

Connecticut Yankee (CY) Fuel Storage Advisory Committee Meeting (FSAC)

Tuesday, May 15, 2012, Riverhouse at Goodspeed Station, Haddam, CT

Attendees

Members: Paul DeStefano (Chair) Dan Casey, Harvey Clew, Jenny Contois, Jim Lenois, Marcia Meyers, Joyce Rossitter, Anthony Scalora, Harvey Thomas

Liaison: Marge Debold (NEAC Contact), Pearl Rathbun (NEAC, Vice Chair)

Public: Jim McHutchison

Yankee : Wayne Norton, Bob Capstick, Shae Hemingway, Eric Howes, John Arnold (note taker)

Summary

The Chair called the meeting to order at 6:00 PM and welcomed all attendees to the meeting.

Approval of the May 17, 2011 Meeting Summary – Approved as presented

CY ISFSI Site Status Report Update

Jim Lenois provided the Committee with an update on the status of ISFSI Operations and Groundwater Monitoring activities at CY. He spoke summarizing from the “Connecticut Yankee Fuel Storage Advisory Committee Update” (attached).

Attendees asked a number of questions including the following.

In response to questions about the NRC Level IV Notice of Violation, Wayne and Jim explained that the foreign ownership situation developed due to the proposed merger of Northeast Utilities and NSTAR which triggered a review of Foreign Ownership and because two sponsor utilities (New England Electric System and Central Maine Power Company) were acquired by British and Spanish electric utilities (respectively) the NRC raised the issue of Foreign Ownership, Control and Domination. Even though the regulations in question apply to “Utilization Facilities” the Yankee Companies implemented a Negation Action Plan ensure that there is no undue foreign influence on the security of the ISFSI.

Wayne explained that CY worked out a groundwater monitoring well closure plan with the DEEP and EPA when the groundwater monitoring program was set up and then again recently as it became time to close the wells. The 15 wells slated for closure this year have been successfully closed. Forty-four active wells remain. More are scheduled to be closed in 2013 assuming state regulatory closure conditions continue to

be met. Well samples need to be below drinking water standards for two years before a well can be closed.

In January 2012 CY changed security contractor from Securitas to G4S, a very experienced nuclear security firm. This was done as a result of a scheduled re-bidding of the security contract. Re-bidding of the contract is performed every three to four years.

National Nuclear Waste Issue Update

Bob Capstick provided the attendees with an update on nuclear waste issues from the national perspective. He spoke from a document entitled "National Nuclear Waste Issue Update," that was provided to the attendees in the handout package at the meeting (attached).

The attendees asked a number of questions about this presentation and other items and Wayne, Bob, and Jim provided responses including those provided below.

Regarding the NRC effort to extend the waste confidence rule out to 300 years, the Yankee Company's position was provided in comments to the NRC by the Decommissioning Plant Coalition and stated that this is a premature effort. There is no need to do this now and the process should be paused to determine what changes to national policy evolve from the Blue Ribbon Commission final report recommendations and how the proposed NRC assumptions and actions may be affected. More technical data regarding dry fuel storage can also be generated over the next 40 years that will better inform this process.

While no one has formally stepped forward to host a consolidated national interim storage facility, it is CY's understanding that several sites in the country are exploring this idea. The BRC report recommendation is that such a siting process be consensus based and it was noted that Yucca Mountain was initially accepted by the surrounding counties, but the State of Nevada has fought the project.

Reprocessing of spent nuclear fuel is still an option for the future, but the acquisition cost for obtaining new nuclear fuel is cheaper than reprocessed fuel at this point in time.

No major legislation on nuclear fuel disposal is expected to pass this year. The focus of the industry is incremental progress on spent fuel transportation and centralized interim storage. It will likely take decades to achieve a national spent fuel disposal facility, but an interim storage facility could be licensed and built in a shorter time. It was noted that CY cannot host such a facility because of its current NRC license restrictions and restrictions imposed by the ISFSI settlement.

It was reported that forty-three storage casks remain at the ISFSI – 40 with spent fuel and 3 with high level waste.

There has been no change in the CY property disposition status since last year.

The Chair asked if there should also be a fall meeting. After some discussion the attendees agreed that provided they continued to receive periodic updates none was needed at this time.

