

January 21, 2005

Snake River Alliance  
104 South Capitol Boulevard  
PO Box 1731  
Boise, Idaho 83701

SUBJECT: CONNECTICUT YANKEE ATOMIC POWER COMPANY'S REQUEST TO  
TRANSFER SOLID WASTE FROM THE ITS HADDAM NECK PLANT IN  
CONNECTICUT TO THE U.S. ECOLOGY IDAHO FACILITY IN GRAND VIEW,  
IDAHO

The Commission has directed me to make the following response to your letter of December 22, 2004, which refers to Connecticut Yankee Atomic Power Company's (CYAPCO's) request to transfer solid waste from the decommissioning of the Haddam Neck Plant (HNP) facilities to the U.S. Ecology Idaho Facility in Grand View, Idaho. You expressed concerns and sought clarification regarding the proposed procedures to dispose of material from a Nuclear Regulatory Commission (NRC) licensed facility at a non-NRC licensed site. You also requested a public hearing in Idaho and an opportunity to comment on CYAPCO's request.

On September 16, 2004, CYAPCO applied to the NRC, in accordance with the provisions of 10 CFR 20.2002, to dispose of demolition debris from decommissioning activities at the HNP facility. CYAPCO is seeking NRC approval of proposed procedures to dispose of material off-site at U.S. Ecology Idaho that it asserts potentially reflects a dose of no more than a few millirem per year Total Effective Dose Equivalent and a small fraction of the NRC limit for exposure to members of the public.

The general requirements for waste disposal are set forth in 10 CFR Part 20, Subpart K. Section 20.2002 states that a "licensee or applicant for a license may apply to the Commission for approval of proposed procedures, not otherwise authorized in the regulations in this chapter, to dispose of licensed material generated in the licensee's activities." The approval CYAPCO has sought is for an authorization to use alternative disposal procedures consistent with the plain language of Section 20.2002. In reviewing such a request, the NRC staff will determine if any dose from the disposal will be maintained as low as reasonably achievable and within the dose limits set forth in 10 CFR Part 20, Standards for Protection Against Radiation.

The regulatory treatment of byproduct material is governed by 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material. Section 30.11 implements the NRC's authority to issue specific exemptions from the licensing and regulatory requirements upon determining that the exemptions "are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest." As part of a review of a request for off-site disposal at a non-NRC licensed facility under Section 20.2002, the NRC staff would make a determination that applicable safety and environmental analyses demonstrate compliance with Section 30.11 before exempting the material to be disposed from further licensing and regulatory requirements.

Additionally, your letter suggests that we should treat CYAPCO's request for NRC approval of proposed disposal procedures under Section 20.2002 as tantamount to a license amendment request warranting an adjudicatory hearing. Not all NRC approvals of licensee actions amount to licenses or license amendments. Here, CYAPCO's 20.2002 request, in effect, seeks an exemption from NRC regulations, not a change in its license. In NRC practice, requests for exemptions do not ordinarily call for an adjudicatory hearing. See *Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), CLI-01-12, 53 NRC 459, 466-467 (2001). An exemption is not the type of action listed in section 189 of the Atomic Energy Act that triggers the right to an adjudicatory hearing. Accordingly, the NRC does not intend to hold a public hearing in Idaho. Please note that the NRC has also discussed with the State of Idaho the disposal of exempted material in Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste disposal facilities, as reflected in the enclosed letter, dated December 16, 2004, from Paul Lohaus, Director of the NRC's Office of State and Tribal Programs, to Ms. Toni Hardesty, Director of the Idaho Department of Environmental Quality.

The Commission recognizes your interest in this particular matter, and invites you to provide written comments to the NRC staff. Please contact Mr. Theodore Smith, the NRC Project Manager for the HNP site if you have any further questions on this matter, or would like to provide comments. He can be reached by telephone at (301) 415-6721 or by e-mail at [TBS1@nrc.gov](mailto:TBS1@nrc.gov).

Sincerely,

**/RA/**

Annette Vietti-Cook  
Secretary of the Commission

Enclosure: As stated