

THE RADIOACTIVIST

ISSUE 6

SERVING REACTOR COMMUNITIES THROUGHOUT THE NORTHEAST

UPDATED OCT, 2008

DECOMMISSIONING: THE MELTDOWN OF DEMOCRACY

HOW DIRTY CAN CLEAN UP GET?

Since 1992, four of the nine nuclear reactors in New England closed. Poor economics, age-related deterioration, and sustainable solutions will shut the remaining five. Decommissioning, the process of "cleaning up" reactor sites is becoming an issue throughout the region. Precedents, governing future decommissionings, developed in New England. CAN's experience is that site cleanup is a dangerous process full of pitfalls aimed at saving corporate money rather than cleaning contaminated sites.

The Rowe reactor's experimental decommissioning forced the downstream community to question how reactors decommission and how corporations dispose of waste. It raised ethical questions involving pollution prevention and reduction, site remediation and environmental justice. Since standard reactor operation releases rad waste routinely into the environment and stores its high level waste on site, the community, itself is a de facto waste dump.

Citizens in the contamination pathway of reactors must protect themselves and the environment from the effects of exposure to radiation and develop strategies to prevent and eliminate nuclear pollution.

ENVIRONMENTAL INJUSTICE:

Communities that suffer nuclear contamination are usually poor, rural and people of color. It is unacceptable for people to choose between short-term economic survival and the sacrifice of future generations.

There are no easy solutions to clean up of these toxic sites. Much of the pressure to move rad waste off-site comes from nuclear waste generators, but communities also seek rapid dismantlement to protect themselves and their environment. However we are not necessarily served by enabling reactors to decommission rapidly, exposing people to increased radioactivity. Dismantlement is a complicated, dangerous process. Its results are too important to reactor communities for citizen input to be stifled.

As the first, Yankee Atomic's illegal decommissioning set dangerous standards-standards that undermine the democratic process guaranteed under the Atomic Energy Act, undermine EPA regulations governing the National Environmental Policy Act and create de facto *deregulation* of the industry for decommissioning and rad waste. Corporate revision of regulations forced continual relaxation of standards and undermined and degraded NRC's accountability as the protectors of the public health and safety.

With Yankee Rowe as the standard, there is no distinction between reactor operation and cessation and therefore regulations developed for operating reactors (when on-site resident inspectors and NRC inspections are routine) were cobbled on to decommissioning processes in which inspection is scanty and discretionary. No adjudicatory hearings are available to impacted communities. NRC oversight is curtailed since NRC decided that decommissioning

is no longer a major federal action. Therefore EPA requirements are ignored.

Nuclear corporations now submit generalized plans providing no detailed description of specific activities. The choice of decommissioning option is determined by the operator without input from the community. Reactors are stripped, transported and dumped in another community without adequate public or regulatory oversight. "Community Advisory Boards" orchestrated, established, and run by corporations function as public relations arms and substitute for adjudicatory hearings.

THE ROWE DECOMMISSIONING HISTORY: REGULATORY ANARCHY

After thirty years of operation, the oldest commercial nuclear reactor shut down in 1992 due to local organizing efforts concerning age-related problems. When Rowe ceased operation, it announced its intention to remain in SAFSTOR (long-term, on-site storage designed to reduce radioactivity of most waste by a factor of ten) while developing a decommissioning plan. However in 1993, the NRC allowed Yankee Atomic to dismantle Rowe. This included shipping highly irradiated parts to a radioactive waste dump in South Carolina. Prior to 1993, NRC rules required submission and approval of a decommissioning plan before major dismantlement could begin. This process required a NEPA review including preparation of an Environmental Impact Statement.

In 1993 NRC changed its rule to permit the corporation to strip and ship the reactor before the approval of the plan. In fact, *over 95% of the radionuclide inventory* was removed without an approved plan. NRC denied CAN's requests for a hearing on problems created by Yankee's rapid dismantlement. Besides our community's concerns about our health and safety, a dangerous and undemocratic precedent was being set. A slow and thorough decommissioning minimizes worker and public exposures, dramatically reduces burial waste, is more cost effective and continues to employ the skilled workforce in cleanup activities for a decade.

Over 140,000 curies were removed from Rowe and shipped off-site; much of it transported down the Eastern seaboard and buried in Barnwell, South Carolina. If this waste had remained on-site for thirty years, curie count would have decreased to 14,000 curies minimizing exposure, burial contamination and costs.

A MELTDOWN IN DEMOCRACY

Having repeatedly requested hearings on Rowe's decommissioning over a three year period, CAN took NRC to court to address the violation of our due process rights and stop the stripping of the reactor. The District court was forced to send the case to the Appellate Court. However, Federal District Court Judge Ponsler stated "*The Court makes this decision with a heavy heart.This course of conduct [by NRC] suggests a concerted bureaucratic effort to thwart the efforts of local citizens to be heard about an event that vitally effects them and their children. It*

calls to mind the activities of Charles Dickens' fictional Office of Circumlocution in Bleak House. The prospect that this tactic may be used nationally, as more nuclear plants shut down, and more local citizen's groups express concern about the impact of the process on their lives, is, to put it mildly, disquieting."

