Department of Health and Human Services
Maine People Living Safe, Healthy and Productive Lives
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June 25, 2013

MEMORANDUM

TO: Senator Justin Alfond, President of the Senate, and Representative Mark Eves, Speaker of the House

FROM: Mary C. Mayhew, Commissioner
Department of Health and Human Services

SUBJECT: State Nuclear Safety Inspector's January, 2013 Monthly Report to the Legislature on the Interim Spent Fuel Storage Facility in Wiscasset, Maine

Legislation enacted in the spring of 2008 requires the State Nuclear Safety Inspector to provide monthly reports to the President of the Senate, Speaker of the House, the U.S. Nuclear Regulatory Commission, and Maine Yankee. The report focuses on activities at the site and includes highlights of the national debate on storing and disposing the used nuclear fuel. For your convenience highlights of local and national events are captured in the executive summary to the report.

The enclosed report provides the information required under Title 22 of the Maine Revised Statutes Annotated §666, as enacted under Public Law, Chapter 539, in the second regular session of the 123rd Legislature.

Should you have questions about its content, please feel free to contact Patrick J. Dostie, State Nuclear Safety Inspector, at 287-6721.

MCM/klv

Enclosure

cc: Mark Lombard, U.S. Nuclear Regulatory Commission
Monica Orendi, U.S. Nuclear Regulatory Commission, Region I
James Connell, Site Vice President, Maine Yankee
Holly Lusk, Senior Health Policy Advisor
Sheila Pinette, DO, Director, Maine Center for Disease Control and Prevention
Patricia W. Aho, Commissioner, Department of Environmental Protection
Richard Davies, Maine Public Advocate
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Nancy Beardsley, Director, Division of Environmental Health
Jay Hyland, PE, Manager, Radiation Control Program

State Nuclear Safety Inspector Office
Maine CDC – DHHS

January 2013 Monthly Report to the Legislature

Executive Summary

As part of the State's long standing oversight of Maine Yankee's nuclear activities, legislation was enacted in the second regular session of the 123rd and signed by Governor John Baldacci requiring that the State Nuclear Safety Inspector prepare a monthly report on the oversight activities performed at the Maine Yankee Independent Spent Fuel Storage Installation (ISFSI) facility located in Wiscasset, Maine.

The report covers activities at the storage facility, including the State's on-going environmental radiation surveillance and the national debate over the licensing and construction of a geologic repository for the disposal of spent nuclear fuel. The report's highlights assist readers to focus on the significant activities that took place during the month, both locally and nationally.

LOCAL:

- On January 14th a 2.4 magnitude earthquake occurred about 3 miles southeast of Boothbay Harbor. Even though the tremor was very small, it was heard and felt at the Maine Yankee site at about 1:20pm. The staff at the facility immediately performed two site inspections. The first was a visual inspection and did not reveal any damage to the casks. The second involved taking measurements between the casks and none of the casks moved.
- Maine Yankee submitted two documents to the Nuclear Regulatory Commission. The first was an amendment to its license. The proposal involved a title change only that renamed the three plans which contained safeguards information protected under NRC regulations to the "Maine Yankee Independent Spent Fuel Storage Installation Physical Security Plan". The State Inspector had no comments on the proposed change as there were no significant increases in the probability or consequences of an accident already evaluated, did not create the possibility of a new or different kind of accident from any previously evaluated, and did not involve a significant reduction in a margin of safety. The second submittal incorporated revisions to their Defueled Safety Analysis Report for the storage facility. Most of the changes were minor administrative issues such as the addition of references and updating population numbers from the 2010 census for nearby communities, like Wiscasset, Edgecomb, Woolwich, Boothbay and Westport Island.

The national highlights primarily focused on the Nuclear Regulatory Commission's scoping Environmental Impact Statement for its Waste Confidence Decision and Extended Temporary Storage Rule, the federal courts, and the Department of Energy's long awaited reports.

National:

- The Nuclear Regulatory Commission's scoping Environmental Impact Statement to support its Waste Confidence Decision and Rule is extremely important as no new or renewal licenses for nuclear power facilities can be issued until the Environmental Impact Statement (EIS) for extended storage is addressed and corrects the three deficiencies noted in the U.S. Court of Appeals' August 2012 Order. Over 350 written comments were received. The body of the report contains excerpts from several highly profiled organizations. The comments range from hardened on-site storage for dry casks to expanding the scope of the environmental assessment to addressing only the deficiencies raised by the Appeals Court.

