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Federal Appeals Court Nuclear Waste Decision: First Ripples in New England and Nationwide Vermont-based New England Coalition Wades In

New England Coalition (Brattleboro, Vermont), Friends of the Coast (Edgecomb, Maine), and Pilgrim Watch (Duxbury, Massachusetts) have joined with 24 nuclear intervenors nationwide in filing a formal petition [\[1\]](#) with the U.S. Nuclear Regulatory Commission seeking to halt all final decisions in reactor licensing proceedings until the agency complies with a recent Federal appeals Court decision [\[2\]](#) requiring NRC to evaluate impacts and prospects for high level nuclear fuel waste storage on a site-by-site basis.

Until now, the agency has relied on a generic Commission finding, the periodically issued "Waste Confidence Rule" which foreclosed raising safety or environmental issues with regard to the storage of nuclear fuel waste in NRC licensing actions because the agency had "confidence" that the fuel could be stored until the deadline (e.g., 1998) for the opening of a national permanent waste repository. Post-2005, the last projected opening date for Yucca Mountain, the NRC simply declared that the agency had confidence that nuclear fuel waste could be safely stored on site "until a depository was needed" or "realized."

Petitioners point out that NRC's confidence in safely stored fuel has now been effectively set aside by NRC's cancellation of review of the Yucca Mountain license; the explosions and threats of radiological release from the spent fuel pools at the Fukushima (Japan) nuclear plants, and the June 8th DSC Circuit Court of Appeals Decision and Order.

Under terms of the Petition, if it is granted the Commission would issue an order that:

- Suspends all final decisions in pending reactor licensing proceedings pending conclusion of the remanded proceeding to evaluate the environmental impacts of spent fuel storage and disposal;
- Declares that any EAs or EISs issued by the NRC will be published in proposed form with a reasonable opportunity for public comment; and
- Provides a period of at least 60 days for raising site-specific concerns relating to the remanded proceedings in individual licensing proceedings.

New England Coalition, together with Friends of the Coast are sole standing intervenors in the Seabrook Nuclear Generating Station License Renewal Application. Seabrook's present license is not due to expire until 2032; the application, if granted, would extend the Seabrook license until 2052.

New England Coalition was the sole public interest group intervenor in the license renewal of

Entergy Vermont Yankee Nuclear Power Station (2006-2011) holding the line on vital safety issues until complaints from Republican Members of Congress brought the Commission to shut down the process (ironically on the eve of the onset of the Fukushima accident).

“Just how the June 8th Court Order will affect future federal litigation at Entergy Vermont Yankee is uncertain,” said New England Coalition technical advisor, Raymond Shadis, “we are carefully weighing our options. On June 15th, we apprised the Vermont Public Service Board, at the threshold of considering Entergy VY’s request for a certificate of Public Good for continued operation, of the Federal Appeals Court order and our view that the now required NRC site specific review will have serious implications for how the Public Service Board views the proposed CPG.”

“ Say what you will about the limited effectiveness of litigation before NRC “ said Shadis, “ Things would not have come to this pass by any other route.”

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[1] The petition is available online at

http://necnp.org/wp/wp-content/uploads/2012/06/PetitiontoSuspendLicensingDecisions_061812.pdf

[2] http://necnp.org/wp/wp-content/uploads/2012/06/WasteConfidenceCourtDecision_USCA11-1045_StateNYetal_vsNRC_060812.pdf

This press release is also available at <http://necnp.org/wp/wp-content/uploads/2012/06/2012-06-18-WAVES-Federal-Appeals-Court-Nuclear-Waste-Decision.doc>

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