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From: Paul Gunter [<mailto:paul@beyondnuclear.org>]
Sent: Friday, December 20, 2013 3:37 PM
To: RulemakingComments Resource
Subject: Supplemental Comments of Beyond Nuclear Waste Confidence Decision

Hello,

I am submitting the following supplemental comments to the Waste Confidence Decision.

Thank you,
Paul

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December 20, 2013

Ms. Annette Vietti-Cook
Office of the Secretary
United States Nuclear Regulatory Commission
Washington, DC 20555
By Email: Rulemaking.Comments@nrc.gov

**Regarding the Nuclear Regulatory Commission Waste Confidence Decision
Supplemental Comments to Docket ID No. NRC-2012-0246
By Paul Gunter, Beyond Nuclear**

Beyond Nuclear provides the following supplemental comments on the scoping process of the Environmental Impact Statement (EIS) for the Commission's updated Waste Confidence Decision (WCD) and rule. Docket ID No. NRC-2012-0246.

Beyond Nuclear provides the following supplemental comments opposing the U.S. Nuclear Regulatory Commission's (NRC) use of a Waste Confidence Decision and the related rule to allow a blanket Generic Environmental Impact Statement. The GEIS as proposed by NRC and supported by the nuclear industry is a deliberate effort to close out all public due process rights on unresolved nuclear waste issues arising from new licensing and relicensing of nuclear facilities. These issues include that there is currently no scientifically demonstrated method nor licensed long term nuclear waste management repository for tens of thousands of metric tons of high-level nuclear waste in the United States and that the nuclear waste generators do not have site specific environmental impact statements as required under the National Environmental Policy Act for indeterminate on-site storage. The lack of

both scientific and societal acceptance for the long-term management of nuclear waste gives rise to legal, civil and humanitarian violations of future generations.

The public reasonably recognizes that the current Waste Confidence Decision seeks to disconnect irresponsible nuclear waste dumping from unlimited nuclear waste production.

The current Waste Confidence Decision and rulemaking seek to obfuscate and circumvent the public's due process in addressing the adverse environmental impacts created and compounded by the expansion and extension of a larger radioactive waste burden without a scientifically proven and societal accepted radioactive waste management facility.

The public reasonably recognizes that the newly licensed and relicensed nuclear facilities themselves then become the *de facto* permanent nuclear waste storage facilities and, as proposed, without the site-specific environmental impact statement review and public hearing rights required by National Environmental Policy Acts.

The public recognizes that without a site-specific review and no limits on the production of nuclear waste, it is not reasonable to have confidence in responsibly managing nuclear waste once it is generated for the time frames imposed.

There is no public or scientifically demonstrated confidence in a likely permanent repository, or repositories, operable in the foreseeable future that can confidently withstand the tens of thousands of years that radioactive waste will be hazardous.

There is no public or scientifically demonstrated or public confidence for "temporary" or "interim" storage at reactor or away from reactor centralized storage sites that can isolate more and more nuclear waste for time frames of extending out to one hundred years and beyond, given that after more than a half century of search a likely high-level radioactive waste repository has not been established.

This lack of public confidence and societal objection is made more “reasonable” given that under the current reframing of the Waste Confidence Decision and the associated rulemaking the public hearing rights for site-specific issues raised by the expansion and extension of nuclear waste generation would be forfeited.

The public’s reasoning and objection is demonstrated and documented by examples of direct participatory democracy and the promulgation of public law.

It is well established that the New England town meeting and school district meeting are the only direct democracy institutions in the United States that can and do make law conducted by assembled voters.

From 1985 through 1987, the state of New Hampshire was one of seven eastern states embroiled in a public debate with the U.S. Government’s Department of Energy over the site selection and characterization for a high-level nuclear waste repository in a portion of the Cardigan Pluton, a crystalline rock body that runs under seven towns in “The Granite State.” The federal government dumpsite selection and characterization effort coincided with the ongoing federal effort to issue an operating license to the Seabrook nuclear power station in New Hampshire, then a would-be nuclear waste generator.

A broad and significant portion of the New Hampshire public reasonably recognized and duly acted upon the hazardous environmental and unacceptable societal impacts from generating high-level nuclear waste and the creation of dubious national sacrifice areas for nuclear waste management.

The New Hampshire public reasonably demonstrated their objection and their lack of confidence in government policy and efforts with the adoption of identical town warrant articles in local town meetings throughout the state in March 1986 “*to oppose the burial, storage, transportation and production of high-level nuclear waste in the town of _____ and the State of New Hampshire.*” The identical warrant article popularly appeared in town meetings such as Article 21 of the March 10,

1986 Town Meeting of Rye, NH¹ and similarly Article 29 in the March 11, 1986 Town Meeting of Stoddard, NH where, “After much debate Art. 29 carries unanimously”.²

Throughout New England, the debate over the inclusion of reviewing the production of nuclear waste into the management of nuclear waste received much media attention. As an example, the Boston Globe reported the popular public opposition and the subsequent “no confidence” vote in a March 12, 1986 article entitled “NEW HAMPSHIRE TOWN SPEAKS OUT AGAINST STUDY ON NUCLEAR DUMP SITE.”³

The article reads,

“In the cranky, colorful way that has made the New England town meeting a sentimental symbol of democracy, about 400 voters last night shouted their opposition to the US Department of Energy’s decision to consider storing highly radioactive waste in their town.

