

Yankee Rowe Fuel Storage and Removal Community Advisory Board
November 13, 2012

(Revised 11/7/2013 to include YAEC Attendees)

The Yankee Rowe Fuel Storage and Removal Community Advisory Board held their Annual 2012 meeting at the Golden Eagle Restaurant in Clarksburg, MA on November 13, 2012.

Attendees: Lenny Laffond (Rowe), Dawn Peters (Heath), Art Schwenger (Franklin County Chamber of Commerce), David Nash (Monroe) and Thomas Wilson, (CAN).
YAEC Representatives: Bob Mitchell, Eric Howes, Karen Sucharzewski.

The meeting was called to order at 6:10 p.m. by Lenny Laffond, Chairman.

Minutes of the November 8, 2011 meeting were approved as written.

ISFSI Status Report was presented by Bob Mitchell, ISFSI Manager.
(Presentation attached).

Regional and Federal Nuclear Waste Issue report was presented Eric Howes
(presentation attached).

CAB New Business: No new business.

The next CAB meeting is scheduled for Thursday, November 7, 2013 at the Golden Eagle Restaurant with dinner at 5:00 and meeting to follow at 6:00 p.m.

The Meeting was adjourned @ 8:00 p.m.

For more information, contact Bob Mitchell at 413-424-5261 X-303 or via email at rmitchell@3yankees.com.

Yankee Rowe Spent Fuel Storage & Removal Community Advisory Board Meeting

Tuesday, November 13, 2012

ISFSI Status

Overall

ISFSI operations are normal with an emphasis on continued site security and the safe storage of the used fuel, including the implementation of the post closure ground and surface water sampling program and property disposition.

Industrial Safety

Since the last meeting, we have had a Lost Time Accident which is also an OSHA Recordable event. On 07/11/2012 an officer sustained a head trauma, striking a partially open file door on an office credenza while performing some administrative tasks. The officer remains out of work under a doctor's care and is not expected to return before the end of the year.

Physical Work

Site work since the last meeting consisted of equipment and facility maintenance.

Site preparations for winter operations have been completed.

As was discussed at the last meeting, we closed 21 of the 51 wells that are no longer part of the Post Closure Monitoring Program. The closure program was halted after the MADEP expressed some concerns about Yankee closing abandoned wells that are not part of the approved long term monitoring program. Yankee and the MADEP have since reached an agreement on the remaining abandoned wells that can be closed and of the 30 wells remaining, Yankee will close an additional 22 and leave 8 other wells, that are not part of the Post Closure Monitoring Program, available for future sampling.

Regulatory

Exemption Request to revised Operating Plant Security Requirements

As discussed previously, the NRC has determined that the recently issued revision to 10CFR73.55 "*Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage*" is also applicable to ISFSIs. Yankee

submitted its response including requesting a number of exemptions from the new regulation that are not directly applicable to ISFSI's.

On September 21, 2012 the exemption request to provisions of the new Operating Plant Security Rule (73.55) has been issued by the NRC to Yankee. There were no surprises and impact on site Security Programs and Procedures is expected to be minimal.

Since the last meeting, the Nuclear Regulatory Commission conducted an Operations and Security Inspection at Yankee. There were no violations or areas of concerns identified as a result of the Inspection.

Emergency Planning Exemption

Yankee Atomic has submitted an exemption request from some elements of the recently revised Emergency Planning Rule. As with the revision to the Security Rule in 2010, the basis documents included exclusion for sites that have permanently ceased operations and certified that all fuel has been removed from the reactor, however, that exclusion was not carried forward in the final rule language. By letter dated August 10, 2012, the exemption request has been accepted for detailed evaluation. Timing for completion of their review of the exemption request is not known at this time.

Foreign Ownership, Control, and Domination ("FOCD")/ Notice of Violation

On January 27, 2012, the NRC issued a notice of violation ("NOV") to the Company alleging that it is 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 Company has been owned, controlled, or dominated by a foreign corporation since it is 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 Company filed its response contesting the allegations on February 23, 2012. By letter dated August 9, 2012, the NRC rejected our responsive arguments and stated that the violation will stand.

