

June 30, 2004

The Honorable Christopher J. Dodd
United States Senator
100 Great Meadow Road
Wethersfield, Connecticut 06109

Dear Senator Dodd:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am writing in response to your letter of May 5, 2004, which forwarded a letter from Frank Warmesley, Sr., expressing his concern about the Historic Preservation Act activities associated with Connecticut Yankee Atomic Power Company's (CYAPCO's) Independent Spent Fuel Storage Installation (ISFSI). NRC takes very seriously its responsibilities to comply with all Federal laws and to be open with the public, and we appreciate this opportunity to provide your office with more information about this matter.

The NRC staff has reviewed the archaeological and historical status of Venture Smith's holdings in Haddam, Connecticut, relative to Mr. Warmesley's concerns. In the last 2 to 3 years, there have been three independent archaeological reviews of the ISFSI project area, which have concluded that: (1) the nearby historic building foundation, often referred to as the Venture Smith homestead, is probably associated with the Ackley Farm, and the buildings were not built by Venture Smith; (2) the project boundaries for the ISFSI, including the nearby Ackley Farm historic homestead, contained no archaeological resources; and (3) Venture Smith's homestead was located at and around the existing dwelling known as the Schmidt house, which is located on property owned by CYAPCO, but off site, north of the CYAPCO plant boundary.

In early June, the Connecticut Historical Commission's State Historic Preservation Office (CHC/SHPO), the Office of the State Archaeologist at the University of Connecticut, and CYAPCO conducted a field review of the now-identified Venture Smith archaeological complex on the former Schmidt property to evaluate the potential designation of this important historic and archaeological resource as a World Heritage site. Also, CYAPCO and the CHC/SHPO are discussing designating the Venture Smith site, and other significant Native American and colonial archaeological resources, as a State Archaeological Preserve.

I am enclosing a detailed response to Mr. Warmesley's concerns with this letter. If you have any further questions regarding NRC's activities at the CYAPCO site, please contact me or Dennis Rathbun, NRC's Director of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Nils J. Diaz

Enclosure:
Frank Warmesley, Sr., Concerns and Responses

FRANK WARMSLEY, SR., CONCERNS AND RESPONSES

Concern: “After Connecticut Yankee announced its plans [to store spent fuel on site], the Connecticut Historical Commission stopped funding an archaeological survey of the Venture Smith Site and discontinued the National Register nomination process it had begun. Astonishingly, the Connecticut Historical Commission issued a letter at Connecticut Yankee’s request in which it stated that the area has no historical, cultural or archaeological significance.”

“This conclusion - at polar opposite from the Connecticut Historical Commission’s initial assessment - is clearly incorrect.”

Response: The Connecticut Historical Commission/State Historic Preservation Office (CHC/SHPO) contracted with an archaeological organization (Public Archaeology Survey Team, Inc.) to conduct background research related to the National Register of Historic Places (henceforth National Register) nomination for the Venture Smith archaeological site. The study was completed on May 15, 2002, and recommended delaying nomination for the National Register until completion of the current archaeological survey of the entire power company site, since additional historic and prehistoric components that overlap Venture Smith’s occupation may be identified as a result of this work. The study also concluded that Venture Smith’s homestead was located on the Schmidt property, and his holdings were primarily located at the north end of the power company property. Connecticut Yankee Atomic Power Company (CYAPCO) bought the Schmidt property in 2001.

Review of two independent field studies (Central Connecticut State University and American Cultural Specialists, LLC) of the Independent Spent Fuel Storage Installation (ISFSI) led the CHC/SHPO to conclude that “... no archaeological resources exist within the proposed fuel storage area and associated construction areas.” The CHC/SHPO had not previously stated that the CYAPCO site was eligible for the National Register but, rather, that there was a strong potential for being eligible for the National Register. The strong potential was, in part, because of the common mistaken belief that the Ackley farm house foundations were actually part of the Venture Smith homestead. However, the CHC/SHPO based its later conclusion on the fact that both the records research and the field analysis agreed on the conclusion that the ISFSI project area is not an historically significant portion of the Venture Smith homestead.

