

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

**Tuesday, May 17, 2011, Riverhouse at Goodspeed Station, Haddam, CT**

### **Attendees**

Members: Sal Mangiagli, Susan Bransfield, Dan Casey, Harvey Clew, Jenny Contois, Paul DeStefano, Victor Fetter, Jim Lenois, Marcia Meyers, Joyce Rossitter, Anthony Scalora, Harvey Thomas, Mark Walter

Liaison: Marge Debold (NEAC Contact), Mike Firsick, CDEP

Public: Raul de Brigard, Jim McHutchison

Yankee : Bob Capstick, Shae Hemingway, Eric Howes, John Arnold

### **Minutes**

In the absence of Chair Hugh Curley, Paul opened the meeting at 6:00 PM and welcomed all attendees to the meeting and the Town of Haddam. John recorded these minutes.

#### **Approval of the May 18, 2010 Meeting Summary.**

Paul made a motion to accept the May 18, 2010 meeting summary which was seconded and approved.

#### **CY 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 "CY Status," which was included in the hand outs at the meeting (attached).

Attendees asked a number of questions about the presentation including the following.

Attendees asked about the availability of the detailed ground water testing results and, as they are no longer available at the Haddam Public Library, Jim offered to provide the pertinent reports submitted to DEP on the CY website, <http://www.connyankee.com/> . He was also asked to notify the FSAC when they were made available on the website and it was suggested that the towns may want to establish a web link to CY's website on their websites.

Attendees asked about the training and drills for local fire and law enforcement. Jim explained that training is provided annually to local and state emergency responders. Exercises which may be audited by the NRC occur every other year and drills to which local law enforcement is invited occur in the intervening years.

Jim also reported that the U.S. Government Accountability Office and an NRC Branch Manager were on site on May 17 to interview CY and look over financial files associated with the GAO's audit of the NRC's oversight of Decommissioning Funds. CY was included in the scope of the audit because of the CY site's proximity to the other facilities (operating plants, etc.) being visited by the GAO team.

An attendee asked about the waste confidence rule and it was explained that the December 2010 rule reflected NRC's confidence that spent fuel can be safely stored at reactor sites for 60 years beyond the operation of the reactor.

### **Property Transfer Update**

John provided a brief summary of the property disposition status that was provided in the meeting handouts (attached). There was one question which asked if Vita Nuova was still retained by CY and John responded that since the termination of the EOI process, that VN was not longer retained by CY, however, they still were at Yankee Rowe.

### **Federal Nuclear Waste Update**

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

### **Election of Chair and Secretary**

As the existing Chair, Hugh Curley, has moved out of state, there was discussion of the election of a new Chair, Paul asked John to review the duties of the FSAC Chair and John provided a summary of the Chair's duties based on the FSAC charter which was distributed to the members in the meeting handouts.

Paul then asked if the Committee wanted to select a Committee to find a replacement for Hugh – there was no second in support of the motion. Susan then nominated Paul as FSAC chair and the nomination was seconded and voted unanimously. Paul asked about language in the charter that suggests the Chair reports to the CY President and if that might present a possible conflict of interest with his responsibilities as First Selectman – and if so, if there should be a motion to clarify the language of the Charter. John explained that the intention of the Charter language is that the Chair advises the CY President or his designee of FSAC actions and member resignations – that the Chair does not report in any way to CY. Following that clarification Paul accepted the election as Chair.

Then the FSAC members discussed the other officers to be voted in accordance with the charter.

Victor nominated Raul as Secretary with the understanding that the Secretary would fill in for the Chair in the Chair's absence and following discussion, that nomination was seconded and voted unanimously.

John will circulate the Charter to members to seek any proposed language changes felt to be necessary and the Chair and Secretary will review them and provide them for review in the notice of the next meeting.

### **Public Comment and Questions**

Attendees discussed the State of Connecticut Attorney General's recent participation in a lawsuit objecting to the NRC's recent Waste Confidence Rulemaking.

