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From: palisadesart@aol.com
Sent: Thursday, May 08, 2008 1:06 PM
To: Secy
Subject: Comments on Decommissioning Planning RIN-3150-AH45
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08 May 2008 13:05:59 -0400

To: secy@nrc.gov

Subject: Comments on Decommissioning Planning RIN-3150-AH45

Date: Thu, 8 May 2008 13:05:59 -0400

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May 7, 2008

Secretary, U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATT: Rulemakings and Adjudications Staff

COMMENTS ON DECOMMISSIONING PLANNING
RIN-3150-AH45

Westchester Citizens Awareness Network, Sierra Club Atlantic
Chapter, Rockland County Conservation Association, and Promoting Health
and Sustainable Energy, Inc. Assemblyman Richard Brodsky ("Petitioners")
submit the following comments regarding the Proposed Standard Review
Plan for Decommissioning Cost Estimates for Nuclear Power Reactors.

The proposed Standard Review Plan to improve decommissioning planning by the NRC is a step in the right direction, however it does not address or correct the following issues:

1. The escalation factor used is less than the cost of living increase, which will cause the decommissioning funds to be inadequate. This underfunding has already been established by the GAO in various reports, including General Accounting Office (GAO) report, "**Better Oversight Needed to Ensure Accumulation of Funds to Decommission Nuclear Power Plants,**" June 15, 1999, and the GAO Report October 2003 Highlights of GAO-04-32, a report to the Honorable Edward J. Markey, House of Representatives **NRC Needs More Effective Analysis to Ensure Accumulation of Funds to Decommission Nuclear Power Plants**

In the 2003 GAO Report the following 54 nuclear power plants in 25 states are below the benchmark of sufficiency for trust fund balances owned in whole or in part by companies listed

Alabama

- Browns Ferry 1 (Tennessee Valley Authority, 100%)
- Browns Ferry 2 (Tennessee Valley Authority, 100%)
- Browns Ferry 3 (Tennessee Valley Authority, 100%)

Arizona

- Palo Verde 1 (El Paso Electric Co., 15.8%)

- Palo Verde 2 (El Paso Electric Co., 15.8
- Palo Verde 3 (El Paso Electric Co., 15.8%; Public Service Company of New Mexico, 10.2%)

Arkansas

- Arkansas Nuclear 2 (Entergy Arkansas, Inc., 100%)

California

- Rancho Seco (Sacramento Municipal Utility District, 100%)

Connecticut

- Millstone 1 (Dominion Nuclear Connecticut, 100%)

Delaware

- Salem 1 (Exelon Generation Co., LLC, 42.59%)
- Salem 2 (Exelon Generation Co., LLC, 42.59%)

Georgia

- Vogtle 1 (Oglethorpe Power Co., 30%)
- Vogtle 2 (Oglethorpe Power Co., 30%)

Illinois

- Braidwood 1 (Exelon Generation Co., LLC, 100%)
- Byron 1 (Exelon Generation Co., LLC, 100%)
- Dresden 1 (Exelon Generation Co., LLC, 100%)
- LaSalle County 1 (Exelon Generation Co., LLC, 100%)
- Quad Cities 2 (MidAmerican Energy Holdings Co., 25%)
- Zion 1 (Exelon Generation Co., LLC, 100%)
- Zion 2 (Exelon Generation Co., LLC, 100%)

Iowa

- Duane Arnold (IPL, 70%; Central Iowa Power Cooperative, 20%; Corn Belt Power Cooperative, 10%)

Kansas

- Wolf Creek 1 (Kansas City Power & Light Co., 47%; Kansas Electric Power Cooperative, 6%)

Louisiana

- Waterford 3 (Entergy Louisiana, Inc., 100%)

Maine

- Maine Yankee (Maine Yankee Atomic Power Co., 100%)

Massachusetts

- Pilgrim 1 (Entergy Nuclear Operations, Inc., 100%)
- Yankee Rowe (Yankee Atomic Electric Co., 100%)

Michigan

- Fermi 1 (Detroit Edison)

Minnesota

- Monticello (Xcel Energy, 100%)

Mississippi

- Grand Gulf 1 (South Mississippi Electric Power, 10%)

Missouri

- Callaway (AmerenUE, 100%)

New York

- Ginna (Rochester Gas & Electric Corp., 100%)
- Indian Point 1 (Entergy Nuclear Operations, Inc. 100%)
- Nine Mile Point 1 (Constellation Energy Group, 100%)

North Carolina

- Brunswick 1 (Progress Energy Carolinas, Inc., 81.67%; North Carolina Eastern Municipal, 18.33%)
- Brunswick 2 (Progress Energy Carolinas, Inc., 81.67%; North Carolina Eastern Municipal, 18.33%)
- Harris 1 (North Carolina Eastern Municipal, 16.17%)

