository activities violates the mandate of NWPA. The motion was pending as of the end of the quarter.

### Safe Power v. Herrington

On July 11, 1986, the Coalition for Safe Power, an Oregon nonprofit corporation, petitioned the U.S. Court of Appeals for the Ninth Circuit to review several of DOE's actions, including (1) the nomination, recommendation, and selection procedure for the Hanford and Yucca Mountain sites, (2) the final environmental assessments for the Hanford and Yucca Mountain sites, and (3) the postponement of site-specific second repository activities. The petition asked the court in part to set aside the nomination and recommendation of the Hanford and Yucca Mountain sites, to set aside the environmental assessments as unlawful, and to issue an order to reactivate site specific work for a second repository. According to a DOE official, subsequent to its July 1, 1986, motion, DOE requested that this case be moved to the U.S. Court of Appeals for the District of Columbia.

### Idaho v. Herrington

On July 31, 1986, the state of Idaho filed a petition with the U.S. Court of Appeals for the Ninth Circuit seeking a court review of the environmental assessment, nomination, and recommendation of the Hanford, Washington, site and the second repository postponement decision. The petition requests in part that the court declare DOE's actions relating to the Hanford site to be invalid. A DOE official told us that DOE has also requested

that this petition be transferred to the U.S. Court of Appeals for the District of Columbia.

#### Oregon v. Herrington

On August 14, 1986, the state of Oregon petitioned the U.S. Court of Appeals for the Ninth Circuit in part to review the nomination and recommendation for presidential approval of the Hanford, Washington, site, and the postponement of second repository siting activities. The petition requests the court in part to declare these acts invalid. DOE told us that it has also requested that this petition be transferred to the U.S. Court of Appeals for the District of Columbia.

#### Washington Department of Ecology et al. v. Herrington

On July 31, 1986, the state of Washington's Department of Ecology, its Nuclear Waste Board, and the state of Washington petitioned the U.S. Court of Appeals for the Ninth Circuit to review DOE's decision denying the state's request for grant funds that would have enabled it to pursue judicial review of actions concerning the Nuclear Waste Policy Act. This case was consolidated with the Nevada petition previously filed. (See p. 15.) The case was pending as of the end of the quarter.

#### Texas v. Herrington

On September 24, 1986, the state of Texas filed two petitions with the U.S. Court of Appeals for the Fifth Circuit to review (1) DOE's action indefinitely postponing second repository siting activities and (2) DOE's preliminary determination that the three sites that DOE recommended as candidate sites for the nation's first nuclear waste repository are suitable for development.

#### Nuclear Waste Task Force, Inc., et al. v. Herrington

On September 26, 1986, a group of organizations and private citizens filed a petition with the U.S. Court of Appeals for the Fifth Circuit seeking a court review of DOE's preliminary determination that the three sites recommended by DOE and approved by the President are suitable for development of a repository. At the end of the quarter, this case was still pending.

#### Utah v. Herrington

On September 30, 1986, the state of Utah petitioned the United States Court of Appeals for the Tenth Circuit to review (1) DOE's environmental assessment for the Davis Canyon site and (2) DOE's nomination of that site as suitable for site characterization.

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).

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