After two years of litigation the U.S. Court of Appeals ruled that a hearing on the issues raised in decommissioning Yankee Rowe was necessary. The court found NRC "*arbitrary, capricious, and utterly irrational*" in its approval of decommissioning of Rowe. Yankee's decommissioning was **scathingly rejected**. The justices found NRC actions irresponsible ... "*An agency can not skirt NEPA or other statutory commands by exempting a licensee from compulsory compliance, and then simply labeling its decision "mere oversight" rather than a major federal action.*"

The Court objected: "*As this construct would eviscerate the very procedural protections Congress envisioned in its enactment of section 189a [Atomic Energy Act] we decline to permit the commission to do by indirection what it is prohibited from doing directly.*" **NRC VIOLATED THE ATOMIC ENERGY ACT, NATIONAL ENVIRONMENTAL POLICY ACT, AND ADMINISTRATIVE PROCEDURES ACT.** In fall 1995 NRC offered CAN an "opportunity for a hearing".

CAN advanced "contentions" demonstrating the inadequacy of Yankee's plan. Throughout the hearing process, NRC resisted our participation. The NRC Licensing Board, NRC's adjudicatory arm, rejected our contentions although they ruled that we had the right to represent worker and public concerns. This arbitrary rejection followed a course of conduct by NRC to eliminate meaningful public participation. CAN again appealed.

PIERCING THE CORPORATE VEIL

During this time CAN uncovered discrepancies in the utility's records concerning worker exposures. We submitted information to the Commission. The Commission ruled that our contention on excessive worker exposure had merit and ordered the Licensing Board to review it again. A second pre-hearing was held in Washington, DC.

The Licensing Board accepted our contention and set a precedent by (1) giving CAN **STANDING TO REPRESENT THE WORKER'S HEALTH AND SAFETY INTERESTS**, (2) allowing CAN **TO QUESTION THE DOSE ESTIMATES OF A CORPORATION AND DECOMMISSIONING CHOICES BASED ON THOSE ESTIMATES**, and (3) allowing **ACCESS TO CORPORATE DOCUMENTS**.

During discovery, we uncovered evidence of excessive worker exposures. CAN obtained information that challenged Yankee dose estimates and procedures for calculating "decommissioning doses" for the workers and the public. Even though CAN raised questions about the corporation's procedures which hid the actual doses to the workers and the public, once again NRC denied our hearing rights.

THE FUTURE: DIRTY, CHEAP, AND ILLEGAL

Dangerous and irresponsible precedents for decommissioning and rad waste disposal are resulting from NRC's actions. NRC codified the Rowe experience (in direct opposition to the Appellate Court) in a new decommissioning rule, which deregulates decommissioning and minimizes NRC oversight.

STRIP AND SHIP FOR NEW ENGLAND NUKES

In December of 1996, the CT Yankee reactor in Haddam permanently shut down, as did the Maine Yankee reactor. These utilities organized rapid dismantlements. Decommissioning had significant health and safety implications for these communities and reactor workers. Since these were the first large-scale commercial reactors to decommission under the new rule, NRC nullified our court victory by promulgating regulations that bar citizens from questioning a licensee's choice of decommissioning alternatives at an adjudicatory hearing

EVEN CHEAP IS COSTLY!

Decommissioning exposes the dirty underbelly of nuclear power and its catastrophic costs. Yankee Rowe, which cost \$39 million to build cost over **\$750 million** to clean up and took over 15 years with a rapid dismantlement. With inadequate decommissioning funds, it was able to get the state of Massachusetts to allow the corporation to charge its customers for a shuttered reactor.

Due to significant contamination on site and in ground water, Rowe's costs skyrocketed. This is not unusual. CT Yankee in Haddam Connecticut cost over **\$1.2 billion** to clean up, and CT Light and Power customers will continue to pay for a shuttered reactor until 2015! It is unclear how merchant corporations will be held responsible for escalating cleanup costs.

What is demonstrated in cleanup is the colossal failure of nuclear power through soaring costs and with public utilities, ratepayers charged for decommissioning on closed reactors that no longer contribute to the public good. Nuclear corporations routinely underestimate cleanup costs to hide the truth about the industry's unfounded claims that nuclear is clean and green.

WE CAN DO BETTER!

Rancho Seco, a California reactor owned by the Sacramento Municipal Utility District (SMUD) and shut by referendum, did not have adequate decommissioning funding. SMUD chose a slow and thorough cleanup employing the skilled workforce and replacing the power with sustainable energy solutions as well as conservation and efficiency. SMUD is the 6th largest public utility in the country. It is an excellent example of what can be done.

FOR MORE INFORMATION:

CITIZENS AWARENESS NETWORK

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