

# THE WORKBOOK

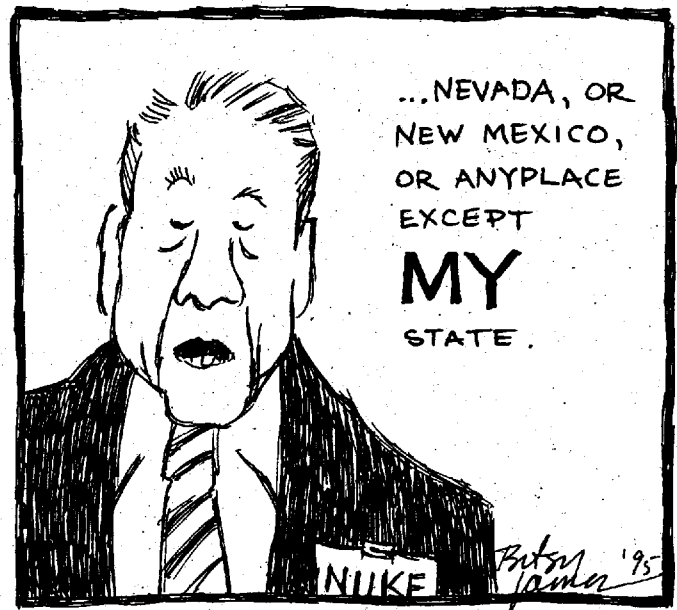
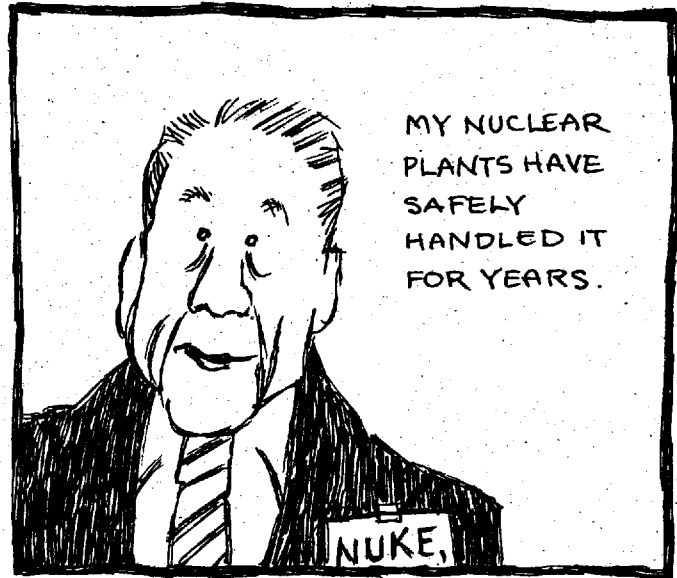
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## WHERE IS NUCLEAR WASTE GOING — OR STAYING?



## WHERE IS NUCLEAR WASTE GOING — OR STAYING?

by Don Hancock

This year the nuclear power industry expects, after years of effort and spending millions of dollars on campaign contributions and high-paid lobbyists, Congress to pass legislation that will free the industry of its responsibility for storing commercial spent fuel. The proposed legislation will require all of the accumulated wastes to be moved to Nevada, beginning in 1998. At the same time, some utilities say they have agreed with the Mescalero Apache Tribe to construct a spent fuel storage facility on tribal land in New Mexico. Other people say that the focus on interim storage means that the federal government is abandoning its longtime commitment to dispose of spent fuel in a repository more than 1,000 feet underground. What's going on?

Meanwhile, the Department of Energy (DOE) says it can meet all the legal requirements for the world's first repository so that the Waste Isolation Pilot Plant (WIPP) can open in 1998. But Rep. Joe Skeen (R-N.M.), a longtime fervent supporter of WIPP, introduced legislation to dramatically weaken public health and safety provisions of the WIPP law passed less than three years ago in order to accelerate WIPP's opening, because, it appears, he does not believe that WIPP will be able to meet existing health and safety requirements. What's going on?

Citizens in Nevada are saying *No* to the industry-sponsored legislation; citizens in New Mexico are saying *No* to the Mescalero facility and to abandoning environmental protection requirements for WIPP. In light of actions taken by the House Commerce Committee in July and August 1995 to support the nuclear industry's legislation and Rep. Skeen's WIPP bill, it appears that at least for now those citizen objections are being ignored. And on August 2, the Senate approved the Energy and Water Appropriations Bill

that would dramatically change the law regarding spent fuel storage and disposal with no hearings on the provisions, so there was no opportunity for citizens to formally object.

What's going on? Some say it's business as usual. One nuclear lobbyist said, for example, at the end of the July 12 hearing before a House subcommittee on the industry's high-level nuclear waste, "those environmentalists didn't have anything new to say." And environmentalists noted during their testimony that the industry's claims — that power plants would imminently shut down because they lack storage capability — were the same unrealized claims they made 15 years ago.

Nonetheless, fundamental legal and policy matters will dramatically change if the legislative proposals become law. Since the beginnings of the nuclear power industry it has been accepted law and practice that the federal government is responsible for spent fuel disposal and the industry is responsible for spent fuel storage. And for the past decade, there has been increasing regulation of the DOE by state and federal agencies, a pattern that the Skeen WIPP bill would reverse. Despite the strong congressional rhetoric about reducing the role of government and cutting the federal government budget, much of what is being proposed regarding commercial nuclear waste is to increase the role and responsibilities of the federal government and to authorize new programs with no idea of their cost.

