

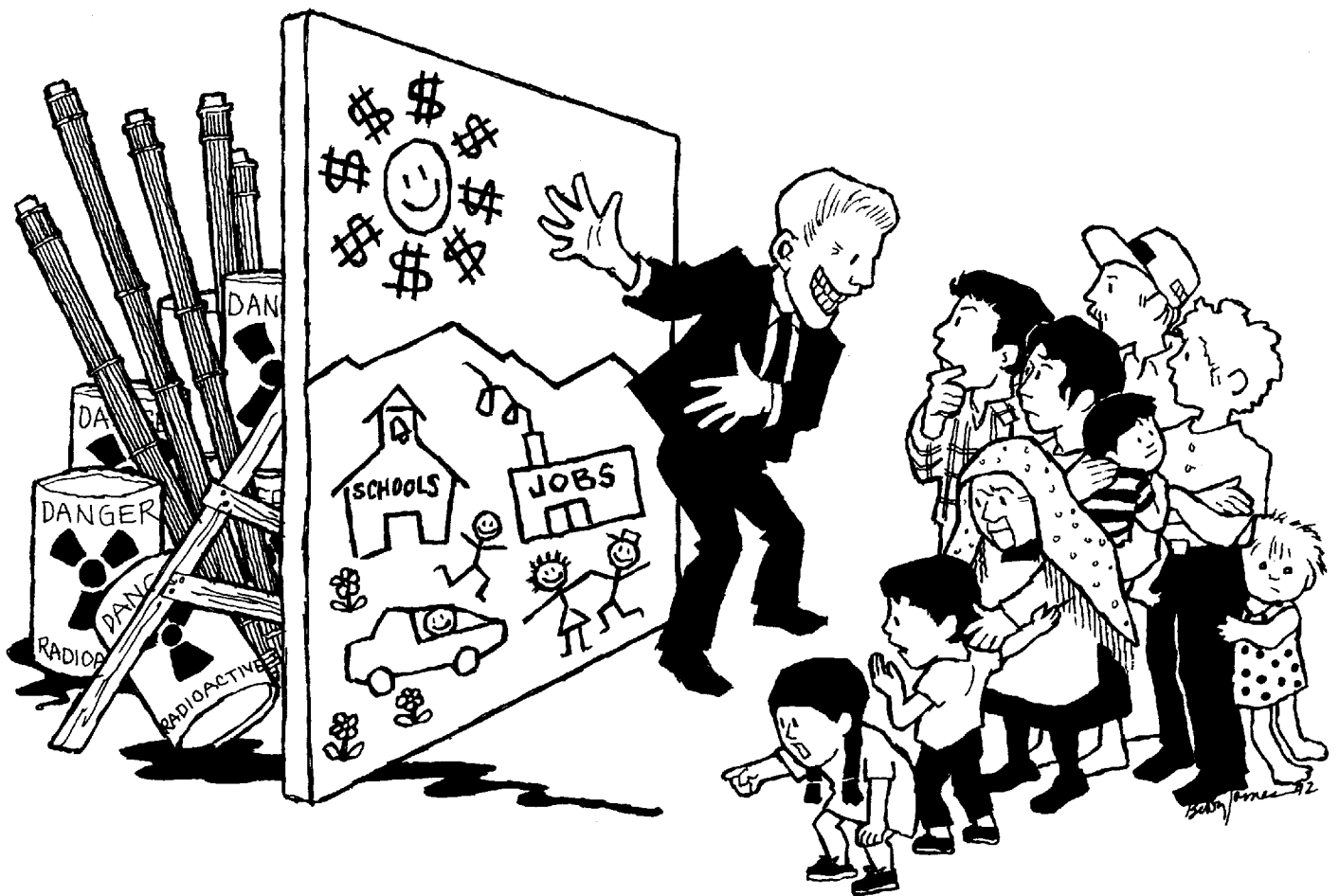
# THE WORKBOOK

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**FOR SALE: Nuclear Waste Sites  
— Anyone Buying?**

# FOR SALE: Nuclear Waste Sites — Anyone Buying?

by *Don Hancock*

After years of failed attempts by the Department of Energy (DOE) to find permanent nuclear waste disposal sites, Congress declared the program a failure in 1987 (see *The Workbook*, Vol. 13, No. 1, pp. 2-6). With the Nuclear Waste Policy Amendments Act (NWPAA), which amended the 1982 Nuclear Waste Policy Act (NWPA), Congress terminated investigations at all sites except Yucca Mountain, Nevada. Many congresspeople hoped that Yucca Mountain would prove to be a technically suitable permanent disposal site and that politically weak Nevada would be unable to successfully challenge the decision Congress made to support the nuclear industry.

In the event that Yucca Mountain could not be used as a repository, Congress established two alternatives in the 1987 law. First was to authorize DOE to locate, construct, and operate one centralized monitored retrieval storage (MRS) facility where wastes would be maintained until a repository opened. Second, the law established the Office of Nuclear Waste Negotiator, whose mission was to find a volunteer state or Indian tribe to host either a repository or an MRS.

Five years have passed. The possibility that nuclear waste will ever be emplaced at Yucca Mountain has receded into the distant future; it is likely that it will never become a repository. And it appears certain that by the time the NWPAA's termination date for the Office of Nuclear Waste Negotiator arrives in January 1993, no state or Indian tribe will have been selected for an MRS site. At present, no state or tribe is even considering volunteering to be a repository site.

The continued failure of the U.S. nuclear waste program during the past five years has occurred not only because of DOE blunders at Yucca Mountain and the negotiator's inability to find a volunteer state to host either a repository or MRS, but because the laws themselves are fundamentally flawed and bound to fail.

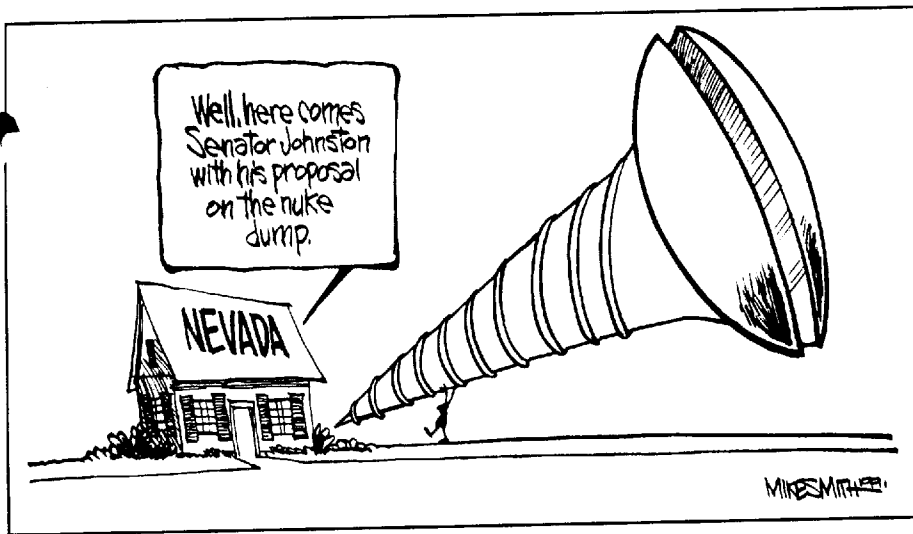
## YUCCA MOUNTAIN: GOING, GOING, GONE?