Attendees also discussed the potential of additional fuel coming to CY. It was noted that the CY-Town of Haddam Court approved settlement that is about to expire limits the storage of fuel that CY can store on site to just CY's fuel. Jim explained that the CY federal license limits the amount of spent fuel that can be stored at CY to only the spent fuel produced at CY and that CY has no plans or interest in storing additional fuel at CY – and to do so, would require a formal license amendment approval by the NRC. It was noted by Mike that the federal government can take possession of the CY fuel at the site, and in that circumstance, it would become a federal site and DOE could do as they saw fit regarding additional spent fuel storage at the site.

Attendees asked questions about the security of the ISFSI and the casks. Bob suggested that the attendees review the testimony of Yankee's dry cask storage system vendor (NAC International) regarding the integrity of their storage cask/canister system that was provided to the President's Blue Ribbon Commission and presented at one of their public meetings ( available on the BRC website, [http://www.brc.gov/Transportation\\_Storage\\_SC/TS\\_Subcommittee\\_Sep\\_23\\_Mtg\\_Info.html](http://www.brc.gov/Transportation_Storage_SC/TS_Subcommittee_Sep_23_Mtg_Info.html)).

Attendees asked if DOE accepts responsibility for removing the Greater-than-Class C waste stored at CY. Bob explained that CY asserted this is the case under the Nuclear Waste Policy Act in their DOE spent fuel lawsuit filings and that the courts have accepted this position in all of their rulings thus far.

The Chair asked if there should also be a fall meeting. After some discussion the attendees decided to not schedule one at this point, but one could be scheduled if the circumstances warranted doing so.

There being no further business, the meeting was adjourned at about 7:15 pm.

### **Next Meeting Date**

The 2012 meeting was scheduled for May 15, 2012.

## **Connecticut Yankee Fuel Storage Advisory Committee Meeting**

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### **CY Status**

#### **Industrial Safety**

There were no Lost Time Accidents or OSHA recordable injuries reported since the last report.

#### **ISFSI**

- ISFSI operations are normal.
- Staffing levels are stable.
- Annual Local Law Enforcement Training occurred April 21, 2011.
- Annual Fire Department Training occurred April 21, 2011

#### **Regulatory Affairs**

##### **CT DEP**

##### **Groundwater Monitoring Program**

A total of twenty-three (23) monitoring well locations were sampled for chemical constituents and thirty-seven (37) locations were sampled for radiological constituents in the First Quarter 2011 monitoring event.

All samples submitted for chemical analysis contained parameters below applicable RSR Criteria, if detected at all. Following this monitoring event, seven (7) monitoring wells are now in compliance with RSR Criteria for chemical constituents, and chemical sampling is no longer required.

All samples submitted for radiological analysis contained parameters below applicable RSR Criteria, if detected at all. Following this monitoring event, thirty-three (33) monitoring wells are now in compliance with RSR Criteria for radiological constituents, and radiological sampling is no longer required.

##### **Groundwater Summary:**

The Groundwater Monitoring Plan includes sixty-two (62) sampling locations from fifty-nine (59) wells.

- Four (4) monitoring locations remain in the quarterly sampling program (three (3) for chemical constituents and one (1) for radiological constituents).
- Eighteen (18) monitoring locations remain in the semi-annual sampling program to demonstrate long-term groundwater compliance with RSR Criteria.
- Forty (40) monitoring locations no longer require monitoring and await abandonment.

## **NRC**

The NRC conducted a safety inspection on November 29, 2010. The inspection included all aspects involving the safe operation of the Independent Spent Fuel Storage Installation at Connecticut Yankee with the exception of the Security Program. The Security Program will be inspected during 2011. There were no issues or findings identified.

## **Property Disposition Status Update for 5/17/11 CY FSAC Meeting**

As you are aware, CY initiated an Expression of Interest (EOI) process following the completion of CY site decommissioning in November 2007. The EOI process was intended to identify experienced, financially sound, and capable organizations interested in the future ownership of the CY property and to gather information that would contribute to a final decision on land disposition. CY received a number of interesting submittals through the process and obtained valuable input regarding potential future use of the property. The EOI process is now concluded and CY is presently no longer actively pursuing the site disposition process.