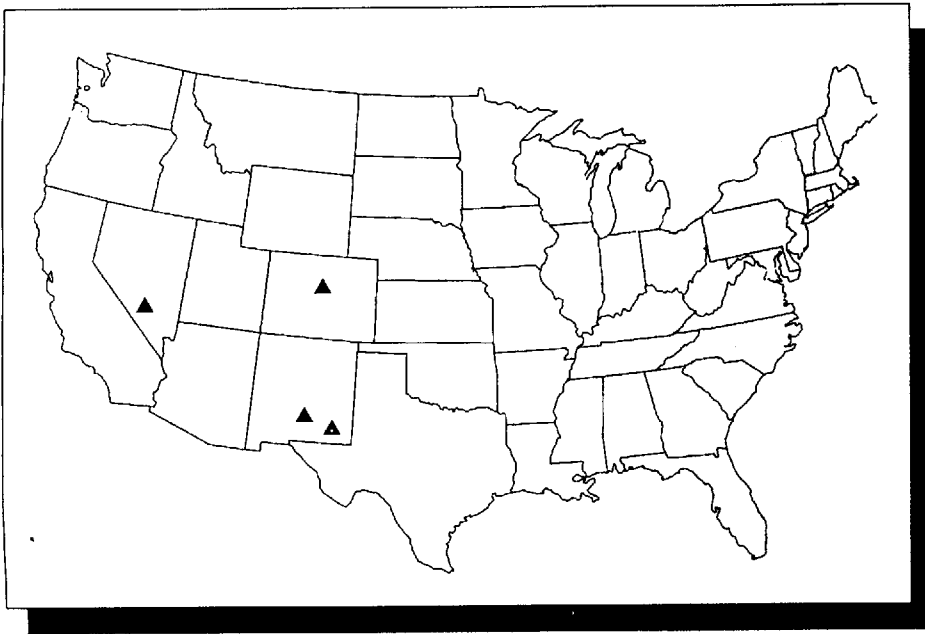
Recent history and current actions on spent fuel storage and disposal and on WIPP offer compelling reasons for citizens across the United States to become concerned and involved.

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Where  
Nuclear  
Waste is  
now



Where  
it's  
slated to  
go



**SHOULD NUCLEAR WASTE POLICY BE  
CONTROLLED BY 1998?**

The commercial nuclear power industry — that is, electric utility companies and their suppliers — with support from some state regulatory officials, is insisting that the federal government must honor a “promise” to begin accepting its spent fuel by January 31, 1998. The promise is contained in section 302(a)(5) of the Nuclear Waste Policy Act (NWPA) of 1982, which states:

(A) following commencement of operation of a repository, the Secretary [of Energy] shall take title to the high-level radioactive wastes or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

For the past three administrations, DOE has consistently maintained that a repository cannot be opened until at least 2010 — the projected date to open Yucca Mountain, Nevada, the only site being investigated. This year DOE issued a formal decision that there is no legal requirement that the federal government begin accepting spent fuel in 1998, because a repository will not be available and because the federal government does not currently have authority to provide an interim storage facility.<sup>1</sup> The utilities have adopted a program of pushing legislation (H.R. 1020, sponsored by Rep. Fred Upton, R-Michigan) that would require the federal government to open a spent fuel storage facility in Nevada by the 1998 date and would impose fines and penalties for missing that deadline. (More than 15 utilities filed a lawsuit in 1994, asking the court to require DOE to begin taking their wastes in 1998.)<sup>2</sup> The fines and penalties would be a new federal government cost, never included in any previous budget and so would, in essence, be a new tax.

The utilities do not seem to be concerned that such a storage facility could not be sited and constructed by the 1998 date if it were to meet existing health, safety, and environmental protection laws. (It is probably not possible to have a site by 1998 even if all environmental laws are waived.) Thus, the industry legislation would amend the NWPAs and other environmental statutes to eliminate or severely weaken

those laws. The legislation would also eliminate the state or tribal veto of storage or disposal facilities established by the NWPAs, and severely restrict judicial review for states and citizens.

Provisions of H.R. 1020 would also require Congress — rather than a scientific, public process by the Environmental Protection Agency (EPA) — to establish radiation protection requirements for a site at about 25 times higher than that allowed by EPA disposal standards. Further, it would require DOE to develop — without full public participation and judicial review — a “multi-purpose cask” to be used for storage, transport, and disposal of spent fuel; and it would force construction of a new railroad line to the Nevada Site at a cost of more than \$1 billion, and would eliminate existing environmental restrictions on such a railroad. The bill would also ensure that the fee for spent fuel generation would not be raised without an act of Congress, no matter how much the waste program would cost.

The provisions of the legislation to be taken to the House floor will likely be finalized in September. The industry continues to insist that any legislation must require:

- The opening of a storage facility in Nevada by 1998;
- The development of a transportation system;
- Continuing work on the Yucca Mountain repository;
- Protection against large fee increases.