The 1987 congressional action to stop investigations at the Hanford, Washington, and Deaf Smith County, Texas, repository sites, to annul and revoke the DOE proposal to locate an MRS at the Clinch River Breeder Reactor site in Tennessee, and to stop all investigations for a second, crystalline rock repository was a victory for the citizens and state and tribal officials who had strongly opposed DOE's program on the grounds that it was unscientific, illegal, and based on political expediency. DOE, the nuclear industry, and their supporters in Congress expected those people to stop their involvement so that the work at Yucca Mountain could proceed without major opposition.

While the level of citizen activity in the other states was sharply reduced, the federal government's obvious decision to "screw Nevada" outraged Nevadans. Opposition there was already strong, as evidenced by the 1986 U.S. Senate election victory of Harry Reid, who had actively campaigned against the Yucca Mountain "dump." In the 1988 presidential election, George Bush received 61 percent of the state's vote, but strongly anti-Yucca Mountain Democrat Richard Bryan was elected to the Senate, defeating incumbent Sen. Chic Hecht. At the urging of citizen groups, led by Citizen Alert, political rhetoric was converted into action in 1989 when the State Legislature enacted AB 222, which prohibits high-level nuclear waste storage and disposal in Nevada.

Nevada's opposition to the dumpsite has resulted in lawsuits brought by both the state of Nevada and DOE. The federal government has so far prevailed in those suits, as the courts have ruled that investigations can go on and that the state's veto authority under the NWPA of 1982 cannot be exercised until the president makes a final decision to build the repository (currently scheduled in 2001).<sup>1</sup> During that time, many additional opportunities for legal action remain.

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Faced with unrelenting public and political opposition, in 1991 the nuclear industry, through its American Nuclear Energy Council, began a three million-dollar-a-year public relations blitz using television and newspaper advertising to try to sell Nevadans on the idea that Yucca Mountain would be safe.<sup>2</sup> So far, the sales job has had little demonstrable effect in changing the public's opposition to the repository.

On the technical front, DOE's plans for Yucca Mountain are not faring well. A report by DOE geologist Jerry Szymanski, released a month after Congress passed the NWPAA, described a theory, based on field investigations, that water could come up from below into the waste disposal area, allowing releases of radioactivity. The fact that the proposed disposal horizon at Yucca Mountain is about 1,000 feet below the surface and about 500 feet above the water table convinced some scientists that Yucca Mountain could be a good site. But the Szymanski report cast serious doubts about the site's long-term suitability.<sup>3</sup>

Other scientific investigations determined that volcanic activity had occurred within the past 10,000 years, not hundreds of thousands of years ago, as DOE maintained. Numerous earthquake faults surround and underlie Yucca Mountain. DOE's claim that those faults are no threat to the repository was undermined by the June 1992 earthquake that caused more than a million dollars in damage to the DOE field operations headquarters. (There were no injuries only because the quake hit in the early morning hours when no one was working.)

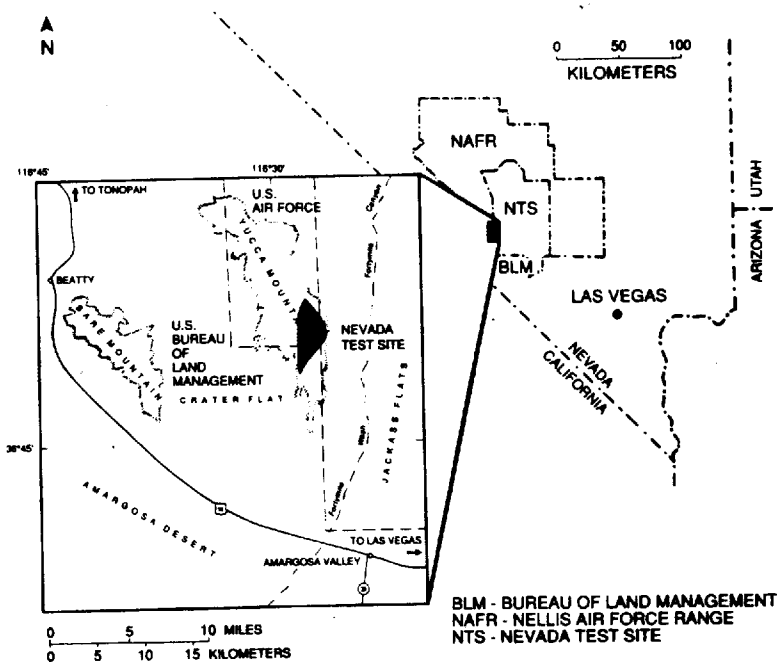
DOE has frequently complained that the state of Nevada's intransigent opposition to the repository, including its refusal to issue permits until forced to do so by a judge, had caused subsurface field work, which would have gathered more scientific data, to be delayed from 1986 until July 8, 1991. But the real reason, as acknowledged by the General Accounting Office (GAO), was that DOE was not prepared for the field work.<sup>4</sup> Principally, DOE did not have in place the quality assurance (QA) programs mandated by the Nuclear Regulatory Commission (NRC). Without QA, much of the

data could not be validated and used to support DOE's license application. Another cause of delay was DOE's need to develop a new, "dry" drilling technique that would not introduce large amounts of drilling fluids into the unsaturated rock.

In November 1989, DOE Secretary James Watkins finally admitted the obvious — Yucca Mountain would not be available by January 1998, the date mentioned in the 1982 law and used to promote the "quick solution" by supporters of the NWPAA.<sup>5</sup> Instead, the secretary set a target date of 2010 for Yucca Mountain to open. Thus, even under the best circumstances, Yucca Mountain cannot receive any wastes for

nearly two decades unless technical and legal requirements are waived.