- The Nuclear Regulatory Commission, the State of Nevada, and the petitioners filed their status reports with the U.S. Court of Appeals for the District of Columbia Circuit on their positions to the motion before the Court to force the Commission to resume its licensing proceedings on Yucca Mountain. Both the Commission and Nevada maintained that there was not enough left over appropriated funds to complete the review. The petitioners contended that the Commission violated the Nuclear Waste Policy Act by stopping the proceedings prematurely and requested that the Court issue the order compelling the Commission to use the remaining $10 million in appropriated funds to resume the process.
- The Department of Energy released its report on how it would implement the Administration's Blue Ribbon Commission's recommendations to manage the nation's used nuclear fuel and high-level waste stockpile. The strategy provided a ten year framework for the nation to move forward with a timeline for a new waste management system that would have a pilot interim storage facility by 2021, a larger consolidated facility by 2025, and a geologic repository to be sited by 2026, licensed by 2042, and opened by 2048. The document also alluded to the possibility of defense-related high-level waste and used nuclear fuel being stored in the pilot interim storage facility. The report did not select a specific management and disposal organization such as a federally chartered federal corporation as recommended by the Blue Ribbon Commission, or address the funding issue. Both issues were left for the Administration and Congress to decide. The report provided a blueprint and a starting point for discussions between the Energy Department, Congress and stakeholders.
- The Department of Energy published its Nuclear Waste Fund fee adequacy assessment as mandated by the U.S. Court of Appeals for the D.C. Circuit. Forty-two scenarios were evaluated and tested by the Department based on an assumed disposal system, three cost estimates (base case, high, and low), two defense share percentages (0% and 20%), and seven economic forecasts. According to the assessment there was no compelling evidence for the Energy Department to make any changes to the fee structure. Sixteen of the forty-two scenarios examined resulted in a negative balance as low as $2 trillion whereas the remaining twenty-six had a positive balance as high as $4.9 trillion. The nearly $7 trillion variation was mostly attributed to the long-term economic outlook and the disposal system cost. The disposal cost uncertainty would lessen when siting questions for interim storage facilities and a repository are resolved.
- The National Association of Regulatory Utility Commissioners filed a motion with the U.S. Court of Appeals for the D.C. Circuit to reopen their lawsuit over the Department of Energy's collection of a nuclear fee amounting to more than $750 million a year from nuclear utility customers for a waste program that no longer exists and to order the Energy Department to suspend the fee collection. The petitioners contended that the Department's fee adequacy report that was released on January 18th did not justify the fee collection, especially in light of the Nuclear Waste Fund's current balance of $28.8 billion. Furthermore, they stated that DOE's conclusion was based on a plan that has not been authorized and implemented by Congress.

Introduction

As part of the Department of Health and Human Services' responsibility under Title 22, Maine Revised Statutes Annotated (MRSA) §666 (2), as enacted under Public Law, Chapter 539 in the second regular session of the 123rd Legislature, the foregoing is the monthly report from the State Nuclear Safety Inspector.

The State Inspector's individual activities for the past month are highlighted under certain broad categories, as illustrated below. Since some activities are periodic and on-going, there may be some months when very little will be reported under that category. It is recommended for reviewers to examine previous reports to ensure connectivity with the information presented as it would be cumbersome to continuously repeat prior information in every report. Past reports are available from the Radiation Control Program's web site at the following link: www.maineradiationcontrol.org and by clicking on the nuclear safety link in the left hand margin.

Commencing with the January 2010 report the glossary and the historical perspective addendum are no longer included in the report. Instead, this information is available at the Radiation Control Program's website noted above. In some situations the footnotes may include some basic information and may redirect the reviewer to the website. In October 2011 the format of the report was changed to include an executive summary which replaced the official memorandum to the legislative leadership transmitting the report. To further streamline efforts, beginning in August of 2012, the report featured hyperlinks to documents that would normally be attached as copies to the report. The hyperlinks should facilitate the reports review with some readers focusing on the report while others who wish to explore the cited documentation can do so.

Independent Spent Fuel Storage Installation (ISFSI)

During January the general status of the ISFSI was normal, with no instances of spurious alarms due to environmental conditions.

There was one fire–related impairment for the month. It involved a fire door that was not latching reliably when it closed. The latch was lubricated and tested satisfactorily. The preventative maintenance frequency for fire doors was shortened to ensure that the doors latch consistently.

There was one security-related impairment and it involved the improper labeling of a security cabinet, which was corrected immediately upon discovery. There were five security events logged for the month. Three of the events involved transient environmental conditions. The other two involved the fire and security related impairments.

There were sixteen condition reports[1] (CR) for January and they are described below.

1st CR: Documented the failure of one camera. The camera was replaced.
2nd CR: Documented a potential trespass incident.
3rd CR: Was written to document a phone test being routed to a new support site.
4th CR: Was written to document observations from a quality assurance surveillance.
5th CR: Documented a vehicle blocking a fire hydrant. The area was coned off.
6th CR: Was written to document the earthquake that was heard and felt on-site.
7th CR: Was written to address the potential to perform evaluations in not the best order. The evaluation procedure was revised.
8th CR: Documented the trend analysis for the 2012 condition reports.
9th CR: Documented the second instance of a phone test being rerouted to the new support site.
10th CR: Documented a responsible person change that was not reflected in a procedure attachment. The procedure was updated.
11th CR: Was written to document a fire door not dependably latching.
12th CR: Documented the storage of optical disks in the horizontal position. The disks were stored in the preferred vertical orientation.
13th CR: Documented a procedure deficiency that could potentially allow access prior to receiving access authorization. No access occurred but the potential existed.
14th CR: Was written to document an intermittent detector problem. The detector was replaced.
15th CR: Documented the mislabeling of a document cabinet. The issue was corrected upon discovery.
16th CR: Documented a potential missing page from a security document that was resolved immediately.