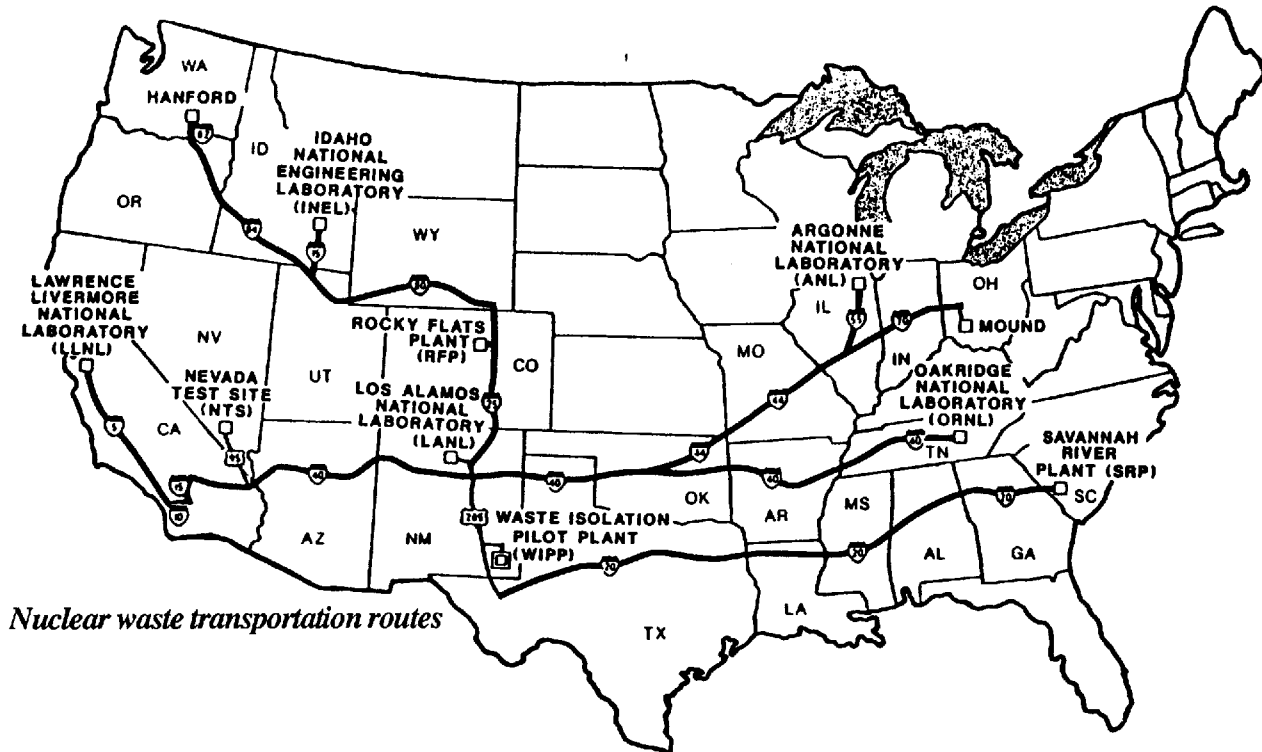
According to DOE, by the end of 1997 approximately 36,000

metric tons of spent fuel will have accumulated at 72 nuclear power plant sites in 32 states. Assuming all the plants continue to operate until the end of their license (which was issued for 40 years), by 2010, the total will reach 61,000 metric tons.<sup>3</sup>

The utilities say that having a centralized storage site open in 1998 would “solve” the problem. For example, at the July 12, 1995, House Commerce Subcommittee hearing, Samuel Skinner, President of Commonwealth Edison (the

### Key Features of H.R. 1020, the “Industry Bill”

- DOE would open a storage facility in Nevada in 1988, regardless of cost or other legal requirement.
- Congress — not the EPA via a public process — would establish radiation protection requirements for a waste site.
- Congress could set the rate at 25 times higher than EPA allowable disposal standards.
- Congress would direct DOE to develop, without citizen participation, a “multi-purpose” cask for storage, transportation, and disposal of spent fuel.
- Construction of a new railroad line to the Nevada site, costing \$1 billion, would be authorized.
- The railroad line would be exempt from existing environmental safety restrictions.
- Regardless of the program cost, the fee for spent fuel could not be raised unless by act of Congress.



Nuclear waste transportation routes

of the Nuclear Energy Institute (the industry's chief lobbying arm) that: "this problem will not be solved until the federal government satisfies its unconditional obligation to begin accepting spent nuclear fuel beginning in 1998."

Utility spokespersons also frequently state that it is untenable to have 70 different storage sites and that centralized storage will be cheaper and safer. If there is no interim storage facility, there will be dire consequences, they say. Mr. Skinner testified at the July 12 hearing that "according to industry analysis of Department of Energy data, nuclear utility ratepayers would be forced to pay an additional \$5 billion (1993 dollars) for on-site spent fuel storage if DOE fails to build a central interim storage facility and start accepting spent fuel in 1998."

Of course those arguments ignore the fact that any operating nuclear power plant will continue to generate spent fuel, so radioactive and so hot that it cannot be transported beyond the reactor's storage pool, and so must be stored at the site for years. Even when the power plant shuts down and produces no more electricity and spent fuel, the reactor itself is so radioactive that it requires decades to decontaminate and decommission. Consequently, each nuclear power plant will continue to be a waste storage site for years to come, whether or not there is a centralized storage site or a repository. Even if the highly unrealistic schedules contained in the industry's nuclear waste bill were to be achieved, by 2010 there would be more spent fuel at the power plants than is there today.

In fact, the spent fuel generated over the next 15 years will be stored in spent fuel pools at the power plants, and some of the older spent fuel will be transferred to large storage containers. Those containers will be of the seven designs, or similar new ones, licensed by the Nuclear Regulatory Commission; so the number of containers — and their costs — will vary little, whether they are at power plants or at a centralized storage site.

Thus, what is really at issue — though it is not the focus of the congressional discussion and action — are the risks to millions of people along highways and railroads if the spent fuel is transported to a storage site. Beyond the posed risks, the financial costs of developing and operating the site and transporting the wastes are unknown. And importantly, fundamental principles of constitutional rights will be compromised if the rush to meet the 1998 date proceeds.