In fact, the prospect for Yucca Mountain ever being a repository is slim. The existence of faults, the risk of volcanic activity, and uncertain hydrology may well disqualify the site from meeting NRC licensing criteria. DOE scientists say that the site cannot meet the release limits for carbon-14 established in the Environmental Protection Agency (EPA) disposal standards. (Consequently, DOE is trying to get that limit substantially reduced or eliminated.<sup>6</sup> EPA must reissue the standards because they were struck down by a court as being not stringent enough.) Moreover, the unrelenting citizen opposition to the repository should prompt continued strong and effective political and legal action by state officials.



## WILL ANYONE VOLUNTEER TO BE A DUMPSITE?

### History

Siting nuclear waste storage or disposal facilities is difficult under any circumstances. But the history of the federal government's program provides ample basis for strong opposition and explains the failure of the fundamental premise of the Nuclear Waste Policy Act of 1982 — that geologic disposal can now be the solution to the nation's nuclear waste problem.

Because of DOE's inability to operate a scientifically sound, publicly acceptable nuclear waste program in conformance with the NWPA, citizen groups united to stop DOE's activities. Beginning in 1985, citizens groups from across the nation began cooperative actions. In 1986, the National Nuclear Waste Task Force was formed by citizen groups in all 14 states directly affected by the repository program and from Tennessee, where an MRS had been proposed. The Task Force successfully advocated slashing funding for the waste program by 45 percent, from \$769 million to \$420 million, effectively putting a hold on DOE's activities.

In 1987, the Task Force and several national environmental organizations proposed a moratorium on any further investigations for a repository or MRS, calling for the establishment of an independent commission that would evaluate the program and alternative approaches and report to Congress on plans for a new program. Legislation mandating that approach had strong, bipartisan support in both the Senate and House.<sup>7</sup>

While virtually everyone agreed that the DOE program was a failure, the nuclear industry strongly opposed the moratorium-commission legislation because it did not declare a "solution" to the waste problem — a prerequisite to developing new nuclear plants.

Alternative approaches were put forward by two powerful congressional committee chairmen who were major authors of the 1982 law. Sen. Bennett Johnston (D-Louisiana), chairman of the Senate Energy and Natural Resources Committee, advocated for a quick selection of a repository and MRS and cash grants to states that would accept those facilities. His bill included \$100 million a year for a repository and \$50 million a year for an MRS if a state agreed not to exercise its veto authority and not to oppose the site in the NRC licensing process.<sup>8</sup>

After sponsoring the moratorium-commission legislation, House Interior Committee Chairman Morris Udall (D-Arizona) introduced a second bill, whose centerpiece was establishment of an Office of Nuclear Waste Negotiator. Udall argued that "a large part of our trouble with siting a nuclear waste repository stems from the public perception that a repository is a source of endless misfortune."<sup>9</sup> But, as Udall conceived it, the negotiator would have wide latitude to negotiate terms and conditions important to the state or tribe.

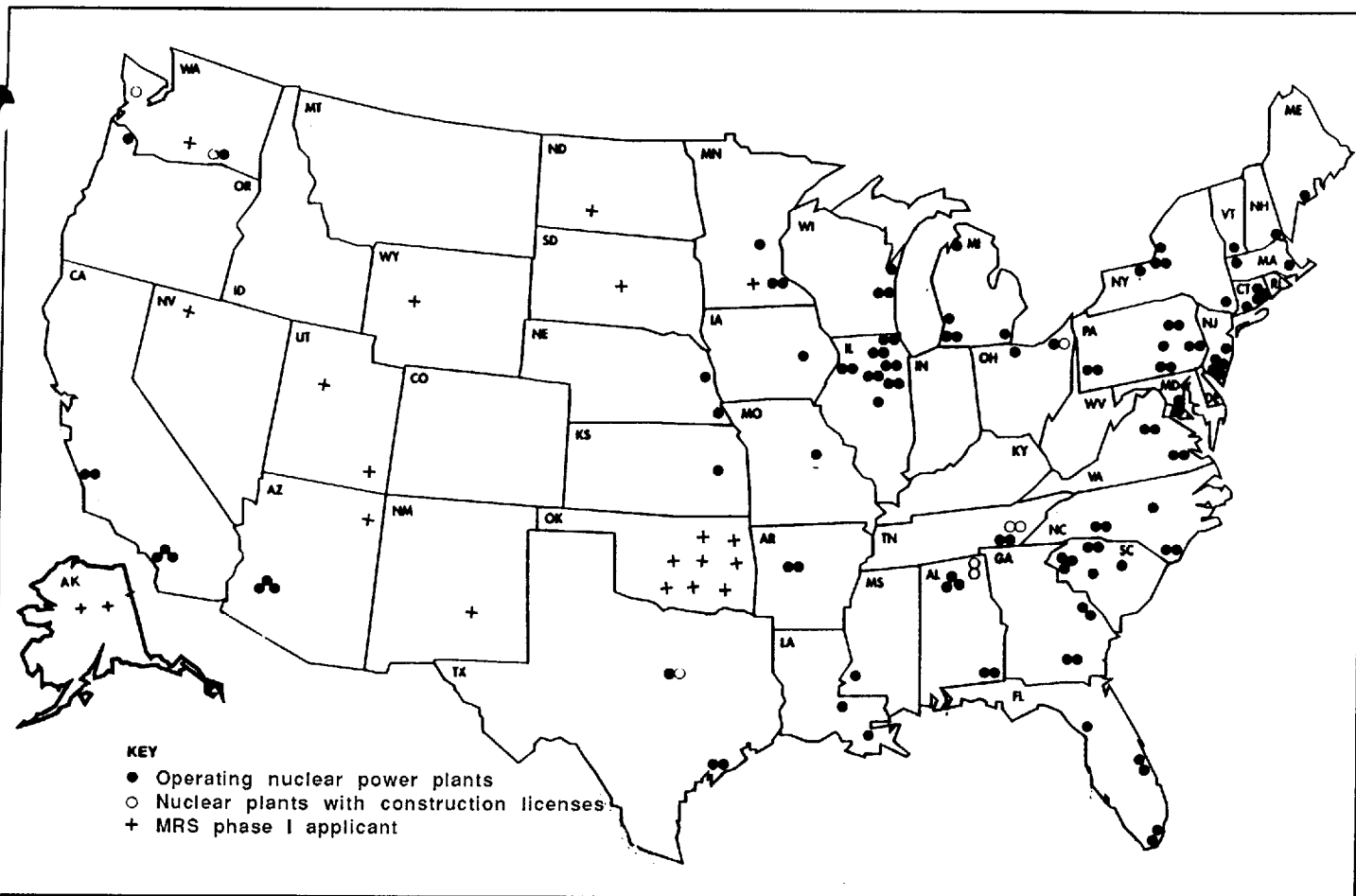
The amended act includes those two concepts. In section 171(a), the law provides \$10 million a year to a state or tribe for a repository and \$5 million for an MRS. Section 402 established the Office of U.S. Nuclear Waste Negotiator who would "attempt to find a State or Indian tribe willing to host a repository or monitored retrievable storage facility at a technically qualified site on reasonable terms and shall negotiate with any State or Indian tribe which expresses an interest in hosting a repository or monitored retrievable storage site."

