GROUPS: NUCLEAR ENERGY INSTITUTE IS PUSHING NRC TO SHORTCHANGE ENVIRONMENTAL REVIEW OF LONG-TERM RADIOACTIVE WASTE STORAGE

In Seeking "Hurry Up" Outcome, NEI Even Urges NRC to Rely on Secret Papers That Cannot be Found by Agency; Industry Seeks to Undercut Serious Review of Reactor Pool Fires, Other Risks.

WASHINGTON, D.C.///January 15, 2013///The nuclear industry's trade association – the Nuclear Energy Institute (NEI) – is pushing so hard to get the Nuclear Regulatory Commission (NRC) to do a hurry-up version of a court-ordered environmental impact statement (EIS) on the long-term storage of nuclear waste that it is even pressuring the federal agency to rely on such unsatisfactory "evidence" as secret reports that the agency has reported as being lost, according to supplemental comments filed today by 24 leading national and grassroots environment groups.

Could it really be that the NEI was unaware of the studies being secret or that the NRC has lost track of some of them?

In comments available online at http://www.psr.org/nuclear-bailout/supplemental-scoping-comments.pdf, the groups warn that, in seeking a slapdash report carried out on a truncated two-year timeline, NEI is placing the industry's economic agenda ahead of public safety and also "flouting" the U.S. Court of Appeals order that forced the NRC to scrap its previous waste confidence rule (WCR) and to compile a serious-minded EIS about long-term nuclear reactor waste storage issues.

In rebutting NEI's January 2013 submission to the NRC, the groups expose how the trade group is making every and any argument necessary to rush through the EIS process in two years specifically so that pending reactor licenses can proceed unimpeded. In doing so, NEI goes to considerable lengths to argue that all or most of the information the NRC needs for the EIS is already at hand.

The secret missing documents are a case in point. In its filing, the NEI claims that the NRC "has previously compiled numerous technical studies regarding the risks and environmental impacts of onsite spent fuel storage that it can rely on in assessing both the probabilities and consequences of spent fuel pool fires." However, the truth is that there has been no such new public study undertaken in more than a decade, none of the available old studies meets the requirements for an EIS, whatever new information the NRC has on the topic is either classified or otherwise withheld from public disclosure and, to make things even worse, the classified studies have gone missing, according to a NRC statement to the General Accountability Office (GAO).

Diane Curran, attorney, Harmon, Curran, Spielberg & Eisenberg, L.L.P., said: **"This is literally a case where the nuclear industry is saying that NRC should refurbish existing environmental studies that are obviously inadequate, in order to do the environmental impact statement in the impossibly short period of time of two years. We know from the staff of the NRC itself that much more time will be needed for a thorough review in order to satisfy the National Environmental Policy Act (NEPA). NEI's arguments also flout the Atomic Energy Act (AEA), which forbids the NRC from elevating the economic interests of the nuclear industry over NRC's responsibility to protect public health and safety and the environment."**

Arjun Makhijani, Ph.D., president, Institute for Energy and Environmental Research, said: **"Politically motivated approaches to the EIS without the data to actually analyze the impacts required to be estimated by the court's order will result in a scientifically unacceptable EIS. The NRC just doesn't have the data at present to do an EIS and needs to gather it. The NEI is quite wrong to say that the Yucca Mountain EIS provides many of the needed answers. It does not because, among other things, it deliberately and admittedly underestimated the impacts."**

John Runkle, attorney, NC WARN, said: **"Every time in the last 30 years when we raised the issue of what to do with the highly radioactive spent fuel, the NRC has told us it was confident that one**

day there would be a solution. Right now, we're not confident the NRC is committed to finding that solution."