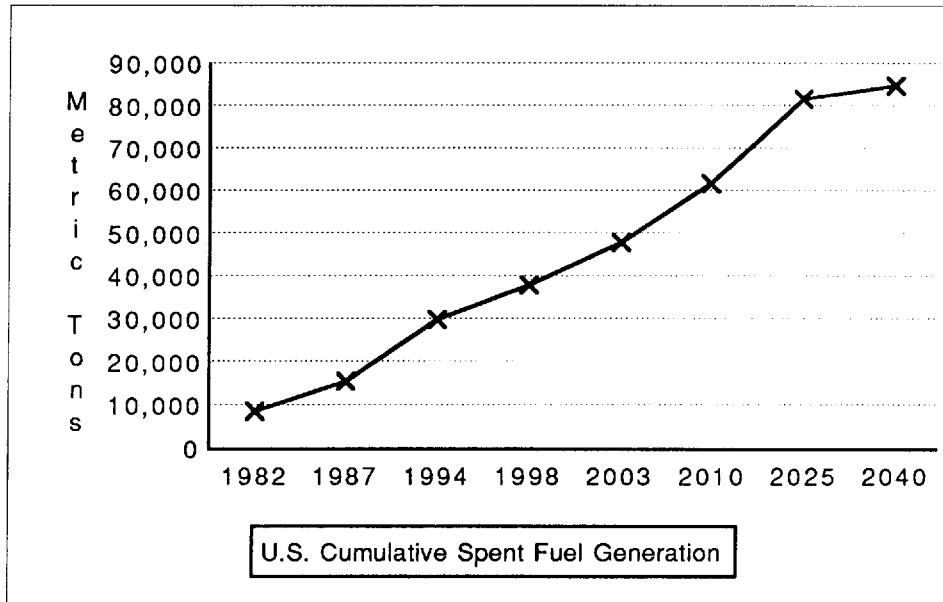
#### WHY A STORAGE SITE ON THE MESCALERO RESERVATION?

The Mescalero Apache Tribal Council in New Mexico was one of two Indian nations (the Skull Valley Band of Goshutes in Utah was the other) to express continuing interest in receiving funds to consider hosting a spent fuel storage facility (see *The Workbook*, Fall 1992 [Vol. 17, No. 3], pp. 98-107). When such funding was prohibited by congressional action in October 1993, the prospects for an interim storage site were remote.

Meanwhile, plans by Northern States Power, a Minnesota-

**TOTAL SPENT FUEL GENERATION**  
(In Metric Tons)

	1982	1987	1994	1998	2003	2010	2025	2040
Metric Tons	8,701	15,902	30,039	38,170	48,045	61,727	81,943	85,066



Meanwhile, plans by Northern States Power, a Minnesota-based nuclear utility, to develop additional on-site storage at its Prairie Island Plant were being strongly opposed by citizens and members of the Mdewakanton Dakota tribe, whose land abuts the nuclear plant. The opponents had successfully argued that such storage could become permanent because there would be no national repository site. Under Minnesota's nuclear waste law, spent fuel disposal is prohibited unless the state legislature passes a law to allow such disposal. In January 1994, the Legislature began consideration of the highly controversial legislation.

While the Minnesota Legislature considered, Northern States Power argued there would be a repository eventually, and, in any case, a storage site could be developed on Mescalero land to take some of the utility's spent fuel. Northern States Power and the Mescalero Tribal Council soon signed an agreement, on February 15, 1994, to seek to develop such a facility and to identify other utilities to participate. In March 1994, the tribe and utility outlined their business plan, in which about 30 utilities had expressed interest, which stipulated:

- the tribe would have majority ownership of the facility;
- the facility's capacity would be 10,000 metric tons of spent fuel;

- the utilities would maintain title/ownership of the fuel;
- all wastes would be transported by rail;
- by April 1, 1994, utilities would make an initial financial commitment, establish a planning team, and complete the business plan by June 1994;
- by June 1, 1994, utilities would commit to negotiate agreements, have preliminary financing commitments, and establish the legal entity to run the operation; the tribe would ratify the agreements by October 1994;
- by October 3, 1994, major financial commitments would be made by the utilities; by June 1996 the NRC license application would be filed and a transportation plan developed;
- by September 2001 the facility would be constructed and ready to receive spent fuel.

In May 1994, the Minnesota Legislature passed a bill, signed by the governor, that allowed Northern States Power to construct a storage facility and immediately load five storage casks.<sup>4</sup> The bill allows four more casks to be filled if a state agency can determine by December 31, 1996, that Northern States Power has filed with NRC an application for off-site storage and has developed or purchased an additional 100 megawatts of windpower capacity. Eight additional casks can be loaded if the utility meets the conditions of the law, which include requiring Northern States Power to develop a plan to phase out nuclear power

## Activists and Indian Tribes Battle Against a Radioactive Waste Dump in the Mojave Desert

by Phil Klasky



On July 8, 1995, the five lower Colorado River Indian Tribes forming the Colorado River Native Nations Alliance signed a joint resolution declaring their opposition to a proposed radioactive dump at Ward Valley, California, near the town of Needles.

The dump project has become the focus of a national debate on radioactive waste disposal and represents a confluence of related issues, including the protection of endangered species, the preservation of wilderness, American Indian land and water rights, cultural values and sovereignty for Indian nations.

Ward Valley is in California's eastern Mojave desert and surrounded by eight designated Bureau of Land Management Wilderness Areas. Unique geological formations and impressive natural features can be found in the protected canyons of the Old Woman Mountains. Volcanic fins slice through ancient rock in the Stepladder Mountains and the Bigelow Cactus Garden covers acres of desert foothills.

Seven miles from the proposed dumpsite is the eastern boundary of the Mojave National Preserve. The park contains an unparalleled range of desert ecosystems, from the towering Kelso Sand Dunes to the largest forest of Joshua Trees in the world to the lush riparian canyons and the juniper-piñon woodlands of the New York Mountains.

The Colorado River, Ward Valley, Chemehuevi Valley, the Turtle Mountains, Spirit Mountain, and the Old Woman Mountains encircle an area considered sacred by the lower Colorado River Indian tribes. Spirit Mountain is the place of origin for the People by the River. Abundant

petroglyphs covering the sun-tarnished rocks at the entrance of Grapevine Canyon were left by resident and transient tribes and tell of hunting, travels and territories. At an ancient site in the Old Woman Mountains, petroglyphs depicting falcons and dancers are carved into the dark red stone.

The nuclear industry and officials within the state and federal government are planning to bury long-lasting and highly dangerous wastes from nuclear power reactors in shallow, unlined trenches right above an aquifer, 18 miles from the Colorado River, next to and upriver from Indian lands.