Other ISFSI Related Activities

[1] A condition report is a report that promptly alerts management to potential conditions that may be adverse to quality or safety. For more information, refer to the glossary on the Radiation Program's website.

1. On January 3rd Maine Yankee submitted a license amendment request to the Nuclear Regulatory Commission (NRC). The proposed request was an administrative change only as it renamed the plans which contained safeguards information protected under NRC regulations to the "Maine Yankee Independent Spent Fuel Storage Installation Physical Security Plan". Since this was only a title change, which already incorporated the current Physical Security, Guard Training and Qualification, and Safeguards Contingency Plans, there were no impacts or reduction in previous commitments. The State had no comments on the proposed change as there were no significant increases in the probability or consequences of an accident already evaluated, did not create the possibility of a new or different kind of accident from any previously evaluated, and did not involve a significant reduction in a margin of safety.

2. On January 3rd Maine Yankee's security staff observed a car at the former East Access Road entrance. The local law enforcement agencies were notified, but by the time they arrived the vehicle had left. Since the individual did not enter Maine Yankee's property, the Nuclear Regulatory Commission's Operations Center was not notified.

3. On January 14th a 2.4 magnitude earthquake occurred about 3 miles southeast of Boothbay Harbor. The earthquake was heard and felt at the Maine Yankee storage facility at about 1:20pm. The staff at the facility performed two site inspections. The visual inspection did not reveal any damage to the casks. Measurements were also taken between the casks and none of the casks moved.

4. On January 24th Maine Yankee submitted revisions 24 and 25 to its Defueled Safety Analysis Report. The changes were mostly editorial in nature. In Revision 24 the first change identified the references to the licensing basis and design specifications for the Greater Than Class C (GTCC) radioactive waste, including the reference to the U. S. Nuclear Regulatory Commission's interim guidance on the storage of GTCC. Additional documents were incorporated by reference such as the cask vendor's Final Safety Analysis Report and the NRC's Amendment number 5 for the Certificate of Compliance for the cask system. In Revision 25 the population and population density numbers were updated based on the 2010 census for the town of Wiscasset and the surrounding communities of Edgecomb, Boothbay, Woolwich, and Westport Island. In addition, statements were added to the beginning of numerous sections that discussed historical information for such topics as local population, land use, meteorology, coastal fog, temperature, precipitation, natural events like tornadoes and hurricanes, surface and groundwater hydrology, oceanographic features, and geology.

Environmental

The State performed its quarterly field replacement of its thermoluminescent dosimeters[2] (TLDs) on January 9th as part of its environmental radiation surveillance of the ISFSI facility. The TLDs were mailed to the processing vendor in California on January 16th. Since the TLD results were not available before the end of the month, the results will be reported in the February monthly report.

Other Newsworthy Items

1. On January 2nd the Attorney Generals of Vermont and New York submitted to the Nuclear Regulatory Commission their combined comments on the NRC's Waste Confidence scoping considerations of environmental impacts of the temporary storage of spent nuclear fuel after cessation of reactor operation. Besides an introduction on the National Environmental Policy Act and nuclear wastes, the document contended that the Nuclear Regulatory Commission has

[2] Thermoluminescent Dosimeters (TLD) are very small, passive radiation monitors requiring laboratory analysis. For a further explanation, refer to the glossary on the Radiation Program's website.

improperly limited the proposed scope of the Environmental Impact Statement (EIS). They suggested what the scope of the EIS should be and proposed procedures for the EIS process. The proposal included summoning the NRC's Atomic Safety and Licensing Board, disclosing all documents used by the NRC staff for rulemaking, and a meaningful response by NRC to scoping comments. The web link for the combined comments can be accessed by positioning the cursor over the underlined text and following the directions.

2. On January 2nd the Eureka County Nuclear Waste Program from Nevada submitted their scoping comments on the Nuclear Regulatory Commission's proposed draft Environmental Impact Statement on Waste Confidence. According to them the NRC's EIS notice of intent was not clearly defined, therefore, the lack of scoping details made it difficult to comment on. In addition, the no repository scenario would require the NRC to assess the risk of long term storage, which the NRC is only beginning to scratch the surface on what research would be necessary to make those risk assessments. The letter also raised the specter of public skepticism should the EIS be of questionable integrity. The web link for the comments can be accessed by positioning the cursor over the underlined text and following the directions.

3. On January 2nd Xcel Energy and the Prairie Island Indian Community provided joint comments to the Nuclear Regulatory Commission's notice of intent to prepare an Environmental Impact Statement in regards to their Waste Confidence Decision and Rule. Xcel Energy noted that the Prairie Island Nuclear Generating Plant and its ISFSI are located on the ancestral lands of the Indian Community and that both Xcel Energy and the Prairie Island Indian Community have worked cooperatively to promote and enforce the federal government's obligation to remove the waste. They remarked that the failure of the federal government to meet its responsibilities created the need for the NRC to implement a Waste Confidence Decision and Rule. On the proposed scenario for a repository being available by mid-century, they commented that this proposal would allow 37 years to elapse before a repository became available compared to the 15 years the Nuclear Waste Policy Act, when it was enacted in 1982, allowed. They objected to the second scenario taking 87 years for a repository to be available and requested that it not be part of the analysis. They expressed concern that such a scenario could encourage the view that it would be acceptable to wait this long for a repository to be constructed and the scenario would be bounded by the no repository situation. The web link for the combined comments can be accessed by positioning the cursor over the underlined text and following the directions.