Security Regulatory Guide and New ISFSI Security Rule

The NRC has issued for comment draft Regulatory Guide 5033, "Security Performance (Adversary) Characteristics for Physical Security Programs for 10 CFR 72 Licensees" (ISFSIs). The comment period was extended to October 25, 2011. Comments were provided to both NRC and NEI. No response to the comments has been received to date. Recent dialogue with NRC staff indicated that publication of the new ISFSI Security Rule is scheduled for late spring 2013.

Post Closure Monitoring Program

Yankee received from the MA-DEP the "Phase II-Comprehensive Site Assessment Report – Final Report" date April 8, 2009. Yankee has implemented its post closure monitoring program of the site as set forth in this report. The Post Closure Monitoring will continue at the site for up to 30 Years.

Tritium in well MW107C which was 20,100 pCi/ml in 2010 has dropped below the MCL for drinking water of 20,000 pCi/ml to 11,400 pCi/ml. The final report was submitted on June 5, 2012. As a result of Well 107C being below the MCL for Tritium, Yankee will be initiating a quarterly sampling program beginning in June of 2013 with additional sampling scheduled for September 2013, December 2013 and completing in March 2014 when we are scheduled for doing all of the ground and surface water sampling. The additional quarterly sampling of MW-107C for Tritium will allow us to closeout of the Class C RAO (Response Action Outcome) on this well with the MADEP.

Yankee Property Disposition

Vita Nuova, LLC with offices in Sandy Hook, CT have been retained to assist YAEC with disposition of its property in the Towns of Rowe and Monroe.

There as been no further discussions on the property with any of the interested parties since we last met.

The Sonic Detection and Ranging (SODAR) wind profiler to measure wind patterns has been removed from the National Grid right of way. We are discussing the results with the State (Mass CEC) to determine recommendations for the next steps.

Extended Storage of Fuel

The Yankee companies continue to be actively involved with Electric Power Research Institute, Nuclear Energy Institute and Nuclear Regulatory Commission on the issues of relicensing of storage system.

The engineering and technical evaluation of our storage system in support of renewing our storage license for an additional 40 years past it current expiration date of April 2020 are underway with our storage cask vendor NAC International and is estimated to take 3 to 4 years with submittal of our renewal application in 2018.

National Nuclear Waste Issue Update, November 13, 2012

Blue Ribbon Commission (BRC)

As reported to you previously, the final BRC report was submitted to the President and Secretary of Energy on January 26th with 8 key recommendations to reform the spent nuclear fuel (SNF) management program. Yankee is most focused on the recommendations calling for prompt efforts to develop one or more consolidated storage facilities at volunteer sites with “first in line” priority for SNF at decommissioned reactor sites, and prompt efforts to prepare for the eventual large-scale transport of used nuclear fuel and high-level waste to consolidated storage and disposal facilities when such facilities become available. Successful reform will also depend on adoption of the recommendations calling for access to the funds ratepayers are providing for waste management, and a new organization solely dedicated to implementing the waste management program with the authority and resources to succeed.

We along with many others including the Nuclear Waste Strategy Coalition, the Nuclear Energy Institute, and the National Association of Regulated Utility Commissioners support the BRC recommendations and urge their implementation, but given the uncertainty and long lead time for action we expect SNF to remain on-site at Yankee Rowe for many years.

All are waiting for Congress and the Administration to provide direction. The Department of Energy’s report to Congress on the agency’s strategy for implementing the BRC recommendations was due to Congress at the end of July. When it will be issued is unknown.