Ward Valley would receive a mixed brew of low-level radioactive wastes from hospitals, biotech industry, academia and nuclear utilities. Department of Energy statistics show that the 80 percent of the wastes slated for Ward Valley would come from commercial nuclear power reactors, while less than 1 percent would come from medical and industrial sources.

A careful analysis of the so-called "low-level" radioactive waste stream exposes the power behind the push for the dump. Proponents have spent millions on public relations campaigns, and corporate giants such as Pacific Gas and Electric and Southern California Edison have lobbied heavily for the Ward Valley dump in order to secure an inexpensive way of getting rid of wastes generated at their power plant sites.

The term low-level wastes, as established by the Nuclear Regulatory Commission, is misleading, conjuring the image

## The Workbook Feature

of short-lived and benign radioactive wastes. In this country, nuclear materials are defined not by their hazard but by their production process. Thus, "low-level" wastes can include virtually all of the same radioactive elements found in "high-level wastes" and some may be in even more dangerous concentrations than some wastes classified as high-level. Cesium and strontium, which remain deadly for as long as 300 years, and plutonium, toxic for 250,000 years, are called high-level wastes when they are in the reactor core. Once these same materials are sifted out into filters they are then classified as low-level wastes.



Ward Valley is on federal land administered by the Department of the Interior which, according to federal law, has a "fiduciary obligation" or trust responsibility to protect American Indian lands and resources. The lower Colorado River Indian tribes depend on the Colorado River for drinking water and agriculture. The tribes have a deep spiritual and historical connection with the land and the river. The Colorado River, an ancient river tamed by dams, is an integral part of the cultural identity of the tribes.

The land at Ward Valley must be transferred to the State of California before the dump can be built, since the state would license the dump. Governor Pete Wilson's administration has selected as the dump contractor a waste management firm, U.S. Ecology (formerly Nuclear Engineering Corporation), notorious for its trail of leaking dumps and litigation across the country. Its nuclear dumps at Sheffield, Illinois; Maxey Flats, Kentucky; Richland, Washington; and Beatty, Nevada, are leaking dangerous radioactive materials into the surrounding ecosystem. Two of its toxic waste dumps are Superfund sites.

The lower Colorado River Indian Tribes have made numerous attempts over the last ten years to express their concerns the Department of the Interior about the threat to cultural and natural resources, but their protests and requests for a meeting with the Secretary have been ignored.

The desert tortoise, a species which has remained relatively unchanged for the last 65 million years, has been a central figure in Indian culture in the Southwest and has a particular importance for the lower Colorado River Indian tribes. Ward Valley has long been recognized by biologists as essential habitat for the species. Due to assaults on its habitat by mining, grazing, off-road vehicle use and other human impacts, half the tortoise population has been

lost. The desert tortoise was added to the federal endangered species list in 1991.

In 1994, in response to a lawsuit by environmental groups that included the Bay Area Nuclear Waste Coalition and Greenpeace, and the Fort Mojave and Chemehuevi Indian Tribes, the Department of the Interior designated Ward Valley as critical habitat. In its 1994 Recovery Plan for the Desert Tortoise, the U. S. Fish and Wildlife Service stated that "currently the largest and most robust population of desert tortoises remaining within the

geographic range is found in portions of the Ward and Chemehuevi valleys." Ward Valley is not just critical habitat, it is the best critical habitat left for a vulnerable species.

A year ago, three scientists with the United States Geological Survey warned Secretary of the Interior Bruce Babbitt that radioactive waste buried at Ward Valley could reach the aquifer below and eventually migrate to the Colorado River. When they gave the report to Secretary Babbitt he responded by trying to discredit them. The geologists then submitted their report to Senator Barbara Boxer (D-Calif.), who publicly accused Babbitt of a coverup. This prompted Babbitt to direct the National Academy of Sciences (NAS) to review the issue. But the panel selected to analyze potential threats to the Colorado River and the desert tortoise was chosen from a group of scientists who betrayed conflicts of interest given their association with corporations and government institutions favorable to shallow land burial of nuclear wastes.

After a long delay and dissension in their ranks, the NAS panel reported that it was "highly unlikely" that radioactive wastes buried at the dumpsite would contaminate the Colorado River. The panel also stated that the data used to determine the migration rates of radionuclides in arid environments was incomplete. The panel recommended that additional tests be conducted to determine the potential for contamination of the aquifer and Colorado River but allowed for the tests to be undertaken after the dump is built.

The NAS panel agreed with biologists that Ward Valley is some of the very best tortoise habitat, that moving the tortoises from the site would be risky and that moving them to another area may harm the recipient population. Amazingly, the report recommended sacrificing the tortoises, proposing an administrative maneuver which classifies the tortoises as "incidental take," or circumstantial casualties of the dump project.



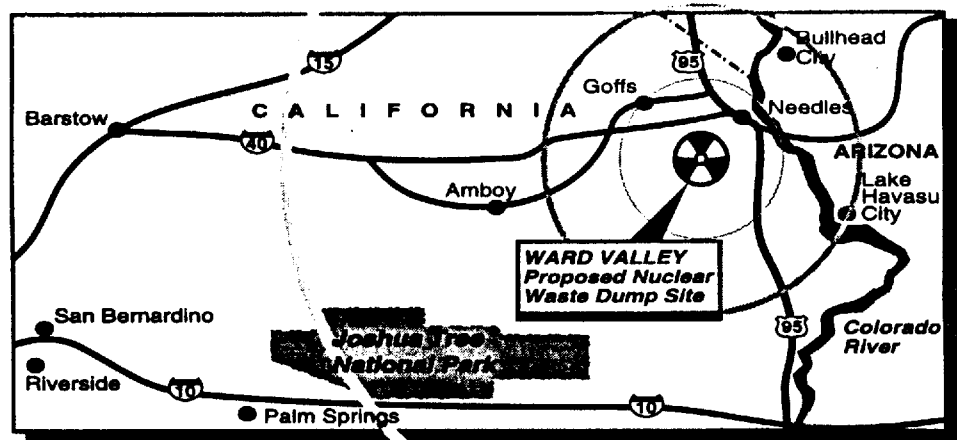
At public hearings, the NAS panel limited the testimony of dump opponents and ignored statements by tribal representatives concerned about threats the nuclear dump posed for the tribes.