4. On January 2nd Duke Energy submitted its comments on the scope of the Environmental Impact Statement supporting rulemaking to update the Nuclear Regulatory Commission's Waste Confidence Decision. The company proposed that the NRC adhere to their two year schedule to update the Waste Confidence Decision. In addition, it also recommended that the NRC focus only on the deficiencies identified by the Appeals Court and limit its evaluation of scenarios to two, storage until the end of the century and indefinite storage. The web link for Duke's comments can be accessed by positioning the cursor over the underlined text and following the directions.

5. On January 2nd a lawyer firm representing the City of Red Wing, Minnesota provided their comments to the Nuclear Regulatory Commission's on environmental impacts of temporary storage of spent fuel after cessation of reactor operations. Red Wing is the host community for the Prairie Island Nuclear Generating Plant. They expressed concern over the current 29 dry casks being stored on-site with an anticipated total of 99 casks by the end of the power plants license in 2034. Although they did not disagree with the three NRC proposed scenarios, they did note that the NRC's focus on time after cessation of operations is inappropriate, but should be focused on when the storage starts and facility's ability to perform its intended safety functions. Moreover, they contended that the scoping should not be limited to those identified by the D.C. Circuit and should include all factors associated with the storage of spent nuclear fuel. They also suggested eight other

areas of concern that should be embodied in the Environmental Impact Statement, such as local factors, ability to rely on other environmental assessments, structural integrity of the casks over time, institutional controls for extended storage times, incorporating lessons learned from Fukushima, impact of environmental and socioeconomic factors, and the location of NRC sponsored public meetings. The web link for the City's comments can be accessed by positioning the cursor over the underlined text and following the directions.

6. On January 2nd the Western Interstate Energy Board's High-Level Radioactive Waste Committee, which is comprised of nuclear waste transportation experts from eleven western state governments, submitted their comments to the Nuclear Regulatory Commission's notice of intent to prepare a draft Environmental Impact Statement. The committee raised several issues such as the role and clarification of the purpose of the EIS and the scope of the NRC waste confidence decision will apply to an ever increasing inventory of stored spent nuclear fuel. In clarifying the EIS's purpose, the Committee wondered whether the technical bases for the waste confidence would address monitoring of the spent fuel, cladding degradation in canisters, hardened canisters for extended storage and transport, the risks of spent fuel pool leaks and fires, repackaging and pool storage capacity. Additional issues were raised on the application of waste confidence to licensing decisions such as extending the license term of a reactor or a storage facility. Finally, the Committee was concerned on how the EIS would inform the findings of NRC's revised Waste Confidence Decision in such areas as the technical feasibility of a geologic repository, the availability of at least one repository within a certain time period, the safe management over extended periods, the safety of on-site or off-site storage, and the availability of storage capacity. The web link for the Committee's comments can be accessed by positioning the cursor over the underlined text and following the directions.

7. On January 2nd the Union of Concern Scientists (UCS) presented their comments to the Nuclear Regulatory Commission on the environmental impacts of temporary storage of spent fuel. The UCS expressed concerns over the NRC's programmatic failings over fulfilling its National Environmental Policy Act obligations, claiming that history would suggest a fundamental flaw and the NRC should conduct a formal lessons learned evaluation. The UCS raised three concerns over NRC's blind spots. The first involved NRC's premise of when, and not if, repositories are available. The UCS recommended that the NRC evaluate within its EIS the effects of a repository not being available. The second was on the relative risk of wet pool versus dry storage of spent fuel. The UCS claimed that the NRC's failed to recognize that risk of storage in wet pools was more hazardous than in dry storage and gave examples from industry to support their claims. The UCS recommended that the generic EIS consider scenarios that would be applicable to both wet and dry storage, including their related regulations or lack thereof. Lastly, the UCS pointed out that the NRC's proposed evaluation timeline would delay the analysis on the environmental effects of indefinite storage until 2050, which would not resolve the Court's primary deficiency. They recommended that the NRC include a formal evaluation of the no repository scenario in its EIS. The web link for the UCS's comments can be accessed by positioning the cursor over the underlined text and following the directions.

8. On January 2nd the Nuclear Waste Strategy Coalition sent a letter to the Nuclear Regulatory Commission detailing their comments on the scope of the Environmental Impact Statement supporting the rulemaking to update the Waste Confidence Decision. The Coalition expressed their plea for the federal government to fulfill its obligations by removing and disposing of spent nuclear fuel and high-level waste from commercial reactor sites. They further stated that Yucca Mountain should remain an option for a repository unless ruled out by scientific review, Congress or the courts. They offered four comments. The first urged the NRC to maintain its two year schedule to finalize its environmental assessment. The second agreed that the scope of the EIS be limited to the three specific deficiencies identified by the Court. The third lauded NRC's outreach efforts for public and stakeholder participation. Lastly, the Coalition stated unequivocally that indefinite

storage was unacceptable and that the federal government had a legal and moral obligation to ensure the availability of a geologic repository program. The Coalition outlined four steps the NRC could undertake to restore trust in the federal government. The web link for the letter can be accessed by positioning the cursor over the underlined text and following the directions.