Voters didn’t even wait until the vote for selectman was counted before enthusiastically passing three motions: one announces the town’s objection to the production, storage or transportation of radioactive waste anywhere in New Hampshire; a second requires anyone to get selectmen’s permission before drilling any shaft in town; and a third, perhaps most telling in this rural town of 3,500, appropriates \$17,000 to fight the Jan. 16 Energy Department decision to study placing a radioactive waste repository in New Hampshire.

Hillsboro is at the center of the 78-square-mile rock formation that the Energy Department wants to study for 10 years as a permanent nuclear waste storehouse. The

¹ Town Report for 1986, Rye, New Hampshire, March 10, 1986, p.78

http://www.archive.org/stream/annualreportofto1986ryen/annualreportofto1986ryen_djvu.txt

² Town Report for 1986, Stoddard, New Hampshire, March 11, 1986, p. 45

http://www.archive.org/stream/annualreportsoft1986stod/annualreportsoft1986stod_djvu.txt

³ “NEW HAMPSHIRE TOWN SPEAKS OUT AGAINST STUDY ON NUCLEAR DUMP SITE John Milne, Boston Globe, Metropolitan Section, p. 25,

site is one of three in New England and 12 across the country to be considered as a permanent waste repository.

According to the New Hampshire Radioactive Waste Information Network, a group campaigning against the repository, 120 out of the state's 219 towns are debating similar resolutions.

In Maine, where a 385-square-mile site in the Sebago Lake region and a 92- square-mile rock formation northeast of Bangor also are under consideration, nine town meetings last week voted to oppose burial of nuclear waste anywhere in the state. The energy department begins formal public hearings on its site selection process beginning March 25.

Last night's debate in Hillsboro was serious but full of personal quirks. The moderator, Leigh Bosse, said, 'Town meeting being the essence of democracy, the chair will not entertain a motion to restrict debate.' Bosse probably couldn't have restricted debate if he tried.

Art Pavlicek, a red-faced man in a yellow shirt, read a poem that compared the Energy Department to a cancer and organized citizens to a curing doctor. 'These are dark days in our lives and there seems there is no immunity,' he said.

But the debate had its serious side too, because the antiwaste article also opposed production of nuclear waste, which a number of speakers pointed out also meant opposition to the nuclear power plant now under construction in Seabrook.

Said Gil Mitchell: 'The town is concerned now about the problem of nuclear waste. We've had many years to kick around the question of Seabrook.'

Said William Thomas: 'The Seabrook power plant and other nuclear power plants are creating that waste. It's important that we make a statement against the production of nuclear waste and that means nuclear power plants.'

An amendment to strike the word 'production' was defeated by voice vote and then the resolution against the repository passed but with two scattered 'nays.' The townspeople applauded when the vote was announced.”⁴

The Associated Press wire service similarly reported on the disingenuous political effort by promoters of nuclear power to disassociate the hazards of nuclear waste generation from the unresolved and long-lived adverse environmental impacts once the nuclear waste is generated. The AP news report, [“Sununu Says Seabrook and Dump Not Linked”](#), points out *“Sununu, an opponent of a New Hampshire dump but a proponent of nuclear power, had urged voters to amend the resolution to delete the word 'production.' Seabrook plant officials backed the governor.”*⁵ The Seabrook nuclear power proponents were saying that linking nuclear waste production to unresolved adverse environmental consequences with waste management was a *“mistake”* and *“clouding the issue.”* However, Governor John Sununu and the nuclear industry were unsuccessful in persuading New Hampshire Town Meetings to disassociate waste generation from waste management. The news article reports that at least 92 of 137 towns adopted identical language “to oppose the burial, storage, transportation and production of high-level radioactive waste” in New Hampshire.

The Nuclear Regulatory Commission and the nuclear industry are now charting a similar attempt to unreasonably disassociate the expansion and extension of the nuclear waste hazard site-by-site from a reviewable environmental impact statement and a scientifically responsible and demonstrated waste management plan for that nuclear waste. This effort constitutes what amounts to “a confidence game” where the perpetrator seeks to defraud its victim by falsely winning their trust and confidence. In this case, the public is deprived through a “generic”

⁴ Ibid, Globe

⁵ “Sununu Says Seabrook And Dump Not Linked,” Michael Mokrzycki, AP, Concord Monitor, March 27, 1986
http://www.beyondnuclear.org/storage/waste/waste-confidence-decision/geis-comments-12202013/nhdump_sununnu.JPG

environmental impact statement that averts a public and expert review of the adverse environmental impacts of expanded nuclear generation and denies the impacted communities their due process under the National Environmental Policy Act (NEPA) and the Atomic Energy Act. This effort runs contrary to the principles of democracy and the legal process, exacerbating and aggravating the lack of public confidence in government and industry siting policy and environmental management practices for radioactive waste.

Beyond Nuclear therefore opposes the current reframing of the Waste Confidence Decision and the associated rulemaking.

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