

From: "Jeremy Maxand" <sra@snakeriveralliance.org>
To: <hearingdocket@nrc.gov>
Date: 12/22/04 4:05PM
Subject: Petition for Public Hearing

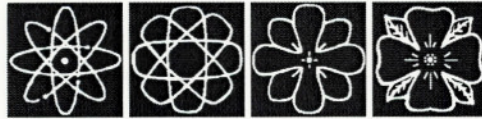
Dear Sir or Madam,

Please find attached a request for a public hearing regarding the Connecticut Yankee Atomic Power Co.'s request for approval to dispose of radioactive waste from Haddam Neck nuclear plant at an unlicensed waste site in Idaho.

If you have questions, please feel free to call or email. Thanks!

Jeremy M. Maxand
Executive Director
Snake River Alliance
Idaho's Nuclear Watchdog
104 S Capitol Blvd
Boise, Idaho 83702
(208) 344-9161 voice
(208) 331-0885 fax
sra@snakeriveralliance.org
snakeriveralliance.org

CC: <mjournee@gov.state.id.us>, <ogcmailcenter@nrc.gov>, <srb3@nrc.gov>, <avc@nrc.gov>, "Kathleen Trever" <ktrever@deq.idaho.gov>



snake river alliance

IDAHO'S NUCLEAR WATCHDOG

December 22, 2004

Office of the Secretary
Attn: Rulemaking and Adjudication
US Nuclear Regulatory Commission
Washington, DC 20555

*Emailed to hearingdocket@nrc.gov, avc@nrc.gov, srb3@nrc.gov, and ogcmailcenter@nrc.gov,
on December 22, 2004*

Re: Connecticut Yankee Atomic Power Co.'s request for approval to dispose of radioactive waste from Haddam Neck nuclear plant at an unlicensed waste site in Idaho.

To the Secretary:

It is our understanding that Connecticut Yankee Atomic Power Co. submitted a request for NRC approval of proposed procedures for alternative disposal of certain radioactively contaminated demolition debris at its Haddam Neck Plant. Specifically, Connecticut Yankee has proposed to transfer Haddam Neck demolition debris to US Ecology's hazardous waste disposal facility in Grand View, Idaho—a facility that is not licensed for radioactive waste disposal by the NRC; nor is Idaho an Agreement State for disposal of radioactive wastes pursuant to the Atomic Energy Act.

We, the undersigned individuals and organizations, represent persons who may be adversely affected by the proposed procedures to dispose of NRC-licensed radioactive material at a site that is not licensed for disposal of such radioactive material. We are opposed to NRC approval of the request for both procedural and substantive reasons. We request a public hearing in Idaho and opportunity for public comment on the request.

It is unclear to us under what provisions of NRC regulations the Connecticut Yankee request is being considered. We have received no formal notice of the request and have experienced difficulty in getting information about the request and the procedures under which it is being handled.

The debris that Connecticut Yankee wishes to dispose of contains material made radioactive from the use of nuclear fuel to produce electricity and, therefore, falls under the Atomic Energy Act ("AEA") definition of "byproduct material." No person may receive byproduct material without an NRC license. (AEA §81)

From plain reading of 10 CFR §20.2001(b) and §20.2002, it seems that the alternative disposal provisions are intended for "licensed material" and facilities "specifically licensed to receive

104 S Capitol Blvd
PO Box 1731
Boise, Idaho 83701
(208) 344-9161 voice
(208) 331-0885 fax

411 E 6th Street/ERC
PO Box 4090
Ketchum, Idaho 83340
(208) 726-7271 voice

310 E Center Street
Pocatello, Idaho 83201
(208) 234-4782 voice
(208) 232-4922 fax

waste containing licensed material.” Thus, the US Ecology Idaho site, which is not licensed by the NRC, does not seem to qualify as an alternative disposal facility under §20.2002.

In short, Connecticut Yankee appears to have asked the Commission to adopt a regulatory approach that appears to be in violation of the Commission’s governing statute: The Commission is being asked to approve the transfer of byproduct material that is not exempt from licensing to a waste disposal facility that does not have an NRC license to receive the material. That is what the AEA says cannot be done.

If the commission nonetheless believes that it may be appropriate to allow the Haddam Neck debris to be disposed of at an unlicensed facility, there appear to be alternative procedures available. These procedures require public notice, which the Connecticut Yankee request has not received, followed by opportunities for public comment and/or hearing.

We are aware that the NRC is considering rulemaking to deal with disposal of nuclear materials at sites not licensed by the NRC. Although we object to the NRC’s plans to generically deregulate nuclear waste, consideration of the current Connecticut Yankee request would seem to shortcut whatever procedures might emerge from that rulemaking. Were the Commission to approve Connecticut Yankee’s request, it would appear to us to constitute “underground” rulemaking. NRC should not even consider this request as the public vigorously opposes deregulation of radioactive materials.

Also, we have received contradictory information from NRC staff whether proposed procedures for alternative disposal considered under 10 CFR 20.2002 are treated as an NRC license amendment. We believe that the request does constitute an application for license amendment and an opportunity for public hearing and comment must be provided, and hereby request such a hearing and party status. We ask that NRC publish notice of opportunity for hearing.

We respectfully request that the Commission deny Connecticut Yankee’s request for approval of procedures proposed for alternative disposal of certain demolition debris at its Haddam Neck Plant. If the Commission decides to proceed with the request, we ask for clarification of the rules, regulations and procedures under which the request is being considered. Finally, we ask that the people of Idaho and others who may be affected be given an opportunity to voice their concerns at a public hearing held in Idaho for that purpose.

Sincerely,

Jeremy M. Maxand, Executive Director
Snake River Alliance

Steve Jakubowics
Committee for Idaho’s High Desert

Dan Hirsch
Committee to Bridge the Gap

Diane D’Arrigo
Nuclear Information and Resource Service

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Subject: Petition for Public Hearing
Creation Date: 12/22/04 4:04PM
From: "Jeremy Maxand" <sra@snakeriveralliance.org>
Created By: sra@snakeriveralliance.org

Recipients

nrc.gov
 owf5_po.OWFN_DO
 HearingDocket (HearingDocket)
 AVC CC (Annette Vietti-Cook)

deq.idaho.gov
 ktrever CC (Kathleen Trever)

nrc.gov
 owf1_po.OWFN_DO
 SRB3 CC (Scott Burnell)

nrc.gov
 OWGWPO01.HQGWDO01
 OGCMailCenter CC

gov.state.id.us
 mjournee CC

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Mime.822	105230	

Options

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No
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