

CONTACT Kelley Smith
Office: (860) 267-3545
After Hours: (860) 305-8735

FEDERAL COURT AGREES WITH CONNECTICUT YANKEE

DOE Obligated To Remove Used Nuclear Fuel -- Connecticut Yankee Entitled To Seek Damages

HADDAM NECK, Connecticut, November 3, 1998. -- In a precedent setting decision, the U.S. Court of Federal Claims recently ruled in favor of Connecticut Yankee Atomic Power Company (CYAPCO) in its lawsuit to require the Department of Energy (DOE) to pay for the increased costs to store CYAPCO's used nuclear fuel until the DOE removes it. The Court, which agreed with Connecticut Yankee that the DOE had breached its contractual obligation to begin removing fuel in January of this year, will now consider CYAPCO's \$90 million damage claim.

There are 1,019 high-level radioactive used fuel assemblies currently stored in a protective pool at the Connecticut Yankee (CY) nuclear plant in Haddam Neck, Connecticut. The plant, which permanently shut down in 1996, cannot complete the decommissioning process until the fuel is removed.

CYAPCO President and CEO Don Davis said, "We filed this lawsuit to protect electric consumers from the increased costs to store the fuel at CY because consumers have already paid into a federal fund that paid the DOE to take the used fuel beginning in 1998. But this ruling still doesn't get the fuel off the CY site, which is the right solution. The DOE has the ability to ship the fuel now and the capacity to store the fuel at its existing facilities. Several other court rulings have also found that the DOE has a legal responsibility to begin managing the nation's commercial used fuel." Davis added, "It's a shame we have to continually sue the government to force it to do its job."

FEDERAL COURT AGREES WITH CONNECTICUT YANKEE

DOE's intentional delay in removing CY's used fuel significantly complicates decommissioning, including allowing the site to be reused as a natural gas fueled electric plant. CY will have to analyze the impacts associated with long term used fuel storage adjacent to a potential gas-fired facility. "While CY believes that both can be done safely and that all necessary NRC approvals can be obtained," said Davis, "Clearly the right solution would be for the DOE to remove the fuel on a priority basis to avoid any unnecessary delays and costs to allow another electric generating company to reuse the site. By reusing the site for another electric generating plant using natural gas, we may be able to reduce our decommissioning costs and to pass those savings on to consumers."

In addition, DOE's failure to begin taking CY's used fuel this year could result in the return of 82 used fuel assemblies to the CY plant site. Currently, CY has 82 assemblies in storage at a private storage facility. These assemblies were shipped in the 1970's to be reprocessed. However, the federal government changed its policy on reprocessing and these assemblies have been stored at the former reprocessing facility since. Because the storage license for the facility runs out in 2002, the DOE's failure to meet its obligation to begin taking CY's assemblies in 1998 means that -- instead of shipping these assemblies to a federal facility -- they might have to be transported back to the CY site. Davis noted that the Court's decision allows CY to try and recover damages for the costs of continued storage off-site, as well as the costs to return the assemblies to CY if that facility is no longer available, but added, "That is not the solution CY is seeking. The solution is for the DOE to take the fuel."

The DOE's projected date for operation of a permanent disposal facility is now 2010-2015, but political and bureaucratic delays, which have plagued the project for years, could continue and create further delays. "It concerns us that the DOE seems to be heading down a path which would turn nuclear plant sites into interim federal wastes sites. It's a waste of taxpayer money to pay damages to shutdown plants to store fuel on-site instead of using existing DOE facilities. These facilities are available, and are, in fact, taking used nuclear fuel from the Navy, research reactors and foreign facilities now."

Since 1983 the DOE has signed contracts with nuclear utilities, including CYAPCO, to begin removing used nuclear fuel by January 31, 1998. In addition, the Nuclear Waste Fund (NWF) was established to finance the project. Since 1983, electric consumers nationwide, who have benefited from nuclear generated electricity, have been required to pay more than \$14 billion in the NWF. New England electric consumers have paid more than \$1 billion into the fund.