There being no further business, the meeting was adjourned at about 7:00 pm.

Next Meeting Date

The 2013 meeting was scheduled for May 21, 2013.

CONNECTICUT YANKEE FUEL STORAGE ADVISORY COMMITTEE UPDATE

MAY 15 2012

CY ISFSI SITE UPDATE

ISFSI Operations

- CY ISFSI operations have been normal.
- There were no lost time accidents or OSHA recordable injuries, or first aid cases reported since the November 2011 report.

NRC

- On January 27, 2012, the NRC issued a notice of violation (“NOV”) to the three Yankee companies alleging that they were in violation of Title 10 of the Code of Federal Regulations, Section 50.38 relating to foreign ownership, control, or domination. The NOV states that since at least April 20, 2011, the companies has been owned, controlled, or dominated by a foreign corporation since they were governed by a board of directors whose members are appointed, in part, by companies that are ultimately controlled by foreign entities. The NOV is a severity level IV, which is the least severe level, and does not include a monetary penalty. The companies filed a response contesting the allegations on February 23, 2012 stating they do not agree that the spent fuel storage installations are subject to foreign control or that there has been a violation of NRC requirements. The NRC NOV transmittal letters also stated that NRC consent or approval was not required for the ownership changes that resulted in foreign owners of the three Yankees. The companies have not received any reply from the NRC thus far. (Note: CY’s foreign owners are National Grid: 19.5% and Iberdrola S.A.: 6%).
- CY has been notified by the NRC Region 1 that they will be conducting an Operations and Security Inspection during the month of June.

Groundwater Monitoring Plan

- The Groundwater Monitoring Plan includes sixty-two (62) sampling locations from fifty nine (59) wells. The March 2012 sampling is complete. MW-102D contained polynuclear aromatic hydrocarbons (PAHS) above the Remediation Standard Regulations (RSR) criteria. This well will remain in the quarterly sampling program. No other chemical constituents were detected above RSR Criteria at any location. No radiological parameters were detected above criteria. MW 137 is now in compliance with the RSR’s and sampling is no longer required. The other three locations are sampled on a semi-annual basis. CY anticipates closing 15 of the wells this spring – these wells were included in the site’s long-term groundwater monitoring program and have satisfied the program requirements or were part of site characterization.

National Nuclear Waste Issue Update

Blue Ribbon Commission (BRC)

The final BRC report was submitted to the President and Secretary on January 26th. The report included all of the draft report recommendations and included a new one new directed at transportation readiness. Yankee's BRC report statement is attached.

The final report included the draft report recommendation associated with priority removal of spent fuel from shutdown reactor sites - in particular that, "Stranded fuel should be first in line for transfer to a consolidated facility so that these plant sites can be completely decommissioned and put to other beneficial uses."

CY will work to translate the report's recommendations into policy and urge the President and Congress to promptly act to implement the report's recommendations. The DOE was also directed by Congress in the FY 2012 appropriations bill to develop a management strategy for spent fuel and high-level nuclear waste within 6 months of the final report of the BRC – expected end of July.

While some of the BRC report recommendations will require changes to the existing law, others, such as the initiation of transportation planning related efforts, can be conducted by DOE under current law and could begin immediately – and CY will press for DOE action on those this year. In particular, we are working with the Northeast Region High Level Radioactive Waste Transportation Project seeking to restore DOE funding to this regional transportation stakeholder group and for a DOE near-term focus on preparation for movement of spent fuel from shutdown reactor sites to consolidated storage.

Yucca Mountain License Application

The writ of mandamus filing by the states of South Carolina and Washington and others is proceeding forward. The filing asked the US Court of Appeals to determine that the NRC had unreasonably delayed consideration of the Yucca Mountain license application and to compel the NRC to immediately resume consideration and rule on the Yucca Mountain license application. As reported in the November update, the Yucca Mountain Atomic Safety & Licensing Board (ASLB) issued a Memorandum and Order late last year suspending the Yucca Mountain licensing proceeding. Although the ASLB confirmed that DOE cannot pull its license application to build a repository at Yucca Mountain, the board also said the agency's review of the proposal would be suspended due to lack of money and uncertainty over staffing.