9. On January 2nd the Natural Resources Defense Council (NRDC) submitted their comments on the proposed Nuclear Regulatory Commission's Waste Confidence scoping notice. The NRDC asserted that the scoping notice did not comply with the National Environmental Policy Act (NEPA), since it did not formulate the major federal action triggering the need for an Environmental Impact Statement and failed to provide "possible alternatives to the extent possible". The NRDC presented an extensive historical perspective from the inception of the 1977 actions that precipitated the Waste Confidence Determination, how it evolved and was revised over the years since then, including the five findings that the NRC used to exhort its Waste Confidence Decision, up to the legal challenge, the Court's vacating of the Commission's orders and remanding the matter back to the NRC, and subsequent attempts by NRDC and others to rectify the NRC's failure to follow NEPA requirements. Since the D.C. Court rejected the NRC's claim that the Waste Confidence Determination was not a licensing action, the NRC cannot reclaim that it is in its notice of intent. By reclaiming that it is in the notice, the NRC improperly shortened the required environmental review and analysis of the alternatives. The NRDC strongly took exception and maintained that the NRC's contention that their rules allowed latitude to ignore NEPA lacked merit. In addition, the NRDC further commented that the NRC's 24 month schedule randomly shortened the necessary EIS. Consequently, the NRDC went on to illustrate the issues that the scoping notice should have covered, such as defining the major federal action as the production of spent nuclear fuel from the licensing of nuclear power plants, the storage configuration of spent nuclear fuel so that the public has a clear sense of the environmental and safety impacts, clearly defining the relationship of the EIs to repositories, addressing terrorism and sabotage, and, finally, clearly stating the no action alternative of producing no more spent nuclear fuel. The web link for their comments can be accessed by positioning the cursor over the underlined text and following the directions.

10. On January 2nd the Nuclear Energy Institute (NEI) provided their comments to the Nuclear Regulatory Commission's scope of the Environmental Impact Statement supporting the rulemaking to update the Waste Confidence Decision and Rule. The cover letter summarized their twelve pages of remarks along with an additional five pages to correct inaccuracies in statements provided by other commenters. NEI supported the schedule the NRC developed for a generic EIS and the use of existing documents to support the necessary environmental analyses. The twelve pages of comments went into detail on the starting point of the EIS, the limited scope of the EIS scope, the consequences of the temporary storage based on the scenarios suggested by the NRC, the inclusion of reasonable foreseeable spent fuel storage alternatives, addressing the three deficiencies identified by the Court such as the failure to establish a permanent repository, the risks of future spent fuel pool leaks, and the outcomes of spent fuel pool fires. NEI encouraged the NRC to not venture beyond the scope of the generic EIS into such areas as the impacts of the entire nuclear fuel cycle, alternatives to licensing nuclear power plants, factoring in site specifics, and the environmental impacts of transporting used nuclear fuel from the on-site storage facility to a permanent repository. The web link for NEI comments can be accessed by positioning the cursor over the underlined text and following the directions.

11. On January 2nd 172 organizations signed a principles document for the safeguarding of nuclear waste at reactors. The document advocated six major themes.

    - Requiring a low-density, open frame layout for fuel pools,
    - Establishing hardened on-site storage (HOSS),
    - Protecting fuel pools,

- Requiring periodic reviews of HOSS facilities and fuel pools,
- Dedicating funding to local and state governments to independently monitor the sites, and
- Prohibiting reprocessing.

The web link for the document can be accessed by positioning the cursor over the underlined text and following the directions.

12. On January 2nd the Sustainable Fuel Cycle Task Force submitted their comments for the Nuclear Regulatory Commission's staffs' scoping process for an Environmental Impact Statement to support the Commission's Waste Confidence Decision. The Task Force strongly recommended that the EIS process deal with the significant technical and institutional uncertainties and consequences for the indefinite deferment of a geologic repository. The Task Force identified four comments that the EIS process should encompass. The first is a realistic consideration of the receipt, handling, and potential repackaging of loaded fuel canisters in their current configuration at future repositories not designed to accommodate the large containers. Additional concerns involve the degradation of the fuel cladding and the potential environmental impacts from repackaging failed fuel as well as the potential for releasing radioactive elements into the repository setting from the loss of the cladding barrier. The Task Force also contended that the EIS completely consider the technical and safety issues of long term dry storage, such as cladding deterioration, containment seal and boundary integrity, concrete deterioration, and compliance with transportation safety requirements after extended periods of on-site storage. Finally, there are the societal uncertainties associated with a dependence upon future generations taking corrective actions or continued maintenance to diminish possible undesirable environmental consequences. The web link for the letter can be accessed by positioning the cursor over the underlined text and following the directions.

13. On January 4th the Nuclear Regulatory Commission filed with the U.S. Court of Appeals for the District of Columbia Circuit their initial status report in response to the Court's Order of August 3, 2012. The respondent's contend that the petitioners have not proven that the Nuclear Regulatory Commission or the Department of Energy will receive future funding from the Nuclear Waste Fund for the Yucca Mountain Project. The November election did not change the landscape as it returned an Administration not supportive of Yucca Mountain and the political balance of power remained the same with no anticipated changes in funding. Therefore, the respondents concluded the Court should not mandate the NRC's resumption of the Yucca Mountain licensing hearings. The web link for the filing can be accessed by positioning the cursor over the underlined text and following the directions.