### MRS — Unneeded and dangerous

Although Sen. Johnston finally persuaded Congress to authorize an MRS, the law, reflecting Congress's continued commitment to geologic disposal, included two provisions that made it unlikely that such a facility would actually be constructed. First, before DOE could even begin to search for possible sites, an MRS Commission had to report on the feasibility of the concept. Second, in an attempt to ensure that the MRS would not become a de facto disposal site, construction on an MRS could not begin until the permanent repository received a license, and no waste could be brought to the MRS in the event a repository license was revoked or repository construction ceased. Further, the NWPA prohibited siting the MRS in Nevada and limited its capacity to 10,000 metric tons until a repository was operational. (For comparison, by 1991 more than 21,000 metric tons of spent fuel were stored at commercial reactors.)<sup>10</sup>

The MRS Commission met over an 18-month period and released its report on November 1, 1989.<sup>11</sup> The three commissioners, who were experienced with electric utilities and nuclear power plants, heard testimony from states, citizen groups, and individuals in opposition to an MRS (the "no-MRS alternative") as well as testimony from DOE and the nuclear industry advocating an MRS as part of the solution to the waste problem. The opponents of the MRS pointed out that an MRS is not needed because the NRC has affirmed that spent fuel can be stored on-site for up to 100 years.<sup>12</sup> Further, an MRS would be more dangerous than on-site storage because of predictable transportation accidents. And handling wastes at an MRS would be more dangerous than on-site storage because of DOE's plans for "rod consolidation," a process that involves cutting open spent fuel bundles and repackaging them to reduce storage and transportation requirements. An MRS might also become a permanent facility, since its existence would reduce incentives to build a repository.

The commission concluded: "there are no single discriminating factors that would cause the MRS alternative to be chosen in preference to the No-MRS alternative." The commission further concluded, "an MRS linked as provided in current law would not be justified. . . [because] most of the need for an MRS would have disappeared, in that utilities would have had to make other arrangements for storage." *The commission did not recommend an MRS.* It did support congressional authorization of a Federal Emergency Storage facility



with a 2,000-metric-ton capacity to be used in case of an emergency “such as an accident at a nuclear power plant.” The commission also recommended that Congress authorize a User-Funded Interim Storage facility with a 5,000-metric-ton capacity, paid by utilities using it. Neither MRS Commission proposal has been supported by the nuclear industry nor seriously considered by Congress.

### Can the negotiator sell the MRS?

Despite passage of the NWPAA, no quick negotiations were possible because President Reagan never nominated anyone for the position of negotiator. Not until August 1990 was the President Bush nominee, David Leroy, former Idaho attorney general and lieutenant governor, confirmed as negotiator.

Mr. Leroy, an amiable man, approaches his task with considerable enthusiasm. By October 1991 he had contacted a wide range of government officials, industry representatives, and citizen groups; then he began to formally solicit states and tribes for expressions of interest “in one of the most innovative and visionary” initiatives the federal government has ever undertaken.<sup>13</sup> To support his effort, DOE provides \$100,000 “phase I” grants for feasibility studies for virtually any purpose that the applicant desires; \$200,000 “phase II-A” grants are available to continue the process. “Phase II-B” grants, up to \$3,000,000, can then be requested to actually identify a specific site for an MRS and to formally

enter into an agreement with the negotiator to host an MRS for submission to Congress.<sup>14</sup>

Mr. Leroy made his sales pitch to hundreds of government officials, including county commissioners, even though the NWPAA makes clear that only a state — through its governor or legislature — or an Indian tribe — acting through its elected leadership — can enter into a negotiated agreement. By the June 30, 1992 application deadline, four counties, 16 Indian tribes, and one (ineligible) development corporation in 12 states had submitted phase I proposals. However, several of those submissions were quickly withdrawn by the applicant or could not be funded by DOE (see box, page 102).

The stories behind those applications vary, but they share some common elements. First, the applications were said to impose no risk and imply no commitment to actually volunteer for the MRS. Second, applicants were enticed by suggestions of multi-million-dollar annual benefits from jobs and grants as well as by the possibilities of new roads, educational improvements, and health care facilities. Third, the notion of risk of releases of radioactivity was continually dismissed, and the most dangerous aspects — transportation accidents and major releases from rod consolidation — were either downplayed or not mentioned. Fourth, the likelihood that the MRS would be anything but a temporary storage facility was not fully explained.

**MRS APPLICATIONS**  
(as of September 8, 1992)

Mescalero Apache Tribe, NM	Awarded 10/17/91 Phase II-A award 4/21/92
Grant County, ND	Awarded 11/25/91 <b>Terminated March 1992</b>
Chickasaw Nation, OK	Awarded 2/14/92 <b>Withdrew 3/31/92</b>
Fremont County, WY	Awarded 1/23/92 <b>Governor vetoed 8/21/92</b>
Sac and Fox Nation, OK	Awarded 2/19/92 <b>Withdrew 3/4/92</b>
Prairie Island Nation, MN	Awarded 3/18/92
Yakima Indian Nation, WA	Awarded 1/23/92 <b>Grant expired 7/23/92</b>
Fifield Development Corp., WI	<b>Rejected by DOE as ineligible</b>
Apache County, AZ	<b>Governor objected 4/3/92</b>
Skull Valley Goshute Tribe, UT	Awarded 4/17/92
Alabama Quassarte Tribe, OK	Under review by DOE
Eastern Shawnee Tribe, OK	Under review by DOE
Tetlin Village, AK	<b>Rejected by DOE 6/26/92</b>
Lower Brule Sioux, SD	Under review by DOE
Akhiok-Kaguyak, AK	<b>Rejected by DOE 6/26/92</b>
Apache Development Authority, OK	Under review by DOE
Absentee Shawnee Tribe, OK	<b>Withdrew 6/9/92</b>
San Juan County, UT	Awarded 5/4/92
Ponca Tribe, OK	Awarded 9/4/92
Caddo Tribe, OK	<b>Withdrew 7/16/92</b>
Ft. McDermitt Paiute Shoshone, NV	Awarded 7/15/92

Sources: U.S. DOE; U.S. Office of Nuclear Waste Negotiator

The reality is much different. Just the public knowledge that a study is underway has caused serious disruption in local communities. In Grant County, North Dakota, the opposition was so great that the three county commissioners who applied for the feasibility study were recalled and replaced by anti-study commissioners who terminated the process (after most of the \$100,000 grant had been spent). In Ruidoso, New

Mexico, near the Mescalero Apache Reservation, real estate agents reported that property sales were lost because people were concerned that the tribe might move forward with the MRS. In Wyoming, the application by the Fremont County Commissioners generated a highly divisive eight-month process that has only recently been ended by the governor (see pages 106-107). On several Indian reservations, strong opposition has forced tribal councils to withdraw their applications or stop the studies (see page 103).