The government's brief was filed in January and argued that Congress was responsible for stopping the NRC's review of the DOE's 2008 application by providing no funding for it in the agency's fiscal 2012 budget. The filing says that Congress also rejected a provision in appropriations legislation that would have prevented NRC from halting its review and that NRC was barred from using general funds for its Yucca Mountain review. Oral argument is scheduled for early May 2012.

Nuclear Regulatory Commission

NRC Waste Confidence Rule: As reported in the November update, the NRC had published a waste confidence decision stating that NRC had confidence that spent fuel could be safely stored at reactors sites for a 120 year period (essentially a 60 wet pool operating life period and a 60 year dry cask storage period). The Attorney General's from New York, Connecticut and Vermont filed a lawsuit in the D.C. Circuit challenging that waste confidence rule. The suit challenged that NRC violated the Federal Administrative Procedures Act and NEPA when it found that – without conducting site specific studies – that no significant safety or environmental impacts will result from storing High Level Waste (HLW) onsite at more than 100 sites around the country for 60 or more years after the reactors are closed. The State's filed formal briefs were filed late last year and NRC's reply briefs were filed in January. Oral argument was held March 16th and there has been no ruling from the Court yet.

NRC Extended Storage Waste Confidence Rule; In response to the Commission's direction earlier this year to the NRC staff to develop a plan for a longer-term Waste Confidence Rulemaking and Environmental Impact Statement to assess the environmental impacts of storing spent fuel and high-level waste for more than 120 years, the NRC staff held several meetings and conducted a webinar in January 2012 to present plans and solicit public feedback regarding their long-term storage plan. In early January, the NRC announced it was seeking public comment on a report entitled, "Background and Preliminary Assumptions for an Environmental Impact Statement – Long-Term Waste Confidence Update" (SECY-11-0029) that provided preliminary assumptions that will be used in the EIS to analyze the effects of storing spent fuel for as long as 200-300 years. The report discussed several storage scenarios, including at nuclear power plants, regional or centralized storage sites or a combination of storage and reprocessing of spent fuel. To analyze the impacts associated with the scenarios, the staff will develop generic, composite sites for each scenario, and these sites will account for a range of characteristics of actual reactor and storage sites. Comments on the draft report were due to NRC in February (later extended to mid-March).

CY commented on the draft report through a letter (copy attached) from the Decommissioning Plant Coalition that challenged several of the report's assumptions, as well as argued that NRC's effort was premature and should be paused to determine what changes to

national policy evolve from the BRC final report recommendations and how Commission actions may be affected. NEI and the NWSA also commented along the lines that the effort was premature and should be deferred – NARUC’s comment letter specifically cited the DPC’s letter.

NRC ISFSI Security Rule: The NRC has not yet responded to the October 2011 Decommissioning Plant Coalition and individual Yankee company comment letters regarding the NRC Draft Guide 5033, “Security Performance (Adversary) Characteristics for Physical Security Programs for 10 CFR Part 72 Licensees” expressing serious concerns regarding the scope of the regulatory bases and changes in DG 5033 and the associated impacts upon implementation on standalone ISFSIs. Yankee continues to participate in all related NRC and industry meetings.

Congressional Update

FY 2012 Omnibus Bill: The FY 2012 Omnibus Bill Conference Report contained DOE funding of \$187 million to the Office of Nuclear Energy for fuel cycle R & D activities. Of that amount, \$60 million was provided for “Used Nuclear Fuel Disposition” and of that amount, \$10 million is for the development and licensing of standardized transportation and disposal canisters; \$3 million for the development of models for potential partnerships through waste management activities; and \$7 million for the characterization of potential geologic repository media. DOE was also directed to spend such sums as necessary to preserve all documentation related to Yucca Mountain. Elsewhere, the Department was directed to spend \$10 million on expanding its capabilities for assessing issues related to the aging of spent fuel in casks and/or pools. The DOE was also directed to develop a management strategy for spent fuel and high-level nuclear waste within 6 months of the final report of the BRC.