Phillip Musegaas, Hudson River program director, Riverkeeper, Inc., said: **"NEI suggests that the NRC continue cutting critical and necessary analyses off at the knees. Spent fuel leaks are an ever-growing problem that NRC must account for and fill in the glaring gaps in existing assessments."**

The 24 groups filing today's supplemental comments are: Alliance for Nuclear Accountability, Beyond Nuclear, Blue Ridge Environmental Defense League, Center for a Sustainable Coast, Citizens Allied for Safe Energy, Citizens Environmental Awareness of Southern Ontario, Don't Waste Michigan, Ecology Party of Florida, Friends of the Earth, Georgia Women's Action for New Directions, Hudson River Sloop Clearwater, Missouri Coalition for the Environment, NC WARN, Nevada Nuclear Waste Task Force, New England Coalition, Nuclear Information and Resource Service, Nuclear Watch South, Physicians for Social Responsibility, Public Citizen, Riverkeeper, San Luis Obispo Mothers for Peace, SEED Coalition, Sierra Club Nuclear Free Campaign, and Southern Alliance for Clean Energy.

Other problems with the NEI filings highlighted by the groups:

- **NEI errs in suggesting that old information about spent fuel leaks should be adequate for the EIS process.** NEI's arguments on this point openly flout the mandate of the D.C. Circuit Court of Appeals. As the Court explained, the NRC's existing studies are inadequate for the very reason that they rely on studies of *past* leaks. As the Court observed, "the harm from past leaks – without more – tells us very little about the potential for future leaks or the harm such leaks might portend." The Court also found inadequate the NRC's assertions regarding "untested" prospective regulatory improvements to spent fuel pools, and existing monitoring and compliance programs that are "in no way sufficient to support a scientific finding that spent-fuel pools will not cause a significant environment (sic) impact during the extended storage period." Instead, the Court ordered the NRC to undertake a new, forward-looking analysis --- the very thing the NEI does not want done.

- **NEI argues incorrectly that the NRC can wrap up the EIS in just two years.** But NEI's arguments are directly contradicted by NRC's own documents, which show that far more information is needed than is currently available in order to support the Waste Confidence Decision. NRC staff has stated that it will take at least seven years to evaluate the environmental impacts of long-term spent fuel storage. Additionally, the NRC has years of research to do in order to gather sufficient data regarding spent fuel degradation and transportation and handling risks. Furthermore, post-Fukushima seismic geologic data, which will take years to gather and analyze, should be awaited because it bears on the safety and environmental impacts of long-term spent fuel disposal.

- **NEI is wrong in suggesting that the NRC can recycle Yucca Mountain EIS information.** The Yucca Mountain EIS is replete with examples of underestimated impacts for the scenarios where there is no repository. The goal there was to show that the preferred option, a repository, would have lower impacts even in such a case. The goal for the present EIS is to make a scientifically defensible analysis that properly takes into account the major impacts of never having a repository.

BACKGROUND

On January 2, 2013, two dozen national and grassroots environmental groups said it would be impossible for the NRC to adequately conduct a court-ordered assessment of the environmental implications of long-term storage of spent nuclear reactor fuel in the two short years the federal agency envisions for the process. The groups' comments and related declarations by experts are available online at http://www.psr.org/resources/nrc-rushing-nuclear-waste-confidence-process.html. (The new rebuttal filing is a supplement to the January 2nd filing.)

In their early January filings, the 24 groups said a full review of the three issues outlined in June 2012 by the U.S. Court of Appeals for the D.C. Circuit – long-term storage risks for spent nuclear fuel, spent fuel pool fire risks, and spent fuel pool leakage risks – would take at least the seven years originally projected

by the NRC staff, and likely considerably longer. Current federal law requires that the NRC conduct a comprehensive environmental impact statement study before issuing a revised Waste Confidence Decision; the 24 groups submitted their comments about the appropriate "scoping" of the EIS.

In June 2012, the U.S. Court of Appeals for the D.C. Circuit vacated the NRC's 2010 Waste Confidence Decision and Temporary Storage Rule and remanded them to the agency for study of the environmental impacts of storing spent fuel indefinitely if no permanent nuclear waste repository is licensed or if licensing of a repository is substantially delayed. Spent nuclear fuel remains highly dangerous forlong periods of time. It has long-lived radioactive materials in it that can seriously contaminate the environment and harm public health if released. Additionally, spent nuclear fuel contains plutonium-239, a radiotoxic element that can be used to make nuclear weapons if separated from the other materials in the fuel.

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EDITOR'S NOTE: A streaming audio replay of the news event will be available on the Web at http://www.hastingsgroupmedia.com/011513nrcsupplementcomments.mp3 as of 5 p.m. EST on January 15, 2013.