14. On January 4th the State of Nevada as an intervenor filed with the D.C. Circuit of Appeals its contention that the Court should not order the Nuclear Regulatory Commission to resume its licensing hearings on Yucca Mountain. Nevada argued that, since Congress rejected the opportunity to provide funds for the NRC to continue its Yucca Mountain licensing proceeding for two straight fiscal years, then this should be ample evidence that Congress will not fund the NRC hearings for the future. The web link for their filing can be accessed by positioning the cursor over the underlined text and following the directions.

15. On January 4th the petitioners (Aiken County, South Carolina, the three Tri-City business leaders from nearby Hanford, Washington, the states of South Carolina and Washington, the National Association of Regulatory Utility Commissioners, and Nye County, Nevada) filed with the U.S. Court of Appeals for the District of Columbia Circuit their second supplemental status report as requested by the Court's Order issued on August 3, 2012. The petitioners noted that there were no congressional appropriations that would prohibit the Nuclear Regulatory Commission from utilizing previous unexpended appropriate funds to continue the review of the Yucca Mountain license application. Therefore, they conclude the Court should issue an immediate Order mandating the

Commission resume the Yucca Mountain licensing proceedings. The web link for the filing can be accessed by positioning the cursor over the underlined text and following the directions.

16. On January 7th the Prairie Island Indian Community near Red Wing, Minnesota celebrated the thirty year anniversary of President Reagan's signing of the Nuclear Waste Policy Act, that was supposed to create a national repository for the nation's nuclear waste eventually at Yucca Mountain in Nevada, with a full page ad highlighting the promise then to the broken promise now. The Obama Administration cancelled the funding for the Yucca Mountain Project resulting in nuclear wastes being stranded some 600 yards from the nearest residences on the Prairie Island Indian Community. The ad urged the public to contact the Obama Administration and their congressional representatives to fulfill the government's obligation to safely and securely remove the nuclear waste from their backyards. The web link for the ad can be accessed by positioning the cursor over the underlined text and following the directions.

17. On January 10th the Nuclear Waste Strategy Coalition held its first bi-weekly conference call to update its membership on the Administration's activities within the Department of Energy (DOE) and the Nuclear Regulatory Commission; the current status of congressional activities, and the three cases before the U.S. Court of Appeals for the D.C. Circuit (the fee suspension, waste confidence, and mandamus); besides upcoming meetings and webinars of interest. Some of the members mentioned that they received unofficial notifications that the congressionally mandated DOE report on the implementation of the Blue Ribbon Commission's recommendations on managing the nation's used nuclear fuel would be released the following day. There was a lot of speculation on the content with the length of the report ranging from two to forty pages. Some preliminary suggestions were made on what kind of response the Coalition should render.

18. On January 11th the Department of Energy released its long awaited report on how it would implement the Administration's Blue Ribbon Commission's recommendations to manage the nation's used nuclear fuel and high-level waste stockpile. The strategy provided a ten year framework for the nation to move forward with a timeline for a new waste management system:

    a) A pilot interim storage facility to be sited, designed, licensed, constructed, and operating by 2021. The facility could receive up to 3600 metric tons of used nuclear fuel from nine decommissioned reactor sites and five shutdown reactors at other sites.
    b) A larger interim storage facility to be sited, licensed and available by 2025 with a capacity of up to 20,000 metric tons.
    c) A geologic repository to be sited by 2026, licensed by 2042, and opened by 2048.

    The document also alluded to the possibility of defense-related high-level waste and used nuclear fuel being stored in the pilot interim storage facility. The report did not select a specific management and disposal organization such as a federally chartered federal corporation as recommended by the Blue Ribbon Commission, or address the funding issue. Both issues were left for the Administration and Congress to decide. The report provided a blueprint and a starting point for discussions between DOE, Congress and stakeholders. The web link for the report can be accessed by positioning the cursor over the underlined text and following the directions.

19. On January 11th the RAND Corporation released its report, entitled "Choosing a New Organization for Management and Disposition of Commercial and Defense High-Level Radioactive Materials". The report was commissioned by the Department of Energy (DOE) to address the Blue Ribbon Commission's recommendation for a congressionally chartered federal corporation to manage and dispose of civilian and defense-related used nuclear fuel. DOE requested that the RAND Corporation examine alternative organizational models for a new management and disposition organization. The RAND report evaluated a federal government corporation such as the Tennessee Valley Authority, a government agency such as the Bonneville Power Authority, a federally

chartered private corporation, a Canadian nonprofit private organization such as the Canada's Nuclear Waste Management Organization, a Swedish for profit organization such as the Swedish Nuclear Fuel and Waste Management Company as well as mixed-ownership government corporations and wholly owned government corporations. The report did not recommend a specific organizational structure but rather listed three key questions policymakers would have to address before deciding on which form they believed would strike the greatest balance between the President, Congress, and the organizational structure that would instill the highest likelihood of public trust. The web link for the RAND report can be accessed by positioning the cursor over the underlined text and following the directions. To access the full document click on the PDF file in the center of the RAND website under "download eBook for free".