The supposed economic benefits are almost certainly exaggerated. The NWPAA provides \$5 million a year for an MRS, so suggestions about significantly larger benefits are highly uncertain because the annual appropriations could be reduced by the many in Congress who question whether an MRS is needed and cost effective. Indeed, even many nuclear utilities do not favor MRS and say that it would not likely fulfill the objective of easing the operation of the repository. Moreover, many citizen and environmental groups oppose any MRS because it is not needed and it could become a permanent site or would significantly diminish efforts to proceed with a repository because some would proclaim the MRS to be a "solution." Most high-paying jobs would not likely go to local workers, since the NRC facility license would require qualified, experienced operators who would not be local residents of potential MRS sites, far removed from the operating power plants.<sup>15</sup>

The negotiator continually insists that protection of health, safety, and the environment are the highest priority; but Mr. Leroy and the nuclear industry speakers who are made available to potential applicants do not mention some vital health and safety facts. Among them:

- new containers to transport wastes from reactors to the MRS or from the MRS to a repository have not been designed;
- DOE's program of an integrated waste management system will require rod consolidation. Such a technology has not been successfully used in this country and will carry high risks of accidents and radiation releases.

As for an MRS being only for temporary storage, alarmed by the lack of progress at Yucca Mountain, the Bush administration and nuclear industry lobbyists are supporting legislation in Congress to break the "linkages" between the permanent repository and the temporary MRS set up in the laws.<sup>16</sup> If millions of dollars are invested in an MRS and benefits to a state or Indian tribe, the additional costs for a repository will seem unnecessary. Most important, once spent fuel is brought to an MRS, there will be no way to assure that it ever leaves.

## OKLAHOMA TRIBAL RESPONSE TO MRS

In January 1992, I was shocked to read in the *Daily Oklahoman* newspaper that my tribe, the Sac and Fox-Stroud, Oklahoma, had applied for a \$100,000 grant from the Department of Energy's Monitored Retrievable Storage (MRS) program, which would study the placement of nuclear waste on our land.

Such an unlikely alliance, I thought, when I recalled that the Sac and Fox were the last tribe of Indians who fought for their lands east of the Mississippi River. During the Black Hawk War of 1832, 250 of our men, women, and children died in the defense of their land at Saukenuk, now Rock Island, Illinois. Today, the spirit of Chief Black Hawk must wonder if his fight and the deaths of his followers were in vain, I thought.

So, after reading the newspaper article, I started researching the nuclear waste industry so I would know what our tribe was getting involved with. And I didn't like what I was reading.

Balancing the short- and long-term health dangers involved in the storage of nuclear waste with the monetary advantages, I realized that our tribe had to withdraw its application. Also, I didn't feel that our proud Sac and Fox name should even be associated with nuclear waste, even though no strings were attached to the money, they said.

During the time that I was studying the nuclear waste issue, some other tribal members were unhappy about recent actions taken by the Sac and Fox elected tribal officials. Sandra McClelland, from Shawnee, was circulating a petition requesting a special meeting of the tribe.

According to the Sac and Fox constitution, in order to call a special meeting, 50 tribal members must sign a petition requesting a meeting. The Sac and Fox tribal officials must then call a meeting within 30 days and a quorum of 60 members must be present.

I then attended several meetings with the McClelland group, and we agreed to place the MRS nuclear waste issue on the agenda along with other complaints.

The special meeting was set for February 29. In the meantime, I spoke to tribal members at the Elder's meetings, the Black Hawk Health Clinic, tribal headquarters, Pow Wows, and so on. When I asked what they thought about involving our tribe with nuclear waste, they said they opposed it, just as I did.

Shortly before the meeting I asked our tribal administrator, Paula Gomez, about the parliamentary procedure to follow in order to stop the process of the application. All that was needed, she said, was a motion from the floor to withdraw the application.

So, on February 29, 1992, the governing council (the general membership) of the Sac and Fox Tribe instructed the elected officials to withdraw from the MRS program. I made the motion, and it was seconded by June Stevens. The 70-5 vote was overwhelmingly in favor of withdrawal.

I am proud to write that the Sac and Fox people became the first to force their elected officials to withdraw from the MRS nuclear waste program. Other Oklahoma tribes that have withdrawn are the Chickasaws, the Absentee Shawnee, and the Caddo.

— Grace Thorpe

*Grace Thorpe is a member of the Sac and Fox Tribe and serves on the Health Committee. A long time advocate for Indian Rights, Ms. Thorpe is 71 years old and lives in Yale, Oklahoma. She is a part-time District Court judge for the Sac and Fox Nation. An overseas WAC veteran of World War II, though retired, she is an inspector at the elections in her precinct. She is a mother and a grandmother. Her father is the famous Olympic and football athlete, Jim Thorpe.*

The negotiation of "truly voluntary" sites for nuclear waste storage and disposal (or for other hazardous wastes) is a new, untried process. Even so, some problems are obvious with the present approach.

1. No priority is being given to finding sites close to power plants in order to reduce the largest risk to the general public, which is transportation. DOE's own analysis in 1985 identified a region in the Southeast, centered in Tennessee, as the priority area.<sup>17</sup> Other studies indicate that an MRS might be centrally located in the midwest,<sup>18</sup> but none of those areas are being targeted by the negotiator and no applications have come from those states.

2. While officials from nuclear facilities are available to speak in favor of an MRS, they do not seem to be seriously trying to get their own states to volunteer. Although nuclear power plants are located in 34 states, grant applications have been submitted from only four of those states, none of which seem likely to continue to phase II.

3. The rules of the "negotiation game" are unclear and subject to change. The negotiator views such "flexibility" as beneficial and necessary to meeting diverse circumstances. But the lack of written rules and procedures causes widespread uncertainty.

4. A negotiation process based on providing economic benefits to a volunteer tribe or state seems virtually certain to degenerate into a "low bidding war." If there is more than one site under consideration, why would Congress approve an agreement with the applicant that requires the most money or has the most stringent conditions?