Ward Valley could become a national nuclear dump, accepting wastes from the country's aging commercial reactors. The federal land transfer is for 1,000 acres, ample room to expand from the originally proposed 90-acre site. The Nuclear Regulatory Commission has unilateral "emergency access powers" to direct waste from anywhere in the country to any open dump. California is currently poised to accept waste from a regional compact of states including Arizona, North Dakota and South Dakota; but compact commissioners — gubernatorial appointees — have already voted to keep the option of accepting out-of-compact waste. Every commercial nuclear landfill has served as a national repository, and every one has leaked.

For the tribes, the proposed dump is a direct attack against their culture, their future and their land, and an example of one nation attempting to bury its poisons in another nation's soil. After a long and difficult relationship with the United States, Indian nations have now been targeted by the nuclear industry and the federal government as repositories for radioactive waste.

The dump would force property values down, discourage business and threaten peace of mind of the residents of the small town of Needles. For wilderness advocates and anti-nuclear activists, a shallow grave for nuclear wastes in pristine desert represents an ill-fated move toward the contamination of invaluable resources. The commitment to protect Ward Valley is basic and profound for people who have a solemn relationship with the land. ❖

*Philip M. Klasky is a writer, activist, teacher and researcher and co-director of the Bay Area Nuclear (BAN) Waste Coalition. For more information about how you can help stop the dump call (415) 752-8678 or (415) 369-6690.*



*what you can do --*

Join anti-nuclear activists, wilderness advocates, and Native Americans from the Fort Mojave, Chemehuevi, Cocopah, Quechan, and Colorado River Tribes in

a week-long  
**Encampment to Save Ward Valley**

**October 10-15, 1995**  
at Ward Valley, California

with workshops and meetings  
cultural events  
and  
Actions

For information about the Ward Valley  
Encampment, call

415-752-8679  
415-369-6690  
or  
800-454-3016

## The Workbook Feature

and acquire 200 megawatts of windpower and 75 megawatts of biomass power by December 31, 2002. The state law also prohibits construction of any new nuclear power plants in the state.

For many years New Mexicans have strongly opposed plans for spent fuel storage in the state — DOE's plans in the late 1970s to bring it to WIPP, a proposal to develop a site near WIPP in 1987, and the Mescalero plans in 1992 and 1993 — and once again opposition to the Northern States Power proposal was strong. In addition to the many local government resolutions that had previously opposed the Mescalero site, the New Mexico House, in 1992, and Senate, in 1994, passed resolutions of opposition. The unanimous opposition of the New Mexico congressional delegation led Sen. Jeff Bingaman to be the chief sponsor of the congressional law in 1993 that prohibited further funding for grants to consider spent fuel storage.

When by December 1994 the milestones of the Northern States Power business plan had not been achieved, some utilities (the list of signees has not been released) and the Tribal Council signed a Letter of Intent to continue developing the storage site. Without providing to voters the Letter of Intent, the Tribal Council held a referendum on January 31, 1995. Nevertheless, tribal members rejected the waste facility, by a vote of 490 to 362. Although no one claimed that the referendum was anything other than free and fair, some tribal supporters of a waste site petitioned for a second referendum. That one was held on March 9 amid charges that threats had been made against waste site opponents and that \$2,000 payments had been offered to tribal members who supported the facility. The vote was 593 for the waste site, 372 against.

The Letter of Intent, signed by the Tribal Council and some utilities on December 20, 1994, included some provisions that were at variance from those specified in the Business Plan:

- majority ownership and control of the facility corporation would now be with the utilities;
- title to the spent fuel could pass to the tribe from the utilities;
- the facility capacity would be 20,000 metric tons and could be expanded to 40,000 metric tons;
- the facility corporation, not the tribe, would obtain the NRC license;
- some spent fuel could be transported by truck.

Among the Letter of Intent's other provisions:

- the plan would be terminated if an acceptable development agreement was not signed within 60 days after the tribal referendum;
- the operation of the facility would be in the hands of the president/general manager, elected by the facility corporation board of directors;
- ultimate legal decisions would be made in federal, not tribal, courts;
- by July 31, 1995, the Tribe would have to select "a suitable site."

The Letter of Intent included no information about costs of the facility or required financial benefits to the Tribe, nor any schedule for constructing or operating the facility.



On June 26, 1995, Northern States Power and the Tribal Council issued a statement that 23 utilities had signed up to continue to pursue the development of a storage site. But a few days later, they admitted that no agreement had been signed and that several of the utilities would not participate in any venture.<sup>5</sup> It appears now that the funding for the project has still not been obtained. Nonetheless, Northern States Power and tribal officials maintain that they will begin to develop a license application for submission to the NRC.

Sam Skinner, President of Commonwealth Edison, one of the major utilities involved in the Mescalero proposal, said in answer to a question at the July 12 House Commerce Subcommittee hearing, that because he felt it would be more difficult to proceed with the Mescalero site than with a federal government site, he was supporting the industry bill to force developing such a site in Nevada.

### WHY CONGRESSIONAL LEGISLATION ON WIPP?

While it comes as no surprise that the nuclear industry is pushing a fast-track "solution" for spent fuel (see *The Workbook*, Summer 1994 [Vol. 19, No. 2], pp. 72-74), congressional action to change the requirements for WIPP was unthinkable until the last election. It had taken Congress five years of debate before the WIPP Land Withdrawal Act was passed with bipartisan support in October 1992.