20. On January 11th the Decommissioning Plant Coalition, a consortium of decommissioned reactor sites, issued a press release praising the Administration for developing a plan that would remove spent nuclear fuel and Greater Than Class C waste from the shutdown reactor sites. Wayne Norton, the Chief Nuclear Officer for Maine Yankee, stated the plan embraced the Blue Ribbon Commission's recommendation for the establishment of a consolidated storage facility for the used nuclear fuel currently stranded at decommissioned reactor sites. The Nuclear Energy Institute, the National Association of Regulatory Utility Commissioners (NARUC) and the Nuclear Waste Strategy Coalition issued similar statements emphasizing access to the Nuclear Waste Fund, prompt efforts to develop consolidated storage facilities and create a newly chartered federal corporation to secure a foundation for a sustainable used fuel management program. In a separate release NARUC highlighted its nuclear waste guiding principles as a permanent disposal solution, earmarking the Nuclear Waste Fund only for nuclear waste management, temporary storage pending a permanent solution, the importance of spent fuel management to new nuclear power plants, and NARUC as an active stakeholder on nuclear waste disposal. NARUC also noted that the Fund earned $1.3 billion in interest in fiscal year 2012 in addition to the $692 million in fees it collected from nuclear utility ratepayers. The web link for the press releases can be accessed by positioning the cursor over the underlined text and following the directions.

21. On January 11th Senator Murkowski from Alaska commented that the Department of Energy's strategy report for managing the nation's nuclear stockpile was an important and constructive step in resolving the federal government's outstanding liability issue with dry cask storage facilities at nuclear generating facilities across the country. Senator Feinstein from California expressed similar remarks in her press release by focusing on the pressing need for interim storage capacity. She is concerned that delays could make the problems more complex and dangerous. Representatives Upton from Michigan and Shimkus from Illinois expressed their sentiments that the federal government "cannot ignore the billions of dollars and decades of work that already have been invested in developing a national nuclear waste site at Yucca Mountain". They went on to mention that, last summer, 326 out of the 435 members of the House, three out of every four elected Representative, voted on a bipartisan basis to increase the funding for the Nuclear Regulatory Commission to complete their license review of the Yucca Mountain Project. The web link for their press releases can be accessed by positioning the cursor over the underlined text and following the directions.

22. On January 14th the Institute of Nuclear Materials Management in partnership with the U.S. Nuclear Infrastructure Council held their 28th annual spent fuel management seminar. The topics featured reforms and implementations to the Nuclear Waste Policy Act, the Department of Energy's used fuel campaigns, the Nuclear Regulatory Commission's perspective on spent fuel, international spent fuel topics from Korea and Japan, aging management issues for spent fuel storage in dual purpose casks, regulatory issues, monitoring technology, and storage and repository options. The web link for the agenda can be accessed by positioning the cursor over the underlined text and following the directions.

23. On January 15th the State along with other state stakeholders participated in a national webinar with the Department of Energy on the restarting of the working group to review key issues associated with Section 180(c) of the Nuclear Waste Policy Act. The impetus for the webinar was from the recently released DOE document to manage nuclear waste, which concentrated on one of the key recommendations from the Blue Ribbon Commission for the DOE to develop transportation capabilities to begin the movement of used nuclear fuel from shutdown reactor sites to a consolidated interim storage facility. Section 180(c) provides planning and training grants to affected states and tribes for the shipment of used nuclear fuel and high-level radioactive waste to a repository. The focus of the funding was to ensure emergency responder training to states and tribes should there be a shipping accident involving used nuclear fuel within their jurisdictions. The webinar's purpose was to review the background of work that was conducted prior to the Administration's defunding and cancellation of the Yucca Mountain Project. At the time of the Project's cancellation five issues were considered resolved, three were partially resolved and eight remained unresolved. It was agreed that several key issues would be discussed at each subsequent webinar so that recommendations could be made at the DOE's National Transportation Stakeholders Forum in May.

24. On January 16th the State participated in a national teleconference put on by the Nuclear Regulatory Commission to inform interested parties on its Waste Confidence Update. The NRC briefed the participants on the number of public meetings held to date (four), that they have received 1600 individual comments with about 500 public members and organizations participating. The comments were being compiled and some grouping was expected. They will publish the scoping summary in early March, which will contain the scope of the Environmental Impact Statement. The NRC is expected to hold six to eight public meetings in the four NRC regions. Questions were raised as to what supporting documents the NRC would use in their assessment. The NRC did mention that they would reference applicable portions of the Department of Energy's EIS on Yucca Mountain. The web link for the agenda can be accessed by positioning the cursor over the underlined text and following the directions.

25. On January 17th the Nuclear Regulatory Commission published in the Federal Register its request for comments for potential rulemaking on retrievability, cladding integrity, and safe handling of spent fuel at an ISFSI and during transportation. The NRC was looking at the integration of storage and transport regulations to minimize future handling of spent fuel and uncertainty as to whether loaded storage casks could be transported from ISFSI locations at operating and decommissioned sites. The NRC will also evaluate criticality safety features and requirements for spent fuel transportation, aging management and qualification of dual purpose canisters and components after long term storage. The comment period will expire on March 18th. The web link for the Notice can be accessed by positioning the cursor over the underlined text and following the directions.