5. As in DOE's nuclear waste site selection process, information is badly skewed in favor of the MRS. Unlike the DOE, the negotiator's "Information Sourcebook" lists resources from groups with various perspectives about the MRS.<sup>19</sup> But like DOE, the negotiator does not adequately emphasize the risks of an MRS, nor has he made detailed, critical information easily accessible to applicants or potential applicants.

6. Although Mr. Leroy constantly stresses that he is independent of DOE, in fact his program closely conforms to DOE's. DOE's program has been strongly criticized for many years as being driven by the political need to "solve" the nuclear waste disposal problem. Once DOE acknowledged that a repository would be delayed for decades, it decided that the "solution" must be an MRS. Following DOE's lead, the negotiator has likewise focused almost exclusively on an MRS as the means for some "solution," even though Congress emphasized the need for a repository in creating the office of negotiator.

### WHAT IS THE SOLUTION FOR THE NUCLEAR WASTE PROBLEM?

Although Mr. Leroy continues to be enthusiastic about his process, and the lifetime of the negotiator's office likely will be extended by Congress until early 1994, the possibility of finding a voluntary site is small. If the negotiator does not produce at least one site, the Bush administration seems committed to having DOE again pick an MRS site even though such a process has consistently failed. To do so would require another change in the law, since the NWPAA prohibits DOE from selecting an MRS site until the agency selects the repository site.<sup>20</sup>

Thus, the nuclear waste program seems doomed to failure. Better approaches have been suggested by the Interagency Review Group in the late 1970s and by citizen groups in the mid-1980s.<sup>21</sup> To have any chance of success, a nuclear waste program must:

- eliminate schedule deadlines and require development of a scientifically sound, publicly acceptable program;
- conform to all legal requirements to protect public health and safety and the environment;
- acknowledge that to develop a "successful" nuclear waste program is, at best, extremely difficult given democratic rights and processes that must be observed;
- provide opportunities for the severest critics of the program to fully participate in any and all aspects of the site selection process;
- promote several decades of on-site storage at existing power plants to acknowledge the reality that those facilities are long-term waste sites, that the beneficiaries of nuclear power must bear much of the risk, and that scientifically sound disposal sites will be very difficult to find;
- terminate consideration of an MRS or other government-owned storage facilities;
- state clearly that thousands of generations are at risk from the nuclear waste that has been created and will continue to exist, so that the best achievable result is to ensure that knowledge and technological approaches to protecting public health and safety are passed on to future generations.

Given the long history of failure and the demonstrated lack of public confidence in the federal government and its nuclear

waste program, a first step must be to "stop and start again." The next administration and next Congress should suspend the current program and instead develop a new process. To be scientifically sound, that new process should be given sufficient time and resources to carefully consider a wide range of issues, including:

- re-examining the geologic disposal "solution," including reviewing the entire range of other storage and disposal options;
- developing scientifically sound, publicly acceptable standards for waste disposal sites before any specific site is identified, so as to focus on health and safety requirements, rather than on developing standards to fit sites only after they are identified;
- delaying selection of any new storage or disposal sites for a few decades and eliminating previously identified sites from further consideration to ensure that siting does begin anew;
- placing the highest priority on ensuring that all existing storage sites are operated to limit exposures to workers and the public;
- examining how to place the risks of long-term storage on those who have primarily benefited from the power plants;
- involving scientists, the public, and politicians in developing a credible process.

### CONCLUSION

Just as DOE's implementation of the 1982 law was flawed and failed, so too have the policies of the amended act floundered. Although much is wrong with the way the policies have been carried out, the laws themselves are fundamentally flawed and must be changed. If the program is not stopped, the nation can only look forward to wasting more billions of dollars, identifying yet more locations where nuclear waste storage and disposal is strongly opposed and sites are not opened, and further eroding public confidence in the possibility of safe storage and disposal and in government policies.

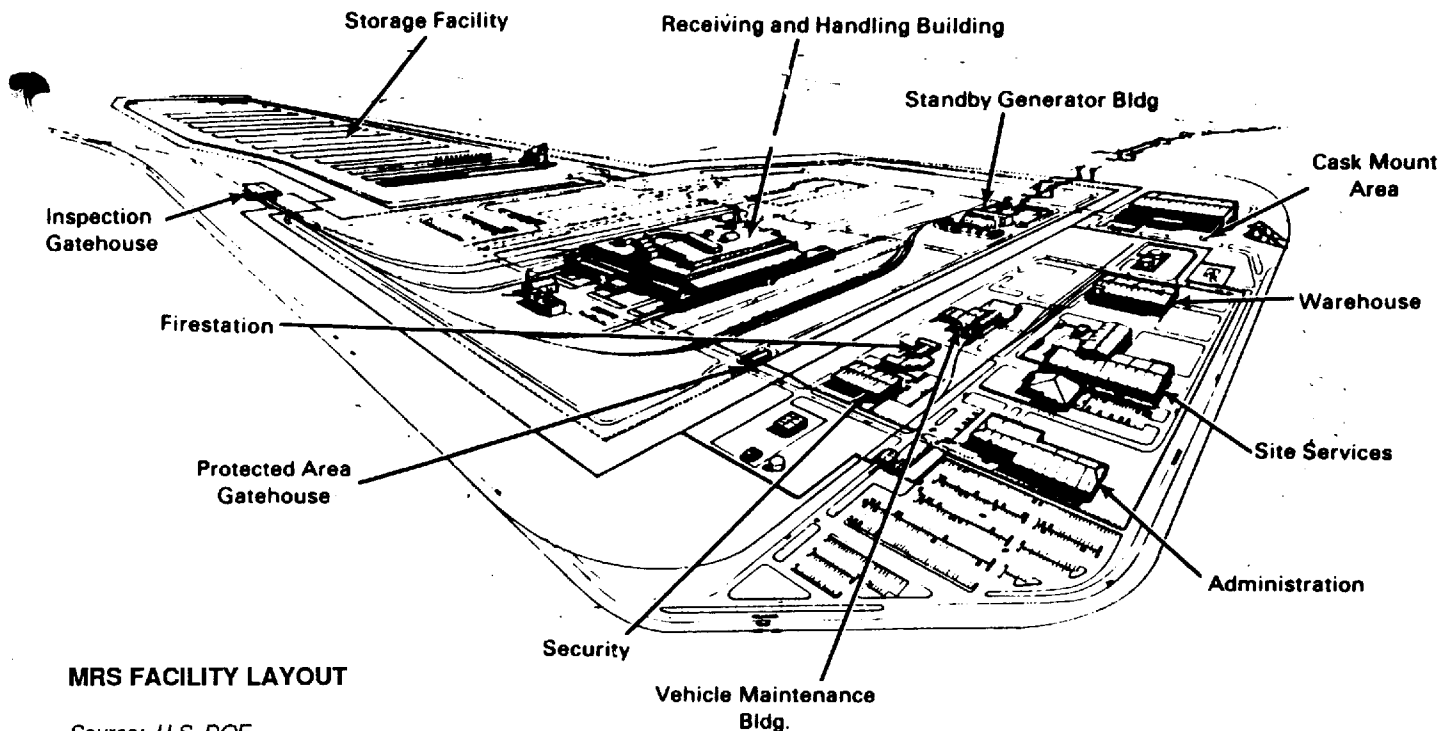
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## NOTES