But in January 1995, Rep. Joe Skeen became chairman of the House Agriculture Appropriations Subcommittee as part of Speaker Newt Gingrich's team. After seeing the success of the "Contract With America," Rep. Skeen apparently decided that the provisions that had been roundly rejected during the WIPP Act debate might now be passed in the Republican House. His WIPP Bill, H.R. 1663, would:

- eliminate Environmental Protection Agency (EPA) authority to determine whether WIPP will meet standards to limit radioactive releases for 10,000 years;
- eliminate the requirement that EPA must determine that the hazardous chemical wastes will not migrate from the repository;
- repeal public participation requirements, especially the provision that EPA's decisions be based on public comments;
- eliminate judicial review of the decisions regarding WIPP's safety;
- repeal requirements that DOE inform Congress and the public about its plans for all transuranic wastes before WIPP can open;
- mandate a decision by DOE to open WIPP by March 31, 1997, even before necessary information about the wastes coming to WIPP is available.

On July 22, a House Commerce Subcommittee held a hearing on the Skeen bill. Several of its major provisions were opposed by DOE, EPA, the General Accounting Office, New Mexico's governor and attorney general, and individual citizens. Nevertheless, on July 28, the subcommittee passed the bill with no changes. It appears that there will be efforts to pass the bill through the House before the end of the year.

Prospects for action in the Senate, where no WIPP bill has been introduced, will likely rest with New Mexico senators Pete Domenici and Jeff Bingaman, the prime sponsors of the WIPP Land Withdrawal Act. Neither senator has publicly expressed a need to change any major provisions of the WIPP Act; and since senators Bingaman and Domenici are two key members of the Senate Energy Committee, which has jurisdiction over any WIPP legislation, the committee is not likely to act without their support. Moreover, since Senator Domenici is chairman of the Senate Budget Committee and member of the Appropriations Committee, putting a WIPP bill on any other legislation, such as the Budget Reconciliation Act, is not possible without his support.

### WHY SHOULD CITIZENS BECOME MORE INVOLVED?

Congress is clearly trying to act soon to "solve" the nuclear waste problem, at least so as to avoid it becoming a 1996 election issue and to satisfy the nuclear industry. If it only has to satisfy the nuclear industry's demands, Congress will enact legislation that does not address the fundamental issues, but will pose unnecessary public health and safety risks, undermine democratic rights, and waste billions of dollars.

Currently, it is primarily the public in Nevada and New Mexico that is paying attention to Congress's actions on nuclear waste. Nevadans have long opposed nuclear waste

### 22 Utilities Participating in Mescalero Facility & States where Nuclear Plants are located

American Electric Power Service Corp., Michigan  
Baltimore Gas and Electric, Maryland  
Centerior Energy Corp., Ohio  
Commonwealth Edison Co., Illinois  
Consolidated Edison Co., New York  
Dairyland Power Cooperative, Wisconsin  
Florida Power Corp., Florida  
GPU Nuclear Corp., New Jersey & Pennsylvania  
Illinois Power Co., Illinois  
Niagara Mohawk Power Corp., New York  
Northeast Utilities, Connecticut & New Hampshire  
Northern States Power Co., Minnesota  
Pacific Gas & Electric Co., California  
PECO Energy Co., Pennsylvania  
Public Service Electric & Gas Co., New Jersey  
Southern California Edison Co., California  
Southern Nuclear Operating Co., Alabama & Georgia  
Union Electric Co., Missouri  
Wisconsin Electric Power Co., Wisconsin  
Wisconsin Public Service Corp., Wisconsin  
Wolf Creek Nuclear Operating Corp., Kansas  
Yankee Atomic Electric Co., Massachusetts

legislation that targets their state because of the political expediency that it is based on and because of concerns about the technical adequacy of Yucca Mountain. New Mexicans have deep concerns about the safety of WIPP, and a large majority of the population opposes spent fuel storage. Actions by citizens in both states along with Nevada state officials have delayed the opening of Yucca Mountain and WIPP. But since the passage of the Nuclear Waste Policy Amendments Act in 1987, many citizens from other states have been much less involved than they had been in the early- and mid-1980s when 14 states were targeted for spent fuel storage or disposal. Without federal legislation, citizen action was focused on some plans for on-site storage — particularly Northern States Power's Prairie Island Plant and Consumer Power Company's Palisades Plant in Michigan — although proposals for increased on-site storage at most nuclear plants did not result in strong opposition.

The current congressional proposals that would require transporting spent fuel across the nation to a storage site beginning in 1998 should cause intense public concern. Such transportation is unnecessary because utility companies consistently maintain that on-site spent fuel storage is safe, and the Nuclear Regulatory Commission has determined that spent fuel can be safely stored on site for at least 100 years.<sup>6</sup> Unless power plants are shut down — a decision that can be made by the utility and affected citizens and state officials — the plants will continue to generate and store spent fuel.

## The Workbook Feature

Spent fuel transportation would endanger millions of people who face little or no danger from on-site storage. Most spent fuel has never been transported off-site and the large fleet of trains, trucks, and shipping containers needed does not exist. The thousands of truck and train shipments of spent fuel that contain billions of curies of radioactivity from power plants to a storage site in Nevada would pass through communities in 43 states where tens of millions live and work. Those people would be at risk from transportation accidents.

People should also be concerned about the weakening of democratic rights. To force a site that has not been shown to safely contain radioactive wastes, dangerous for thousands of generations, upon unwilling citizens, states, or tribes is a fundamental attack on democratic rights. Such action is possible only by eliminating or limiting rights to vote and to seek redress from the courts. Thus, the nuclear industry's legislation is an implicit admission that there is no scientifically sound, publicly accepted solution for the waste problem.

The industry's legislation would not offer any solution to the real problems of how much waste will be created, determining the safest way to keep it out of the biosphere, or whether any more nuclear facilities should be built unless they are able to safely store longterm storage or dispose of the wastes generated.