26. On January 17th the Nuclear Waste Strategy Coalition (NWSC) held its second weekly conference call to update to discuss its membership on the recently released congressionally mandated DOE report on the implementation of the Blue Ribbon Commission's recommendations on managing the nation's used nuclear fuel. Additional updates were provided on Nuclear Regulatory Commission activities such as the Waste Confidence Update held the day before, the three cases before the U.S. Court of Appeals for the D.C. Circuit (the fee suspension, waste confidence, and mandamus), besides upcoming meetings and webinars of interest. The NWSC is an ad hoc organization of state utility regulators, state attorneys general, consumer advocates, electric utilities, local governments, tribes, and associate members. Its primary focus is to protect ratepayer payments into the Nuclear Waste Fund and to support the removal and ultimate disposal of spent nuclear fuel and high-level radioactive waste currently stranded at numerous sites across the nation.

27. On January 18th the Department of Energy published its Nuclear Waste Fund fee adequacy assessment as mandated by the U.S. Court of Appeals for the District of Columbia Circuit. Forty-two scenarios were evaluated and tested by the DOE based on an assumed disposal system, three cost estimates (base case, high, and low), two defense share percentages (0% and 20%), and seven economic forecasts. According to this assessment there was no compelling evidence for the DOE to make any changes to the fee structure. Sixteen of the forty-two scenarios resulted in a negative balance whereas the remaining twenty-six had a positive balance. The results also indicated a range between a $2 trillion negative ending balance to a positive ending balance of $4.9 trillion. The nearly $7 trillion variation was mostly attributed to the long-term economic outlook along with the disposal system cost. Based on the Administration's recently released strategy report issued by the DOE on January 11th, the disposal cost uncertainty would lessen when siting questions for interim storage facilities and a repository are resolved. The 180 page fee assessment provided a historical context with a comparison to previous fee assessments, the factors that were analyzed; the methods used, and the results of the fee adequacy. The assessment also included an interest and inflation rate report from a leading consulting firm to the U.S. Government. The web link for the fee assessment can be accessed by positioning the cursor over the underlined text, following the directions, and clicking on the blue highlighted PDF file on the website.

28. On January 31st the National Association of Regulatory Utility Commissioners filed a motion with the U.S. Court of Appeals for the District of Columbia Circuit to reopen their lawsuit over the Department of Energy's collection of a nuclear fee amounting to more than $750 million a year from nuclear utility customers for a waste program that no longer exists and to order the DOE to suspend the fee collection. The petitioners contended that the Department's fee adequacy report that was released on January 18th did not justify the fee collection. Furthermore, they stated that DOE's conclusion was based on a plan that has not been authorized and implemented by Congress. The web link for the motion can be accessed by positioning the cursor over the underlined text and following the directions.

29. On January 31st the Nuclear Waste Strategy Coalition held its third conference call to update its membership on the Department of Energy's newly released Nuclear Waste Fund fee assessment as mandated by the US Court of Appeal along with recent congressional and stakeholder reactions to the DOE report. The DOE presented 42 different scenarios with a cost difference ranging as much as $7 trillion dollars, from the Nuclear Waste Fund having $4.9 trillion more than is needed to having $2 trillion too little. Since the DOE admitted they made no effort to assess the probability of any of the scenarios, then the scenarios were as speculative as they were uncertain. Therefore, the conclusion was that the DOE failed to conduct a meaningful analysis. Representatives from the National Association of Regulatory Utility Commissioners and the Nuclear Energy Institute both mentioned they were filing motions with the Appeals Court challenging the adequacy of DOE's fee collection assessment and requesting the Court to stop the fee payment. Additional updates were provided on the current status of the two other cases before the U.S. Court of Appeals for the D.C. Circuit (waste confidence, and mandamus); besides upcoming meetings and webinars of interest.

30. On January 31st the House Energy and Commerce Committee issued a press release marking the fifteenth anniversary of when the Department of Energy was expected to begin receiving nuclear waste at Yucca Mountain. The Obama Administration's defiance of the law on Yucca Mountain has cost taxpayers more than $1.6 billion with the liability expected to amount to over $19 billion by 2020 and $0.5 billion for each year thereafter. The web link for the press release can be accessed by positioning the cursor over the underlined text and following the directions.

Other Related Topics of Interest:

31. In November 28, 2012 the Office of Audits and Inspections of the Inspector General for the Department of Energy issued an audit report, entitled "Department of Energy's Nuclear Waste Fund's Fiscal Year 2012 Financial Statements". The independent report presented the Nuclear Waste Fund 2012 balance sheet along with related statements of net cost, changes in net position and budgetary resources. The balance sheet indicated that the fund assets totaled $28.8 billion with $27.6 million in unexpended appropriations that would be available should the DC Circuit Court of Appeals order the resumption of the Yucca Mountain licensing proceedings with the Nuclear Regulatory Commission. The web link for the report can be accessed by positioning the cursor over the underlined text and following the directions.