Oregon

- Trojan (Portland General Electric Co., 67.5%; Eugene Water & Electric Board, 30%; Pacific Power & Light Co., 2.5%)

Pennsylvania

- Beaver Valley 1 (Pennsylvania Power Co, 65%)
- Beaver Valley 2 (Ohio Edison Co., 41.88%; Pennsylvania Power Co, 13.74%)
- Limerick 1 (Exelon Generation Co., LLC, 100%)
- Limerick 2 (Exelon Generation Co., LLC, 100%)
- Peach Bottom 1 (Exelon Generation Co., LLC, 100%)
- Susquehanna 1 (Allegheny Electric Cooperative, 10%)
- Susquehanna 2 (Allegheny Electric Cooperative, 10%)
- Three Mile Island 2 (Metropolitan Edison Co., 50%; Jersey Central Power & Light, 25%; Pennsylvania Electric Co., 25%)

South Carolina

- Catawba 1 (North Carolina Electric Membership, 28.1%; Saluda River Electric Cooperative, 9.38%)
- Catawba 2 (North Carolina Electric Membership, 28.1%; Saluda River Electric Cooperative, 9.38%)
- Robinson 2 (Progress Energy Carolinas, Inc., 100%)
- Summer (South Carolina Electric & Gas Co., 66.67%)

Tennessee

- Sequoyah 1 (Tennessee Valley Authority, 100%)
- Sequoyah 2 (Tennessee Valley Authority, 100%)
- Watts Bar 1 (Tennessee Valley Authority, 100%)

Washington

- Columbia Generating Station (Energy Northwest, 100%)

Wisconsin

- LaCrosse (Dairyland Power Cooperative, 100%)

The use of 2000 as a base year, is impracticable, because, as an example, the cost of fuel in 2000 was substantially less than it is in 2008 and impacts many aspects of decommissioning. Therefore decommissioning funds must be updated at the very least every 5 years to maintain viability.

Historically the costs of decommissioning have dramatically increased since the 1970's when the first plants were decommissioned. For example, there has been up to a 3800% increase in the cost of disposal of LLW from \$13/ft³ in 1983 to \$300/ft³. Prior to the closure of the Barnwell facility, costs ranged from \$200/ft³ to \$500/ft³. these costs will continue to increase exponentially due to the increasing costs of fossil fuels needed for decommissioning.

2. The requirement of 10 C.F.R. § 50.75(f)(2), to provide 5 years prior to the projected end of operations, to submit a preliminary decommissioning cost estimate must be required whether or not the licensee has submitted an application for License Renewal because technically license renewal is not guaranteed. For example, Indian Point Unit 2's license expires in 2013; therefore Entergy Nuclear Operations, Inc. must submit a preliminary decommissioning cost estimate in 2008.

3. The Standard Review Plan allows funds to be taken out of the decommissioning fund by licensee prior to full decommissioning and cleanup is complete- this is unacceptable. In the event of cost overruns from the estimated budget all funds must remain in the decommissioning fund,

therefore a licensee should not be permitted to take money from the decommissioning funds for any reason prior to completion of full decommissioning and clean up.

4. Cost Adjustment Methodology must include calculations for underground leaks, soil and groundwater contamination. Additionally a minimum 10% contingency of the entire fund must be required to clean up unknown contamination(s). For example, if an independent contractor had not accidentally stumbled upon the massive underground leaks for strontium 90 and tritium at Indian Point then it would not have been discovered.

Based on the lack of comprehensive leak inspections at operating plants, it would not be unusual for the discovery of massive undetected leaks to be found during decommissioning.

5. A major issue that is not addressed is the undetermined time frame in which the spent fuel and low level waste will remain stored on-site, since no permanent storage facilities are available in fact, there may never be a permanent waste depository.

The decommissioning of a site cannot be completed until such time that all waste is removed from the site, and the soil and groundwater are proven not to be contaminated.. The NRC has discussed plans to store both

Low Level Radioactive Waste (LLRW) and High Level Radioactive Water (HLRW) on site at reactor facilities for a period in excess of 100 years.

Therefore since high level and low level waste storage may exceed the 60 years required for decommissioning it is possible, or even likely that the decommissioning of a site will not be completed during required time frame of 60 years Therefore, the NRC must require separate, unmingled supplemental funds for decommissioning and long-term waste storage, including security, surveillance and maintenance, to remain fully funded, until all waste is removed from the site and the plant is fully decommissioning and cleaned-up.

Until a permanent depository is established, all dry cask storage must be approved, licensed, and supervised as a long term, indefinite waste storage sites.

6. Low Level Waste (LLW) disposal issues, such as the recent closure of Barnwell, causes unanticipated low level waste to be stored on site. Such additional waste storage must be added to the cost of decommissioning.