FY 2012 President’s Budget Request: The President’s FY 2013 Budget Request to Congress (issued in February) for DOE included \$60 million to continue activities initiated in FY 2012 and to focus on a number of areas including a specific focus on, “evaluating consolidated interim storage and transportation issues (focused initially on decommissioned sites)”; working with industry to develop standardized approaches to used fuel management; conducting material testing to support extended storage of used fuel; revisit and prepare a report on plans to address recommendations identified by the 2006 National Academy of Sciences transportation report; and initiating research on geologic disposal alternative environments. Additionally, in FY 2013 the Department is requesting the appropriation of \$10 million from the Nuclear Waste Fund to support BRC recommended activities, consistent with the current law.

FY 2013 Energy & Water Development Appropriations bills: The House E&WD Appropriations FY 2013 bill includes \$25 million for the Yucca Mountain project with \$10 million directed to the Office of Nuclear Energy for Yucca Mountain-related Blue

Ribbon Commission recommended activities that are currently authorized by law. The bill would bar DOE from spending any funds to eliminate the option of Yucca Mountain as a waste site and prohibits the expenditure of any funds to implement the recommendations of the BRC report. The Senate E&WD Appropriations FY 2013 bill provided no funding for Yucca Mountain but called for a consent based process to establish one or more consolidated storage facilities - which was one of the recommendations of the BRC report. The bill also authorizes the DOE Secretary, in the current fiscal year and subsequent fiscal years, to conduct a pilot program to license, construct, and operate one or more government or privately owned consolidated storage facilities to provide interim storage as needed for spent nuclear fuel and high level radioactive waste, with priority for storage given to spent nuclear fuel located on sites without an operating nuclear reactor.

DOE Spent Fuel Lawsuit Status Update

Yankee Phase I Cases

On September 7, 2010 the U.S. Court of Federal Claims issued a favorable decision in the Yankee Companies' ongoing litigation over the U.S. Department of Energy's failure to remove Spent Nuclear Fuel and Greater than Class C Waste from the three New England Yankee nuclear reactor sites as required by contract and law was appealed by the government. The approximate damages awarded to the three Yankee companies were: Yankee Atomic Electric Company, \$21 million; Connecticut Yankee Atomic Power Company, \$40 million; and Maine Yankee Atomic Power Company, \$82 million. The federal government appealed that decision and following lengthy discovery, final briefings were submitted to the appellate court and oral argument was held last November. There have been no substantive developments in the cases since then.

Yankee Phase II Cases

In December 13, 2007 the Yankee Companies filed a second round of damages claims in the U.S. Court of Federal Claims for approximately \$264 million. The trial was held in October 2011. The Judge, at the government's request kept the trial record open until at least November 2011 to allow the government to complete their review of the documents produced in discovery. In March 2012 the Judge issued an order that established a schedule for post-trial briefing. The parties filed their initial post-trial briefs in early April with responsive briefs submittals due 30 days thereafter. In late April the Judge issued an order denying the government's request to admit into evidence any of the Maine Yankee privileged documents submitted for his in camera review. As a result, the case will be ready for decision once all briefs are filed. It is not expected that the Judge will issue a decision, however, until after the Phase I appellate decision has been issued.

712 North Carolina Avenue, SE
Washington, DC 20003



Phone: 202.546.4258
Email: dpc@govstrat.com

February 16, 2012

Ms. Christine Pineda, Project Manager
Mailstop EBB-2B2
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Ms. Pineda;

The Decommissioning Plant Coalition (DPC)¹ appreciates the opportunity to provide comments on the “Draft Report for Comment -- Background and Preliminary Assumptions for an Environmental Impact Statement -- Long-Term Waste Confidence Update” (hereinafter “Draft Report”). Ours are divided into two sections: this cover letter, which provides our general comments about the policy implications and timeliness of the agency’s effort, and an appendix that provides our detailed comments on specific sections of the Draft Report.

First, we commend the NRC staff for its hard work on this effort and appreciate the fact that the Commission initially tasked it to develop a long-term update of its most recent Waste Confidence decision, addressing the impacts of storage beyond a 120-year timeframe. We also would emphasize our commitment that the material that remains stored on our sites is and will be safe and secure.

Nonetheless, the DPC believes the effort to finalize the Draft Report and move into a more formal process on the timeframes set forth therein is premature and the work on it should pause.

