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FINAL REPLY:

Rep. Edward J. Markey

TO:

Chairman Diaz

FOR SIGNATURE OF :

** PRI **

CRC NO: 05-0162

Chairman

DESC:

ROUTING:

Concerns About an Application by Connecticut
Yankee Atomic Power Company to the NRC Regarding
Disposal of Radioactive Demolition Debris from the
Decommissioning of CYAPCO's Haddam Neck Nuclear
Power Plant

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Virgilio
Kane
Merschhoff
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Collins, RI

DATE: 03/25/05

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SPECIAL INSTRUCTIONS OR REMARKS:

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ACTION OFFICE: EDO

AUTHOR: REP Edward Markey

AFFILIATION: REP

ADDRESSEE: Nils Diaz

SUBJECT: Concerns about an application by Connecticut Yankee Atomic Power Company to the NRC regarding the disposal of radioactive demolition debris from the decommissioning of CYAPOC's Haddam Neck nuc power plant

ACTION: Signature of Chairman

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LETTER DATE: 03/23/2005

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NOTES:

Comr Corres

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To: "Betsy Keeling" <BJK@nrc.gov>, "Dennis Rathbun (dkr@nrc.gov)" <dkr@nrc.gov>
Date: 3/24/05 10:33AM
Subject: another Markey letter

<<03-23-05onCYAPCO.pdf>>

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EDWARD J. MARKEY

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March 23, 2005

The Honorable Nils J. Diaz
Chairman
Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Chairman:

I am writing to express my concerns about an application by Connecticut Yankee Atomic Power Company ("CYAPCO") to the Nuclear Regulatory Commission (NRC) regarding the disposal of radioactive demolition debris from the decommissioning of CYAPCO's Haddam Neck nuclear power plant. CYAPCO is seeking the Commission's permission to dispose of this nuclear waste at US Ecology's hazardous waste disposal facility in Grand View, Idaho, a facility not licensed to accept radioactive materials or wastes. My understanding is that similar proposals, including one involving materials from the Yankee Rowe facility in Massachusetts, are also pending at the Commission. Some of my concerns involve the potential hazards associated with removing from NRC regulation wastes that I believe should be subject to NRC control, and I plan to address some of those concerns with you in future correspondence. What I would prefer to address with the Commission at this time, however, is the process I understand will be used to resolve the issues involved in this matter. In particular, I am deeply troubled that the NRC appears to be seriously considering a process that does not involve widespread public participation in the decisions to be made on these issues.

As you may be aware, CYAPCO proposed that the NRC authorize the proposed disposal under 10 CFR §20.2002, a rule that allows the NRC to permit disposal of licensed material in a manner not otherwise permitted by Commission regulations. The Snake River Alliance and three other environmental organizations then filed a petition with the Commission opposing use of the 10 CFR §20.2002 process for the purpose of disposing of such material at an unlicensed site. The petition requested, among other things, that a public hearing be held on the application in Idaho.

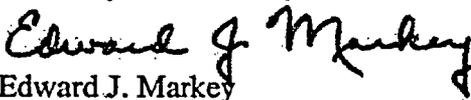
It is my understanding that the NRC is now considering granting the CYAPCO application without a public hearing. While it has offered the Snake River Alliance alone an opportunity to file written comments, it apparently intends to deny to the public at large the various benefits of a license amendment or other adjudicatory process with respect to the proposed disposal. The approach would be viewed, legitimately I believe, as an effort to avoid broad-based public input on a matter of substantial importance and substantial controversy.

Moreover, it would be viewed that way against a backdrop of distrust of the NRC on the very matters that are involved here. I have learned that the Commission also plans to proceed with a rulemaking that would generically release radioactive materials from regulatory control, which violates that trust even more. In doing so, the NRC would be ignoring critical conclusions of a 2002 National Academy of Sciences (NAS) report, The Disposition Dilemma, commissioned by the NRC that relate to stakeholder perceptions of the agency. No more prominent conclusion emerged from that report than the report's findings that "[a] legacy of distrust of the USNRC has developed among most of the environmental stakeholder groups" regarding the subject of low-activity waste control and that "[r]establishing trust will require concerted and sustained effort by the USNRC, premised on a belief that stakeholder involvement will be important and worthwhile, as well as a prerequisite for making progress."

If, in the face of this advice (and a number of public statements by NRC Commissioners and staff acknowledging the significance of the advice), the Commission now is not only moving to release radioactive decommissioning waste from regulatory control on a case-by-case basis, but is also embarking on a rulemaking to do so generically, with even less regulatory control across the board, the NRC will be aggravating the very concerns that prompted these NAS conclusions in the first place. That, in my view, would be extremely unfortunate. What the Commission should do instead is to require continued NRC control over decommissioning wastes, to cancel the proposed rulemaking process that would generically deregulate nuclear wastes, and to ensure that the public has every opportunity to participate in any process the Commission undertakes.

Thank you very much for your attention to this important matter. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,


Edward J. Markey