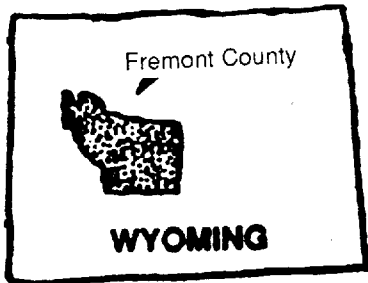
1. U.S. Department of Energy. *Draft Mission Plan Amendment*. DOE/RW-0316P, September 1991, p. 78. Available from: U. S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Ave., S.W., Washington, DC 20585, 1-800-225-6972.
2. Kent Oram and Ed Allison. *The Nevada Initiative: The Long Term Program, An Overview*. A Proposal to the American Nuclear Council, September 1991.
3. William J. Broad. "A Mountain of Trouble," *New York Times Magazine*, 18 November 1990. This article brought national attention to the Szymanski report and to the scientific controversy.
4. U.S. General Accounting Office. *Nuclear Waste: DOE's Repository Site Investigations, a Long and Difficult Task*. GAO/RCED-92-73, May 1992. Earlier GAO reports also had highlighted the problems. Available from: U.S. GAO, P.O. Box 6015, Gaithersburg, MD 20877.
5. NWPAA, Section 302(a)(5)(B): "in return for 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."
6. Letter from Paul L. Ziemer, DOE Assistant Secretary for Environment, Safety and Health, to William G. Rosenberg, EPA Assistant Administrator for Air and Radiation, 5 December 1991.
7. On July 1, 1987, Sen. James Sasser (D-Tennessee) and 13 other senators introduced the legislation as an amendment to S. 748, the Price-Anderson Act Amendments; Rep. Udall and 47 co-sponsors introduced H.R. 2888.
8. S. 1481, introduced on July 10, 1987, passed the Senate Energy and Natural Resources Committee on July 29 as S. 1668.
9. *Congressional Record*, 15 July 1987, p. H6365
10. U.S. Department of Energy. *Integrated Data Base for 1991: U.S. Spent Fuel and Radioactive Waste Inventories, Projections, and Characteristics*. DOE-RW-0006, Rev. 7, October 1991, p. 14.
11. Monitored Retrievable Storage Commission. *Nuclear Waste: Is There A Need For Federal Interim Storage?* 1 November 1989. Available from: U.S. Government Printing Office, Washington, DC 20402. Stock No. 022-003-01164-1, \$11.00.
12. *55 Federal Register* 38513 (18 September 1990). NRC's "Waste Confidence Revision Review."
13. David H. Leroy. *A Request for Dialogue and Participation*. Tape recording, October 1991. Available from: Office of Nuclear Waste Negotiator, P.O. Box 777, Boise, ID 83777, (208) 334-9876.
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15. 10 *Code of Federal Regulations* 72 contain NRC's licensing requirements.
16. U.S. Department of Energy. *National Energy Strategy*. DOE/S-0082P, February 1991, p. 116. Those provisions are included in the National Energy Strategy Act (S. 2166), passed by the Senate on February 19, 1992.
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20. NWPAA, Section 145(b).
21. *Report to the President by the Interagency Review Group on Nuclear Waste Management*, March 1979. Citizen groups proposed an approach in their 1985 "Statement of Principles for a Sound Nuclear Waste Policy." See also, Arjun Makhijani and Scott Saleska. *High-level Dollars, Low-level Sense*. New York: Apex Press, 1992.

## The Selling of Nuclear Waste In Wyoming

*"Let us not deceive ourselves — we are being invited through continuing study to dance with a 900-pound gorilla."*

Editor's note: The history of the plan to "sell" a Monitored Retrievable Storage (MRS) facility in Wyoming might read as a "how to" list of instructions for nuclear industry supporters who want to make sure citizens are not allowed the information or opportunity to have a say in the decision whether or not to host an MRS. For the Bush-appointed negotiator and the local proponents of an MRS in Wyoming, their strategy was to:

- 1) **Convince former uranium-mining businessmen from an economically depressed area that nuclear waste is the ideal replacement boom, equivalent to working with uranium ore.**



The move to locate an MRS in Fremont County, Wyoming began when a uranium-mining businessman and owner of three of the four newspapers in the county used his considerable personal

influence with county officials to orchestrate support for the project *months* before the general public learned about it. A small group of Riverton business people — all related through family or work to the uranium industry — became the chief proponents.

- 2) **Find a local government that conducts public business via a good-old-boy network that disdains public participation and prefers a decision making based on parochial ignorance.**

Six days after the nuclear waste negotiator mailed his October 1991 solicitation for MRS "study" grants, Fremont County Commissioners voted unanimously — without public notice and after meeting privately with a representative of a Nebraska nuclear power company — to apply for a phase I grant from the Department of Energy (DOE). When asked to allow the public to review and comment on the county's final phase I report, the commission chairman responded, "public input would derail democracy."

- 3) **Never accurately define the MRS process as intended to *first assess the feasibility of public acceptance* before moving into formal siting. Instead, call each phase "just more public education," maintain that it is not a statewide issue, and turn the question of public acceptance into a question of safety, with the premise, "if you can't show it's unsafe then you can't refuse it."**

MRS proponents labeled those who objected to the phase I grant as "against public education, and that's like wanting to burn books." These tactics worked on the governor, and in mid-December 1991, he wrote the required no-objection letter to allow phase I to proceed. But he wisely conditioned his letter with many requirements for open process, compre-

hensive and statewide study, and he attached questions that clearly showed his serious reservations.