¹ The Decommissioning Plant Coalition was established in 2001 to highlight issues unique to nuclear power plants undergoing decommissioning. The DPC is focused on addressing the needs of single-unit sites that are undergoing or have completed decommissioning activities. Members of the Decommissioning Plant Coalition include the Big Rock, Connecticut Yankee, LaCrosse, Maine Yankee, Rancho Seco, and Yankee Rowe facilities.

We certainly would agree with the Commission that spent fuel is being stored longer than originally intended because of (we believe the statutory and contractual breaches and the resulting) uncertainties in the national strategy for disposing of that material. Indeed, it is our view that the Commission has already recognized this fact and accounted for it in its last Waste Confidence decision. And, while we further agree with the brief discussion by staff of the “National Context” provided in section 2 of the Draft Report, what we feel is missing from the discussion is adequate recognition and emphasis that one of the fundamental principles behind Waste Confidence – and the nation’s civilian spent fuel management effort - is that the federal government, currently acting through the Department of Energy (DOE), is responsible for the development of all necessary infrastructure for long-term spent fuel and Greater-Than-Class-C (GTCC) waste management, not the individual NRC licensee/DOE contract holder.

In our view, Waste Confidence has always had two critical components – one, a finding that our generation has the capability of creating technologies that could minimize exposures to humans and the environment from the harmful effects of spent fuel and second, that our society has the will to establish a long-lasting institutional framework and infrastructure to deploy that technological capability for the benefit and protection of future generations. Our concern, simply stated, is that the draft report can be viewed as the beginning of an effort to shift more of the institutional responsibilities onto private parties and absolve the federal government of the need to make progress implementing what has been a uniquely governmental responsibility.

Clearly, the federal responsibility has been the basis of federal policy under the Nuclear Waste Policy Act and the basis for the policy analysis applied to the current “National Context” by the Blue Ribbon Commission on America’s Nuclear Future (BRC). Certainly the BRC final report, while suggesting the creation of a new entity to conduct the execution of our national strategy, maintains the position that it is a unique responsibility of the federal government to foster the development of institutional arrangements leading to the centralized management and ultimate disposal of spent fuel and other identified waste streams. We believe the Commission and the staff would be well served to allow some time to pass, wherein the Executive and Congressional branches of government have an adequate opportunity to digest and act upon the BRC final report, before making decisions about and spending resources on future waste management scenarios.

This belief holds true especially, and unfortunately in our view, because the Draft Report contains assumptions that disregard the established bases for Waste Confidence and suggest the necessity for action by licensees of permanently shut down facilities that create a number of conflicts with previous regulatory decisions.

The first conflict arises from regulatory decisions authorizing the sites to be entirely decommissioned, including the removal of the spent fuel pool, and findings that the material could be stored in dry casks on ISFSIs since the Department would soon remove the material for management and disposal. However, the Draft Report notes that in an extended onsite storage scenario, one of the future actions to be

considered may be a requirement for the construction of repackaging facilities at permanently shut down facilities where the NRC has approved the removal of such facilities. The reason why some new facilities would be needed is the Department of Energy's failure to meet its statutory and contractual obligations.

There are other such conflicts, including future security considerations, whose impacts will be traced to the Department's failure to meet its statutory and contractual obligations to remove fuel and GTCC from our sites.

We would note that the DPC previously commented to the NRC on February 6, 2009² with regard to the NRC's proposed rule change to 10 CFR Part 51 and related waste confidence decision update that the Commission should make clear to the DOE its expectation that the DOE should start to show progress towards a solution in accordance with its obligations under the NWPA, "[O]therwise the Commission's intent to not support on-site storage for spent fuel for 'an indefinitely long period of time' will be increasingly unenforceable and its meaning diminished with respect to these permanently shut-down sites." The DPC believes the Commission should not undertake any effort to update the Waste Confidence EIS and the assumptions on which it is based until it re-examines its policies and regulatory footing regarding spent fuel management at permanently shutdown sites, especially absent consideration of the policy discussions that the BRC recommendations are intended to foster.