CY kept the Fuel Storage Advisory Committee and representatives of interested local groups apprised, to the extent possible in a confidential process, of EOI progress. CY will continue to keep the State, the Town of Haddam, and its neighbors and stakeholders apprised of future developments as it considers its property disposition opportunities and CY remains willing to work with one or multiple parties to determine future use options

The company's long-term goal remains to successfully disposition the property in the best interests of the shareholders, the ratepayers, and the community.

CY has made no decisions regarding the future disposition of the property and there is no time table established making a decision.

The property disposition effort is still a confidential process and neither CY, nor any participants will be in a position to talk about ongoing discussions because of formal confidentiality agreements.

## **CY SPENT FUEL STORAGE AND REMOVAL ADVISORY COMMITTEE UPDATE – May 2011**

### **Federal Nuclear Waste Management Program Update**

#### **Blue Ribbon Commission:**

The BRC staff issued a report in April entitled “What We Heard” that summarized the key themes that the BRC had heard up to that point in the process. When publishing the report, the Commission requested that individuals and organizations who had given them input confirm that their key messages had been heard or to highlight something that may have been missed. In response, Wayne Norton sent a letter on behalf of CY and the Decommissioning Plant Coalition emphasizing their omission of the number of comments on the record that were supportive of national centralized interim storage and priority removal for decommissioned plant sites (copy attached).

The BRC and the three Subcommittees held several meetings since the October FSAC update report - the most recent was a full Blue Ribbon Commission meeting on May 13 in Washington DC. At that meeting, the subcommittees reviewed their draft recommendations. The draft Transportation & Storage Subcommittee recommendations included: (#1) the U.S. should expeditiously establish one or more consolidated centralized interim storage spent fuel storage facilities; and (#3) “spent fuel currently being stored at decommissioned reactor sites should be “first in line” for transfer to a consolidated interim storage facility as soon as such a facility is available.”

The Commission’s draft report is due this July and the final report by January 2012.

#### **DOE Waste Management Program:**

The DOE continued to faithfully follow the President’s direction and has completely dismantled the Office of Civilian Radioactive Waste Management and the Yucca Mountain project.

### **Yucca Mountain License Application:**

The NRC Commissioners have not yet ruled on the ASLB Yucca Mountain decision denying the DOE's motion to withdraw the Yucca Mountain License Application – and there is no date required or scheduled for them to do so.

The US Court of Appeals heard oral argument in March in the consolidated petitioners (Aiken County; states of SC and WA) lawsuit opposing DOE's withdrawal of the Yucca Mountain License Application case - the Court has not yet issued any decision thus far.

The Yucca Mountain NRC Atomic Safety & Licensing Board denied a DOE motion to stay the case and in April the DOE filed a motion with the NRC Commissioners asking them to review the ASLB's decision denying the stay.

### **NRC Waste Confidence Rule**

The NRC published the long-awaited waste confidence final rule amending the Commission's generic determination on the environmental impacts of storage of spent fuel at, or away from, reactor sites after the expiration of reactor operating licenses.

The Attorney General's from New York, Connecticut and Vermont filed a lawsuit in the D.C. Circuit (in February 2011) challenging the NRC's waste confidence rule. The suit challenges 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 HLW onsite at more than 100 sites around the country for 60 or more years after the reactors are closed. The Prairie Island Indian Community and the NRDC also filed motions in the Court of Appeals challenging the NRC's revised Rule.