- 4) **Advise local officials about how to conduct a county-wide sell job that looks like a public process: a) hand select members of a "citizens advisory group" (CAG) to "study" the issue, but exclude all opposition; b) use only DOE and nuclear power industry information and speaker-experts; c) publicly label the opposition as "anti-growth," "anti-nukes."**

The commissioners appointed 17 people to "study" the MRS and report back to the commission. In spite of claims that they would select a balanced group, all seven conservation group representatives were excluded from the CAG.

Jerry Scoville, consultant for the Office of Nuclear Waste Negotiator, advised the commissioners on selecting the CAG and then told the group that all our suggested speakers were "intellectually devious" and "only like to go to their own pep rallies." In a letter, he advised the CAG to "turn the risk discussion into an attack on the opposition. . . ." So much for neutrality from the negotiator.

The county also refused to circulate different federal and state studies offered by the public to the members of the CAG. The reason, we were told, was that the DOE limited the number of photocopies they could make. The CAG scheduled their own series of outside speakers, so we listened to a three-month wave of industry consultants and DOE representatives proclaim the safety and glory of nuclear waste. The head of the U.S. Council of Energy Awareness (the industry's public relations arm) even said one would have to bite a spent fuel rod to get hurt by it.

Predictably, the CAG's conclusion was that the MRS was safe and there were no serious reasons not to proceed.

- 5) **While boasting about the "voluntary and democratic" nature of the process, never allow the general public to vote on the issue and never keep a record of comments, letters, and testimony received from the public.**

Despite constant lip service, the commissioners refused to schedule a county vote, even before applying for their phase II-A grant. They said we weren't educated enough.

David Leroy, the negotiator, made speeches in our county boasting of how the MRS process ensured the "broadest public participation." But he said he wouldn't tell local officials how to achieve public participation and that the public can remove their commissioners from office if they don't like what they're doing and that citizens can testify of their concerns to Congress when the negotiations get that far. Leroy's claim of broad public participation is one of the biggest lies of this process.

6) **Bring in the big guns and money of the national nuclear power industry to help in the sell job: a) always belittle the risks, b) never characterize the magnitude and radioactivity of the waste, c) lie, outright, when you have to, and d) promote a campaign of threat and intimidation against the opposition. Accuse them of being outsiders even though proponents are being financed through nuclear power money from outside.**

The industry camped out in our county, giving speeches to clubs and being escorted on radio talk shows by CAG members. When we brought in national experts, the industry flew in their own people to follow us around the state. Storefronts with industry information in two towns were funded with corporate money, and the industry flooded the county with free color-glossy brochures, happily distributed by our local government.

A nastier side of the debate was the viciousness with which some proponents, including government officials, attacked citizens who were against the MRS. Opponents received phone threats, individuals were publicly attacked or yelled at during CAG meetings, and others were heckled. Many concerned citizens against the MRS refused to subject themselves to such abuse, and so kept silent.

#### **How we defeated the MRS in spite of the odds**

Just after the county commissioners voted to proceed to phase II-A and after state primary elections, on August 21, Wyoming Governor Mike Sullivan announced that he would stop the MRS process.

Our campaign to stop the MRS won because we empowered citizens of Wyoming by providing information and resources to learn about the issue and by making opportunities for people to voice their views. We won the issue as much on the wrongs of the process — which never required formal public hearings, a formal public record, or a public vote — as on the wrongs of the MRS. The MRS became an issue that drew together ranchers, businessmen, conservationists, uranium miners, and people with diverging and often conflicting interests. We all worked together regardless of affiliation, political party, or background, and the campaign had room for a diversity of action.

#### **Information**

An extensive body of information on radiation, nuclear waste, the nuclear industry, and the MRS was collected in a central library at the Wyoming Outdoor Council office, and was used extensively by the public. We wrote a variety of fact sheets and information booklets and hosted more than 20 informational presentations around the state.

We maintained a presence in all county MRS functions and organized public comment for the record there (although we quickly learned no record was kept. About halfway through that process, we learned enough to videotape all county proceedings).

#### **Action**

WOC was the only state conservation group to early on oppose the MRS, and we soon knew we had to make the issue a statewide concern and that citizen action was best focused on Governor Sullivan.

We organized around what we sometimes termed "the citizens' referendum," advocating that the public's only "vote" was to contact the governor. We collected thousands of signatures on petitions, provided pre-printed postcards addressed to the governor, organized "phone the governor days," and held a rally at the Western Governors' Association meeting. Most importantly, we pushed a massive letter-writing campaign (at one time his office revealed that 95 percent of the mail was against the MRS), and we also kept up a steady stream of information to the governor's office. Aside from research and information about the facility itself, we reported regularly on the county's study, industry actions in the area, and interaction with the waste negotiator's office. The statewide news media provided excellent coverage.

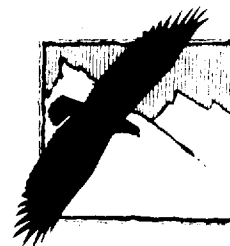
Our county primary elections became a forum on the MRS, and anti-MRS candidates fared very well in several races. The chair of the CAG, who had been the county's most popular politician, was defeated by a relatively unknown school teacher who ran on an anti-MRS platform.

Why did we win? Because our governor could not ignore the overwhelming evidence that an MRS is not a necessary component of our nation's high-level nuclear waste program. Because the MRS "voluntary" process is incredibly flawed, pretending to provide local and state autonomy, participation and control when there is no such thing in the history of federal management of nuclear waste. "Let us not deceive ourselves — we are being invited through continuing study to dance with a 900-pound gorilla," stated Governor Sullivan in his veto announcement.

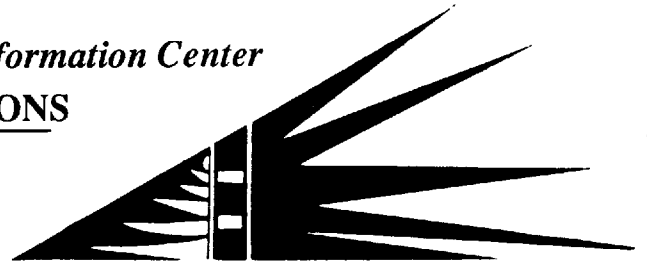
The MRS debate in Wyoming became a clash between the old style, closed-door way of doing public business, based on a parochial world view, compared to the demand for accountable, open decision making where the public has a major role and policy is considered within a regional or national context. It was clear from the start that the negotiator's office preyed and depended upon that good-old-boy style of politics for success in the MRS siting process. But Wyoming showed that it was unwilling to be the "dumb hick" state needed for such an unsound plan.

— *Stephanie Kessler*

*Stephanie Kessler is the Executive Director of the Wyoming Outdoor Council, a conservation organization with members throughout the state.*



*Southwest Research and Information Center*  
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