The DPC would also point to the Commission's statements in its Waste Confidence proceedings that indicate that the Commission's intent is that the Waste Confidence rule should not be interpreted as a Commission endorsement for indefinite on-site storage. We believe that the assumptions document should list the specific measures that the NRC staff and/or the Commission has taken/are taking to re-enforce that statement of intent, and how this effort is consistent with that intent. It would also seem wise for the Commission and the NRC staff to hear from the BRC, and to determine what changes to national policy evolve, and how Commission actions may be affected. Absent such a list and an exploration, this effort stands out as an activity that would undermine that intent.

The DPC recognizes that addressing the current predicament on spent fuel management has executive and legislative branch implications. We believe that a re-examination and articulation of your expectations on how to prevent storage from becoming unacceptably long-term at this time can only result in enhancing any executive and legislative actions that may arise in the near-term.

As a final thought, we ask the NRC staff and the Commission to take note of the work of the Blue Ribbon Commission in emphasizing its recommendation on the need for

² Letter from Michael S. Callahan on behalf of the DPC to Ms. Annette Vietti-Cook dated February 6, 2009: Decommissioning Plant Coalition Comments on U.S. Nuclear Regulatory Commission Proposed Rule 10 CFR 51 *Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operations* (73 Fed. Reg. 59547) and related *Waste Confidence Decision Update* (73 Fed. Reg. 59551), each dated October 9, 2009.

a consensus based approach for the successful siting of spent fuel storage and disposal facilities. As the staff and Commission delve into the assumptions necessary to support on site storage for the 100 – 300 year period, please recognize that you do so without taking that recommendation into any account. State and local governments never had a chance to agree to be the location of an interim storage facility for the period since 1998, and have no chance to be part of a consensus based process to site de facto intermediate and long-term storage facilities in the work that is underway here, and others that are underway elsewhere in the staff.

We appreciate the opportunity to provide comments on this draft and would like to suggest that a full discussion of our and others comments soon take place in public forum and that the Commission be updated on comments generally prior to the publication of any final report. April 2012 is optimistic for publishing a final report under the circumstances.

We would be pleased to answer any questions and participate in public discussions of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Callahan". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Michael S. Callahan

On behalf of the Decommissioning Plant Coalition

Appendix – Specific Comments

Without in any way diminishing the importance with which we offer our general policy comments, we offer the following specific thoughts on elements of the Draft Report.

We note that section 8 makes no reference to assumptions or scenarios that include the management or removal of reactor generated Greater-Than-Class C (GTCC) waste. We note that:

- 1) Commission regulations, as an artifact of the now moribund DOE HLW program, allow the Department to propose something other than deep geologic disposal for GTCC waste.
- 2) Many overlook that some permanently shut down sites have or will have reactor generated GTCC stored in dry casks.
- 3) Contrary to Court decisions, some assume that the GTCC will not be addressed at the same time in the future as the spent fuel is removed.

The DPC believes it is time to end these assumptions and oversights, that the Commission should recognize that the Department has no alternate plan for the removal of reactor-generated GTCC, and remove the provision that would allow the Department to propose disposal or removal separate from spent fuel.

Section 8.1 (3)

Note this assumption is flawed for permanently shut down facilities where the NRC approved the decommissioning of spent fuel pools. This omission will deeply flaw this assumption absent the type of re-examination we urge. We believe that the assumption ought to be changed to provide that any need to re-package fuel and/or GTCC at decommissioned plants lacking a spent fuel pool will be the responsibility of the DOE. The assumption should include an NRC requirement that the Department soon demonstrate the capability to fulfill that responsibility.

We also disagree with the assumption that some percentage of plants that shut down in the future will include wet pool storage as a long term storage option, certainly with respect to single unit site as that would prevent them from fully decommissioning their plant sites (as all of the DPC sites have done) and would introduce significant spent fuel litigation damages amounts. Further, such an assumption also prejudices and brings prejudice to the question as to whether the NRC should evaluate a regulatory requirement for future single unit plant sites that permanently shutdown. Such a question itself entails a detailed study for a wide variety of assumptions and impacts including whether the requirement to keep their fuel pools operational is to be available for the federal government to repackage the dry storage canisters for extended (centuries long) storage at the sites and ultimate removal and transportation of the canisters by the federal government to what type of storage and or disposition.

Section 8.1 (4)

This assumption again is flawed due to the decommissioning of spent fuel pools. One cannot consider the impacts of such repackaging until the Commission decides whether such repackaging is part of a sound regulatory program at decommissioned sites.