LLW disposal is one of the most expensive factors in plant decommissioning. There has been up to 3800% increase in the cost of

disposal of LLW from \$13/ft³ in 1983 to prior to the closure of the Barnwell facility costs ranged from \$200/ft³ to \$500/ft³, these costs will continue to increase exponentially due to the increasing costs of fossil fuels needed for decommissioning.

Table 19. assumes that all Class A, B & C waste to be disposed at licensed LLW burial sites such as Barnwell. However since the closing of Barnwell, no such site has been established for Indian Point's LLW, and therefore it is currently remaining on site. Such on site storage increases the risk and costs to eventual decommissioning . Adjustments for these changes in industry practices must be fully funded.

7. Lack of decommissioning funds only injure the public, States and reactor communities, not the licensee or the NRC, yet in the proposed plan there are no opportunities for public hearings or review of the evaluation findings, review procedures of the NRC reviewer or acceptance criteria of the decommissioning costs and funds. The NRC must establish clear and accessible procedures by which the affected public is given an opportunity to participate in evaluation and use of the decommissioning funds.

8. Prior to a licensee's license renewal application from being accepted by the NRC for review, licensee must fulfill the requirement of establishing adequate decommissioning funds, and a separate fund for long term on-site spent fuel storage. Without establishing that the licensee has adequate funding to properly decommission the plant and store on site waste, there is no point in wasting NRC resources and taxpayer dollars on reviewing proposed license renewal applications.

9. All decommissioning plans must be site specific. For example, in Entergy's License Renewal Application, GEIS for Indian Point, there is an assessment that the impacts to onsite land use is small based on the assumption that the land used for storage of nuclear wastes at the generic reactor site will not exceed 30 years after the end of the license term and is based on a zero leak assumption. This is a flawed assumption. It is invalidated by the reality that the Indian Point 1, 2 & 3 are already leaking unmonitored radioactive effluent into the bedrock, groundwater and Hudson River. By relying upon the incorrect "generic" assumption that the decommissioning of Indian Point will be generic, the licensee fails to take

into account the current leaks into the bedrock that will dramatically increase decommissioning costs at this site.

10. Decommissioning criteria must include comprehensive studies, by independent contractors supervised by the Federal or State Department of Environmental Protection and Department of Health, as to the radioactive contamination of the soil, groundwater, air and nearby rivers and streams, including but not limited to captured fish, turtle, oyster, frog, bird studies and silt testing.

11. The Decommissioning Plan must guarantee that decommissioning funds will be available to clean up reactor sites, even in the event of bankruptcy or insolvency of the licensee or one of the corporations in complicate corporate structures of the licensee. Currently the NRC does not have the ability to compel a corporation in bankruptcy to make the necessary additional payments and adjustment into decommissioning funds. This failure could create a substantial shortfall in the decommissioning funds and leave the clean up to be an expenses to the

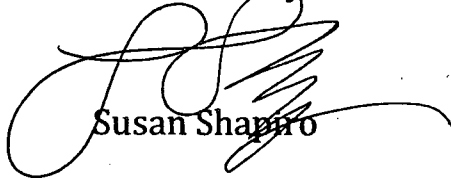
states and taxpayers, while the private corporation may avoid financial responsibility.

12. The use of the SafeStor option as method to avoid decommissioning in a timely manner and then resulting in groundwater and soil contamination, adds to the cost of decommissioning and the damage to the environment. This situation is exactly what has happened at Indian Point 1, which has been in SafeStor since the 1970's and is now leaking Strontium 90, Cesium 89 and Tritium into the groundwater and the Hudson River, in violation of the SafeStor agreement. The NRC has failed to enforce the SafeStor regulations, and instead of requiring clean up the site, has decided it would be less expensive to allow the massive underground radioactive effluent to remain in place and leech into the Hudson River. The NRC has claimed that any attempt to actually clean up the site will cause greater contamination. This failure of the NRC to enforce clean up of a leaking site is not acceptable, because it allows for contamination of State and public water ways and groundwater, in violation of Federal and State law.

Therefore the proposed decommissioning plan must proactively create a requirement that in the event a facility in SafeStor is found to be leaking it must immediately be decommissioned, and the site must be fully cleaned-up. This is the clear purpose of decommissioning funds, failure to use them in such a circumstance, is a failure of the regulations and the regulator.

The foregoing must be included in the Standard Review Plan for decommissioning to ensure the public's health and safety and the licensee's are held accountable for decommissioning.

Submitted by:

A handwritten signature in black ink, appearing to read 'Susan Shapiro', written over the printed name.

Susan Shapiro

Representing:

Westchester Citizens Awareness Network,
Sierra Club Atlantic Chapter, Rockland
County Conservation Association, and
Promoting Health and Sustainable Energy,
Inc, and. Assemblyman Richard Brodsky