While some of the BRC report recommendations will require changes to the existing law, others, such as the initiation of near-term transportation planning related efforts, can be conducted by DOE under current law. That activity has begun. At the end of August a team from the DOE visited each of the Yankee sites to assess the transportation infrastructure for removing SNF. A draft of DOE’s report on the transportation aspects of removing SNF from decommissioned reactor sites was completed at the end of October. As mentioned in the May CAB update report, the DOE is restoring funding to the Northeast Region High Level Radioactive Waste Transportation Project which had been eliminated when DOE ended the Yucca Mountain program. The NEHLRWT Project will be important to the success of transportation.

Yucca Mountain License Application

The Yucca Mountain program for all practical purposes has ceased to exist, but the mandamus case brought by South Carolina, Washington and others asking the U.S. Court of Appeals to compel the NRC to resume its review of the Yucca Mountain license application has not been decided. Oral argument was held May 2nd. On August 3 the court ordered the case held in abeyance and gave the parties involved until December 14 to provide an update on the FY 2013 appropriations. Two of the three judges wrote opinions that the NRC has a duty to act in conformance with the requirements of the Nuclear Waste Policy Act and that the agency's actions to discontinue the review of the application and to terminate the proceedings are a violation of the NWPA.

On September 28, 2012, the Continuing Appropriations Resolution for FY 2013 was signed into law by President Obama. That same day, the petitioners in the mandamus suit filed a status report calling for mandamus to be issued now that the FY 2013 appropriations have been addressed by Congress with no express clarity provided regarding funding for the Yucca Mountain licensing process.

On October 9th, separate motions were filed by the State of Nevada and the NRC in response to the September petitioner filings. The Nevada motion emphasized the fact that the CR did not provide any additional funding. The NRC motion emphasized that Congress could still act before December 14, 2012, the deadline set in the Court's original abeyance order.

On October 12th, the petitioners filed a supplementary motion in response to the NRC and the State of Nevada reply motions again asking the Court to issue the mandamus order immediately.

Nuclear Regulatory Commission

NRC Waste Confidence Rule: As reported previously, in 2010 the NRC published a waste confidence decision stating that NRC had confidence that spent fuel could be safely stored at reactor sites for a 120 year period (essentially a 60 year wet pool operating life period and a 60 year dry cask storage period). The Attorney Generals from New York, Connecticut and Vermont filed a lawsuit in the D.C. Circuit challenging that waste confidence rule. The suit challenged that the NRC violated the Federal Administrative Procedures Act and National Environmental Policy Act when it found – 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 formal briefs were filed late last year and the NRC's reply briefs were filed in January. Oral argument was held March 16th.

On June 8 the U.S. Court of Appeals vacated the NRC's 2010 Waste Confidence update. The court remanded the issue to the NRC for action consistent with the court's decision. The court ruled in part that the Waste Confidence update was a major federal action that required an Environmental Impact Statement or an Environmental Assessment containing a finding of No Significant Impact. The NRC issued an August 3 order stating that work on applications for licenses and license renewals will continue, but no final action on applications will be taken until the agency addresses the issues raised in the court decision. On September 6 the Commissioners directed the NRC staff to develop an Environmental Impact Statement and a revised Waste Confidence decision within two years that addresses the issues raised in the court decision. Comments on the NRC's EIS scoping effort are due January 2nd.

NRC Extended Storage Waste Confidence Rule: As reported previously, earlier this year the Commission directed 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. On September 10 the NRC announced "The long-term Waste Confidence update is being deferred while the NRC develops the new EIS and Waste Confidence update."

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. The new rules are expected to be issued late spring 2013 and to become effective in the next couple of years. They could require significant security and emergency planning enhancements at all stand alone ISFSI sites.

Congressional Update

FY 2013 Appropriations: In April the Senate Appropriations Committee approved the FY 2013 Energy & Water Development Appropriations legislation that included the establishment of a pilot program to move SNF from shutdown reactor sites to consolidated interim storage. In June the House approved its version of the FY 2013 E&WD Appropriations bill that included \$35 million for the NRC to continue its review of the DOE's Yucca Mountain license application. The House bill is silent on consolidated interim storage and the Senate bill is silent on Yucca Mountain.