The WIPP legislation would also create public health and safety risks and undermine democratic rights. While WIPP is supposed to handle less than 0.01 percent of the radioactivity in all existing nuclear wastes, the tons of plutonium that it is to handle pose very longterm risks to people and the environment. The approximately 30,000 truck shipments that would bring wastes to WIPP would go through more than 20 states and pose risks to public health and safety. The right for New Mexico to veto WIPP was eliminated by Congress in 1979, so democratic rights have already been substantially curtailed. The Skeen Bill takes away most of the other legal rights available to the state and affected citizens. Opening WIPP without a public, EPA

process to determine the safety of the site as required by existing law is also an implicit admission that scientifically sound, publicly accepted sites are not possible. Since most of the volume of existing transuranic waste will remain at its current locations even if WIPP is developed as planned, the facility is in no sense a solution for any significant portion of the nation's waste problem.

Against the might and money of the nuclear industry, what can citizens do?

The nuclear industry is not just using its traditional weapons of power and money, it has also created its own "grassroots" network of citizens who, when it is time to contact Congress, receive mailings and phone calls supplying the specific message to support the industry's legislation. While the industry readily promotes its own views, it fails to address those basic questions of how much waste

will be generated, how it can be safely handled for thousands of generations, why millions of people should be unwillingly put at risk from transportation and centralized storage, or why fundamental democratic rights should be sacrificed in order to bail out the nuclear industry.

Citizens should contact their congresspersons, local officials, and local organizations to insist that those questions are the focus of discussion. They can join and support local and national organizations

that will take the message to Congress and continue to insist on real solutions, regardless of what Congress does this year. Local discussion should directly involve emergency response and health officials, since they will be forced to deal with transportation accidents. Very few communities have emergency responders with training and equipment to adequately handle accidents involving high-level radioactive wastes, and even fewer have medical facilities with isolation rooms for victims of radiation accidents and personnel trained and supplied with medicine to treat such victims.

What is most needed is debate, discussion, and scientific work, not congressional action at the behest of the nuclear industry. As long as the fundamental issues are not addressed, no waste program can be successfully imple-



mented. A mechanism to start that needed process nationally, which has long been supported by many people, is the formation of a blue ribbon nuclear waste commission to bring together citizens, industry representatives, governmental and tribal officials, and scientists in an open, public process to discuss how to develop a new, scientifically sound, publicly acceptable approach to nuclear wastes.

The arguments against such a commission have always been that it would just generate another useless report, and that there is no time to waste, because, with more wastes than any other nation, the U.S. must take the lead in solving the problem. But the purpose of the commission would be not simply to generate a report, but rather, to bring together people representing all affected interests to publicly and realistically look at the complex nuclear waste issues. The commission could then recommend a program to address the risks and potential solutions and to replace the political expediency that has dominated the nation's nuclear waste policy.

The idea of establishing an independent nuclear waste commission is not unique. France, the nation that has for the most years been highly dependent on nuclear power as its primary source of electricity, has a National Evaluation Commission which was created in 1991 to look at alternatives for nuclear waste disposal. While not a model of the broad mandate and strong public participation required here, the French Commission shows that such a process is needed and useful even in a nation that does not have the vast gulfs in public opinion as in the U.S. Rather than delaying the waste program, the sooner such a commission is established and the current program is stopped, the sooner realistic solutions that have public support can be developed and put to work.

If despite citizen opposition, the industry-sponsored legislation becomes law, the waste problem will not be solved. Many citizens will oppose it in political arenas, in the courts, and in the streets.

Continuing citizen involvement against the power and money of the nuclear industry will require significant effort, but what is at stake is worth every effort. It is not only public health and safety, democratic rights, and billions of dollars now. Nuclear wastes will be dangerous for thousands of years, a terrible bequest to future generations, which will be even more dangerous and difficult to manage if it is exacerbated by politically expedient legislation. It is not too late for citizens to join together locally and nationally to insist that public health, safety, and democratic rights be maintained now and for the future. ♦

## ORGANIZATIONS

Citizen Alert, P.O. Box 1681, Las Vegas, NV 89125; (702) 796-5662, Fax: (702) 796-4886. *Statewide membership organization that has opposed the federal nuclear waste program for 20 years.*

Nuclear Energy Institute, 1776 I Street, N.W., Suite 400, Washington, DC 20006-3708; (202) 739-8000, Fax: (202) 785-4113. *The Nuclear industry's lobbying and citizen action organization.*

Nuclear Information and Resource Service, 1424 16th St., N.W., Suite 601, Washington, DC 20036; (202) 328-0002, Fax: (202) 462-2183. *Information and networking center for the grassroots safe energy movement.*

Public Citizen's Critical Mass Energy Project, 215 Pennsylvania Ave., S.E., Washington, DC 20003; (202) 546-4996, Fax: (202) 547-7392. *Membership organization that advocates decreasing reliance on nuclear and fossil fuels and promoting energy alternatives.*

Southwest Research and Information Center, P.O. Box 4524, Albuquerque, NM 87106; (505) 262-1862, Fax: (505) 262-1864. *Provides information and technical assistance on nuclear waste issues.*

## Notes

1. 60 *Federal Register* 21793, May 3, 1995.
2. *Northern States Power Company v. U.S. Department of Energy*, Nos 94-1457, 94-1458, 94-1574 (D.C. Cir., 1994).
3. U.S. Department of Energy. *Spent Fuel Storage Requirements 1993-2040*, DOE/RW-0431, September 1994, Table B.2b.
4. Bill S.F. No. 1706, passed on May 6, 1994.
5. Tony Davis, "Apaches' backers seem to number 17, not 23," *Albuquerque Tribune*, July 1, 1995, p. A-1.
6. 55 *Federal Register* 38474, September 18, 1990.

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