Commissioners, notably former Commissioner McGaffigan, commented negatively in the past when DOE proposed discarding licensed for transportation casks in favor of repackaging in standard transport casks, especially when considering worker dose, on site.

Section 8.1 (5)

This basic assumption seems not grounded in thorough understanding of the issues and impacts involved in licensees rebuilding spent fuel pools or other repackaging facilities on their sites.

Major impacts would be on those facets for which dollars and dose considerations are not part. The Commission would forfeit the remaining good faith of its community stakeholders and local and state officials that are still waiting for the federal government to live up to its statutory and contractual responsibilities. In forging its shut down agreements with licensees, these officials did so in an era in which it would rely on NRC commitment to keep watch over the sharply reduced radiological hazards at our sites. It took advantage of that commitment to allow a wide variety of other uses for the local environs.

Issuing building permits or responding to increased radiological concerns was not part of their considerations. Imposing large NRC construction and/or equipment requirements will send a clear message that the NRC is now a willing part of the federal government's failure to meet its obligations by implicitly sanctioning on-site storage for a period of 100-300 years hence. The NRC needs some valid way of assessing these hard to quantify impacts. They are, and will be, real.

Beyond that, the assumption reflects a somewhat casual assessment of the difficulty imposing such requirements would have on communities and licensees in terms of permitting, revisions to rate structures, amendments to site use agreements, and other impacts we believe the staff does not fully appreciate or capture.

8.1 (6)

The assumption that licensees will maintain current facilities and activities, including spent fuel repacking during the storage period is not currently viable at the decommissioned sites, since repackaging facilities do not exist at these sites.

Further, the staff makes the following assumption here:

“The responsible entities will provide the necessary financial resources for operating, securing, and maintaining storage facilities for extended periods of time, regardless of cost.”

We agree that we will keep our sites safe and secure for as long as the material is stored on-site. While the staff assumption is literally true, staff makes judgments that are speculative and pre-decisional unless and until the Commission undertakes a re-examination as we suggest at the outset of our comments.

Otherwise, we believe that the proper assumption for permanently shut down facilities that do not have repackaging capability is that the federal government will honor its statutory and contractual requirements which may include removing the fuel and GTCC to a Consolidated Interim Storage facility. We believe there exists a consensus to do so, and the DPC can provide a compendium of recent government and non-government stakeholders who have endorsed this principle. We believe that a Commission re-examination will result in NRC endorsement as well as it will be found consistent with best practices from management, resource, and security viewpoints. Further, the assumption that that licensees will maintain current facilities and activities, including spent fuel repacking during a centuries long storage period raises significantly the spent fuel litigation damages and related implications that will need to be addressed by the EIS.

8.1 (9)

The DPC is attempting to fully participate in the activities associated with the referenced prospective rulemaking on ISFSI security. We continue to be hampered by the lack of cleared individuals for each of our sites to participate. We cannot make a completely informed comment on this assumption until we can fully participate in those referenced activities.

However, based on our current understanding of the direction the staff is taking with respect to revisions to the ISFSI security related requirements, there will be significantly increased capital and operational security related cost impacts that will need to be factored into and addressed in the EIS scope and assumptions. The DPC commented to the NRC regarding Draft Regulatory Guidance DG-5033 on October 13, 2011.

8.2 Scenario One

We believe that for facilities where the spent fuel pool has been decommissioned, this scenario should include the assumption that spent fuel and GTCC will be removed by the federal government from these sites pursuant to existing statutory and contractual authority, which may include shipment to a Consolidated Interim Storage facility, obviating the need for reconstruction of repackaging infrastructure.

8.2 Scenarios Two & Three

We believe that these scenarios should be based on the assumption that material from our facilities will be removed first as a priority, consistent with the findings of the BRC and the consensus that exists for that priority. We also believe that the Commission's re-examination would endorse such a priority.

9 Impacts Analysis

We believe the staff must include, at a minimum, the costs of new requirements such as reacquisition of property and new construction, as well as the non-quantifiable impacts we list under 8.1 (5).