On September 28 the Continuing Appropriations Resolution for FY 2013 was signed into law by President Obama. The CR funds the government at current levels through March 2013. The CR takes precedence over the Senate and House E&WD bills and the divisions between the bodies remain to be resolved.

The Nuclear Waste Administration Act of 2012, S. 3469: Senator Jeff Bingaman (D-NM) introduced this legislation which in most respects tracks the BRC report recommendations and it also supports the consolidated storage pilot program for decommissioned reactor fuel approved by the Senate Energy & Water Development Appropriations Committee. In a departure from the BRC Senator Bingaman's bill would establish a new, independent Executive Branch agency as opposed to establishing a congressionally chartered federal corporation to site new storage and disposal facilities. There is concern about whether the proposed new agency would be sufficiently insulated from the political process. The Senate Energy and Natural Resources Committee held a hearing on the bill September 12. While the bill will not be marked up or carried over to the next Congress, the bill was commended as a good conversation starter.

Over the past year Senator Bingaman worked with Senators Lamar Alexander (R-TN), Dianne Feinstein (D-CA), and Lisa Murkowski (R-AK) in a bipartisan effort to draft comprehensive reform legislation to implement the BRC recommendations. Negotiations broke down over the question of how to ensure that a final waste repository is built so that nuclear waste is not stranded permanently at temporary waste storage facilities.

Senators Feinstein, Alexander, and Murkowski prefer a more flexible approach where consolidated storage is not as closely linked to progress on a final repository; they agreed, however, with Senator Bingaman introducing his legislation to begin the conversation.

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. 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.

As previously reported to you, on May 18 the U.S. Court of Appeals issued a favorable decision in the case awarding to the three Yankee companies nearly \$160 million. The Yankees won on all appellate points. The Federal Circuit affirmed the US Court of Federal Claims award of \$39,667,243 to Connecticut Yankee; affirmed the US Court of Federal Claims award of \$81,690,866, to Maine Yankee; and increased Yankee Atomic's damages award from \$21,246,912.55 to \$38,268,654.55. The Court of Appeals also found that no further remand is required. Importantly for Yankee Atomic in particular, the Federal Circuit agreed with Yankee's cross-

appeal that the Claims Court had erred in excluding wet-pool costs from the damages award – which means that Yankee Atomic has now been adjudged to be entitled to an additional \$17 million in damages.

On September 5, 2012, the Court of Appeals for the Federal Circuit denied the government's petition for rehearing and rehearing en banc. As a result, the decision becomes final and non-appealable unless, within 90 days (December 4, 2012), the government files a petition for certiorari with the U.S. Supreme Court.

Yankee Phase II Cases

On December 13, 2007 the Yankee Companies filed a second round of damages claims in the U.S. Court of Federal Claims for approximately \$247 million. Connecticut Yankee is seeking \$135.3 million, Yankee Atomic \$76.6 million, and Maine Yankee \$35 million. These numbers reflect the damages that Connecticut Yankee and Yankee Atomic incurred from January 1, 2002 through December 31, 2008, and that Maine Yankee incurred from January 1, 2003 through December 31, 2008.

The trial was held in October 2011. 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. On October 18, 2012, Judge Merow issued an Order asking the Parties to file supplemental briefs on the impact, if any, of a recent Federal Circuit Court of Appeals decision (VT Yankee Nuclear Power Corp. v. U.S., petition for rehearing and rehearing en banc denied on October 1, 2012) and any other recent court decisions that the parties deem relevant in helping the court decide the issues in this case. Judge Merow's Order gives the parties until November 27, 2012, to file a supplemental brief, if they so desire, and allows for an additional 20 days for the parties to respond to any briefs. The Yankees intend to file a supplemental brief. A decision in the Phase II cases is expected sometime after Judge Merow's timetable for providing supplemental briefs and responses.

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