Concern: “We believe that Venture Smith owned the land which Connecticut Yankee proposes to use for *de facto* permanent nuclear waste storage.”

Response: The deed research concluded that only “2 acres” of Venture Smith’s land went into the Sylvester Dudley farm at the southern end of the neck, possibly near the ISFSI location. It later became the property of John and Anna Ackley and was known as the “Ackley Place,” or “Ackley Farm,” for many years. In fact, the property records show that Venture Smith and his descendants purchased and sold plots of land surrounding the homestead for 70 years. During that time, plots containing the subject “2 acres” were owned by Venture Smith from 1777 to 1781 and again from 1790 to 1797, for a total of about 12 years. The fact the property was bought and sold multiple times is an indication that this portion of land was not culturally significant to Venture Smith or his family.

Concern: “It is possible that the pottery shards found in the area were scattered by Venture Smith and his family to mark family burial sites, a practice common at the time among native Africans. Such evidence establishes the need for a comprehensive independent archaeological survey of the site...”

Response: The field study, conducted in May 2002, used what is considered to be a robust sampling process, consisting of 119 test pits, spaced at 15-meter (16-yard) intervals. Each test pit is approximately 50 square centimeters (8 square inches) in area, and 60 centimeters (2 feet) or more in depth. Screening of the test pit material identified 23 Euro-American ceramic fragments and glass fragments, 22 Native American stone artifacts, and 26 shell fragments.

The study concluded that the historic artifacts are sparsely, diffusely, and randomly located throughout the project area. They are not concentrated nor associated with any feature, and appear to represent 18th and 19th century manuring (i.e., fertilization) practices and/or isolated incidents associated with one of the neighboring historic homesteads. The study also concluded that the prehistoric artifacts are similarly diffusely scattered throughout the area, and most likely represent sporadic, temporary occupation of the area.

Concern: “Because of the Connecticut Historical Commission’s determination that the site lacks historical, cultural, or archaeological value, the U.S. Nuclear Regulatory Commission [NRC] has permitted the project to proceed without the Section 106 analysis, as is required by the National Historic Preservation Act ... in violation of Federal law.”

Response: When conducting Environmental Assessments (EAs) under the National Environmental Policy Act for licensing actions, NRC consults with the appropriate State Historic Preservation Officers to ensure that it is considering cultural and archaeological resources in accordance with Section 106 of the National Historic Preservation Act. However, an EA is not required for construction and operation of an ISFSI under the general license provisions of 10 CFR 72.210, which CYAPCO chose to use. Therefore, NRC staff did not consult with CHC/SHPO specifically about the ISFSI siting.

However, NRC did perform a Section 106 review of the entire licensed site as part of its process for approval of the CYAPCO License Termination Plan (LTP) for the Haddam Neck Plant (HNP) site. The staff provided a discussion of its compliance with Section 106 to the Advisory Council on Historic Preservation in a letter dated August 16, 2002. On November 4, 2002, NRC issued the EA, which included a discussion of areas of the site potentially eligible to be listed in the National Register. The EA found no significant impacts associated with the LTP, but identified the mitigation measures recommended by CHC as part of the consultation process that CYAPCO was already carrying out. The mitigation measures consisted of: (1) documentation of the HNP to professional standards; (2) completion of a reconnaissance-level survey of all lands associated with the HNP; and (3) consultation with the Thomas J. Dodd Research Center, at the University of Connecticut, concerning the archiving of pertinent documents, plans, and photographs of the HNP. CYAPCO is carrying out these recommended mitigation measures. The NRC staff has monitored, and will continue to monitor periodically, the status of archaeological investigations at the Haddam Neck site in coordination with the Department of Interior, the cognizant Federal Agency for historical preservation activities.

References:

Clouette, Bruce, May 15, 2002, *Venture Smith Archaeological Site, National Register of Historic Places Nomination: Report on Background Research.*

American Cultural Specialists, LLC, May 16, 2002, *Phase IB Archaeological Reconnaissance Survey of the Proposed ISFSI Location on the Connecticut Yankee Property in Haddam Neck, CT.*