The Yankee Companies

Maine Yankee Atomic Power Company
321 Old Ferry Road
Wiscasset, ME 04578

Connecticut Yankee Atomic Power Company
362 Injun Hollow Road
East Hampton, CT 06424

Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

Yankee Companies Statement Regarding the Final Report of the Blue Ribbon Commission on America's Nuclear Future – January 26, 2012

After nearly two years of careful study, the Blue Ribbon Commission on America's Nuclear Future (BRC) has issued its final report providing a roadmap for the establishment of a comprehensive, long-term strategy for safely managing the Nation's spent nuclear fuel and high-level nuclear waste. Among its principle conclusions are recommendations for:

- The prompt establishment of a voluntary, incentive-based siting program that would lead to the licensing of a consolidated interim storage facility (or facilities);
- The establishment of a "first in line" priority for the movement of spent fuel and other material being stored at permanently shutdown reactor sites to those licensed consolidated storage sites; and
- The prompt initiation of programs to coordinate federal, state and local efforts to plan for the transportation of this material to consolidated storage and disposal facilities.

The panel's final report also calls on Congress to create a new, single-purpose organization to implement a focused, integrated program for the transportation, storage and disposal of spent nuclear fuel and nuclear waste and to amend its budget rules so that this new organization would have assured access to the existing Nuclear Waste Fund and the revenues generated by annual payments to that fund. Finally, the panel cites the international consensus regarding the ultimate need for deep geologic disposal of this material and urges the creation of a siting process that provides incentives to host localities and states.

The Yankee Companies are appreciative that the BRC listened to what we, our community advisory boards, and others in New England provided as comments and that it makes no sense to keep this material at scattered sites around the region. New England ratepayers met their obligation to pay for the federal government to begin picking this material up in 1998 and it's time for the government to fix this program and put it on a footing that will lead to success in that mission.

The Yankee Companies believe that the members of the BRC have put forward a credible and solid set of recommendations. We hope that the President and Congress will carefully, but promptly, review and act to implement them. While some will obviously require changes to existing law, others, such as the initiation of transportation planning efforts and a dialogue with local communities that have expressed an interest in hosting

-more-



The Yankee Companies

Maine Yankee Atomic Power Company
321 Old Ferry Road
Wiscasset, ME 04578

Connecticut Yankee Atomic Power Company
362 Injun Hollow Road
East Hampton, CT 06424

Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

Page 2 of 2

January 26, 2012

Yankee Companies statement regarding the Final Report of the BRC

one or more of these sites can be conducted under current law and should begin immediately. Several quotes from the report are below.

The 15-member BRC and its four subcommittees conducted more than two dozen meetings, receiving testimony from hundreds of experts and concerned citizens, traveled to a number of countries with active spent fuel and nuclear waste management programs and reviewed more than 2,500 written comments received since it was chartered by DOE Secretary Chu at the request of President Obama. Former National Security Advisor Brent Scowcroft and former Congressman Lee Hamilton co-chaired the Commission. Its final report can be found at <http://www.brc.gov/>.

Quotes from the Final Report of the Blue Ribbon Commission on America's Nuclear Future

"The arguments in favor of consolidated storage are strongest for "stranded" spent fuel from shutdown plant sites. Stranded fuel should be first in line for transfer to a consolidated facility so that these plant sites can be completely decommissioned and put to other beneficial uses." P. xii.

"Accordingly, DOE should (1) finalize procedures and regulations for providing technical assistance and funds for training to local governments and tribes pursuant to Section 180(c) of the NWPA and (2) begin to provide such funding, independent from progress on facility siting. While it would be premature to fully fund a technical assistance program before knowing with some certainty where the destination sites for spent fuel are going to be, substantial benefits can be gained from a modest early investment in planning for the transport of spent fuel from shutdown reactor sites." P. xiii

"The magnitude of the cost savings that could be achieved by giving priority consideration to shutdown sites appears to be large enough (i.e., in the billions of dollars) to warrant DOE exercising its right under the Standard Contract to move this fuel first. Although this action would disrupt the queue specified in the Standard Contract, as utilities continue to merge and a growing number of reactors reach the end of their operating licenses, every utility (or nearly every utility) will have one or more shutdown plants. In the context, giving priority to moving fuel from decommissioned sites is likely to be seen by all parties involved as being in everyone's interest." P. 42.

###