NRC's commissioners approved the agency staff's plan to review regulations for extended storage of spent fuel and its transportation off-site after storage. In a January 2011 memo, the commission directed the NRC staff to combine that effort with a separate initiative to plan for a long-term waste confidence rulemaking that will also address the impacts of storing spent fuel beyond 120 years. The NRC staff issued its plans in late February and will: 1) develop a long-term Waste Confidence (WC) rule, including an environmental impact statement (EIS) and updated WC decision, for the handling and extended storage of spent nuclear fuel for more than 60 years after a reactor's licensed life; and, 2) describe the integration of WC activities with the extended storage and transportation project plan activities. The Staff considers a timeframe of up to 300 years of storage to be appropriate for characterization and prediction of aging effects and aging management issues for extended storage and transportation. The Staff plans to complete a WC update in FY 2016.

### **Congressional Update**

The Continuing Resolution for FY 2011 that passed this April closed out the DOE's Office of Civilian Radioactive Waste Management (OCRWM) and the Yucca Mountain project. The DOE's Office of Nuclear Energy will integrate any nuclear waste disposal related activities into its fuel cycle program. The bill included \$10 million for the NRC to use from the Nuclear Waste Fund, but the NRC budget request for FY11 indicates that those funds will only be used for closing out the Yucca Mountain license application and alternative geologic disposal or other spent fuel management options.

The House Appropriations Energy and Water Development Subcommittee held a hearing on the FY 2012 DOE budget in April - Acting Assistant Secretary Pete Lyons and NRC Chairman Greg Jaczko testified. Congressman Olver (D-MA) is a member of the Committee and raised several questions about keeping fuel on plant sites for many years.

Also, Congressman Courtney submitted a request to the House Energy & Water Development Appropriations Subcommittee requesting that the Committee include report language directing the DOE to submit with its fiscal 2013 budget request, a plan to develop interim storage capacity that would, as a priority matter, provide a means of consolidating for management the spent nuclear fuel and other high level waste present at permanently shut-down reactors – and that the Department should also submit any legislation it determines necessary to facilitate the implementation of such plan.

### **Other Related Efforts Update**

CY continued to work with the Decommissioning Plant Coalition, as well as the New England Governors' Conference and the New England Council, and others to communicate to the administration, congress, and the BRC the shutdown reactor spent fuel storage issues and the basis for priority attention to the needs of the shutdown reactor sites. Yankee will also continue its efforts to expedite the removal of the fuel from the site through organizations such as the Nuclear Waste Strategy Coalition; the Nuclear Energy Institute; and the National Association of Regulatory and Utility Commissioners. The continued support of these organizations will hopefully result in final recommendations from the BRC that support our priority removal efforts.

The MIT Center for Advanced Nuclear Energy Systems issued a report in December entitled, "Key Issues Associated with Interim Storage of Used Nuclear Fuel". The first recommendation in the report is: "Remove spent fuel from decommissioned reactor sites to an existing secure national facility that has the infrastructure to support long term storage. Should this not be possible, build a

centralized interim storage facility capable of storing 3,000 MTHM of spent fuel from decommissioned reactors that could be expanded as needed when other operating reactor sites are decommissioned in the 2030 time frame.”

The full MIT report on “The Future of the Nuclear Fuel Cycle” was released in late April (a summary report was published last September). The study addressed nuclear waste storage in the U.S. and the recommendations included the following: “The possibility of storage for a century, which is longer than the anticipated operating lifetimes of nuclear reactors, suggests that the U.S. should move toward centralized SNF storage sites—starting with SNF from decommissioned reactor sites and in support of a long-term SNF management strategy.” Also, “We recommend that the U.S. move toward centralized SNF storage sites—starting initially with SNF from decommissioned sites and in support of a long-term SNF management strategy. The Federal government should take ownership of the SNF under centralized storage.”

### **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 the government’s final brief on their appeal was required to be filed on May 6, 2011, but they requested an extension of time. Yankees’ cross-appeal reply will be filed after DOE’s filing. After the briefs are in, the appellate court will schedule a date for the oral argument.

#### **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. Yankee reached an agreement with the government to settle the ongoing discovery disputes agreeing to the government’s request to extend the discovery period. This will result in an approximate two month delay in the start of the trial, until October 11, 2011.