

MONITOR

NUCLEAR NEW BUILD

...Weekly Intelligence on the Global Nuclear Renaissance

Next Generation Power Plants ◆ Advanced Reactors ◆ Uranium Enrichment
New Fuel Fabrication ◆ Spent Fuel Disposition & Recycling ◆ Safeguards

Volume 29 No. 8

February 22, 2010

— INSIDE HIGHLIGHTS —

The American nuclear industry took just a few minutes to enjoy the moment last week in the wake of President Barack Obama's announcement of a loan guarantee offer for a new nuclear power project—an award several years in the making. 2

Princeton, N.J. utility NRG Energy has taken over nearly sole ownership of its new reactor plans at the South Texas Project, after settling a legal battle out of court last week with its partner, municipal utility CPS Energy. 4

Second and third-tier nuclear suppliers still have high hopes of doing business in the United Arab Emirates, despite the fact that the prime contractor hired by the U.A.E. government to build the reactors is South Korean firm KEPCO, industry officials said last week 5

Elected officials and business leaders representing two of the Department of Energy's main cleanup sites threatened legal action last week over the Obama Administration's decision to cancel the planned national high-level waste repository at Yucca Mountain in Nevada. 6

The huge question marks hanging over the future of spent nuclear fuel disposal in the wake of the Obama Administration's decision to cancel the Yucca Mountain repository project were a key focal point as the nuclear industry and state utility commissioners gathered for separate meetings. 7

The Nuclear Energy Institute and the National Association of Regulatory Utility Commissioners plan to sue the government to stop the collection of fees they pay into the Nuclear Waste Fund, NEI President Marvin Fertel told Wall Street analysts at a briefing in New York last week. 9

Wrap Up 10

Calendar 10

NUKE INDUSTRY RIDING HIGH ON OBAMA LOAN GUARANTEE ANNOUNCEMENT

*Final Agreement, Credit Subsidy Cost
Still Pending in Southern Co. Offer*

The American nuclear industry took just a few minutes to enjoy the moment last week in the wake of President Barack Obama's announcement of a loan guarantee offer for a new nuclear power project—an award several years in the making. The offer of an \$8.3 billion guarantee to Southern Company for two reactors at the Vogtle plant in Burke County, Ga., coupled with the President's comments on nuclear power and his request to increase funding for nuclear loan guarantees by \$36 billion, left industry members and observers speculating about the next guarantees that will be awarded and the ultimate likelihood of a new round of nuclear plant construction in the U.S. "Nuclear energy remains a necessary step, and I hope that this announcement, and our willingness to look at this challenge not as a partisan issue demonstrates that," President Obama said in his announcement Feb. 16. "The fact is that changing the ways we produce and use energy requires us to think anew, act anew and extend a hand across the old divides."

The Nuclear Energy Institute heralded the move, which has been anticipated for several months. "This first conditional commitment demonstrates the Administration's recognition that new nuclear power plants must be part of America's clean energy portfolio," NEI President Marv Fertel said last week. Constellation Energy, which is also waiting with bated breath for a loan guarantee, congratulated Southern last week. "UniStar Nuclear Energy (UNE) congratulates Southern Company on receipt of the first U.S. Department of Energy (DOE) conditional commitment for a loan guarantee for advanced new nuclear energy facilities," the company said in a statement. "UNE is encouraged that DOE has taken this significant step to implement a program that is vital to our low-carbon energy future."

Realism Amid Celebration

The announcement, though, also pulled sharply into focus the fact that the Department of Energy has still not established a hard and fast credit subsidy cost for the nuclear guarantees, and has not quantified the exact credit subsidy that Southern will pay to insure against default for its guarantee. Southern has 90 days to review the term sheet offered by DOE—while the Administration made its offer public last week, a conditional agreement has not been signed. The movement on loan guarantees also added another dimension to the rhetoric on nuclear power: the industry will soon have to show it can live up to the expectations included in their guaranteed projects. "The political future for nuclear power in this country is very bright, and it's up to us to take advantage of that," NRG Energy CEO David Crane told a gathering of nuclear industry officials in Washington last week. "Most people that are directly involved in the nuclear industry know that there is going to come a time for all of us to say, 'we've gotten all we need,' and to stand up and actually deliver. The future is bright. Let's not screw it up."

Credit Subsidy Cost Not Decided

One of the largest question marks on the loan guarantees remained unresolved last week—how much nuclear companies will have to pay DOE for a credit subsidy cost to fund the loan. While credit subsidy cost is traditionally calculated by a set formula, DOE and the White House Office of Management and Budget have squabbled over the assumptions put into that formula, which have sometimes yielded credit subsidy calculations of up to 8 percent of total guaranteed loan volume. The nuclear industry has calculated a reasonable credit subsidy cost at closer to 1 percent. Southern Company Chairman and CEO David Radcliffe acknowledged right now that the company has "a ballpark" of what the credit subsidy could be, but the final number will be part of the final terms and conditions for the guarantee. "We always would like for that number to be as low as possible," he told reporters in a briefing Feb.

ExchangeMonitor Publications' Editorial Staff

Martin Schneider, Editor-in-Chief

Tel.: 202-296-2814 ext. 105
schneider@exchangemonitor.com

Mike Nartker, Associate Editor

WC Monitor

Tel.: 202-296-2814 ext. 106
nartker@exchangemonitor.com

Rebecca Cooper, Senior Reporter

NNB Monitor

Tel.: 202-296-2814 ext. 108
cooper@exchangemonitor.com

Todd Jacobson, Reporter

NW&M Monitor

Tel.: 202-296-2814 ext. 107
jacobson@exchangemonitor.com

Sarah E. Anderson, Reporter

RW Monitor

Tel.: 202-296-2814 ext. 110
anderson@exchangemonitor.com

Lindsay Kalter, Reporter

GHG

Tel.: 202-296-2814 ext. 112
kalter@exchangemonitor.com

Nuclear New Build Monitor is a weekly publication (50 issues a year) providing in-depth coverage of all facets of the nuclear 'renaissance,' including: New Plant Licensing; Financing & Loan Guarantees; Advanced Reactors; Fuel Fabrication; Uranium Enrichment; NGNP and other DOE Initiatives; Reprocessing; and Safeguards.

Edward L. Helminski Publisher
Kelli Watson Hughes Office Manager

Weapons Complex Monitor ■ *Nuclear Weapons & Materials Monitor* ■ *RadWaste Monitor* ■ *Nuclear New Build Monitor* ■ *GHG Transactions & Technologies*

16. “We’re going to continue to work to drive that cost as low as possible.”

Constellation Energy, which is also on the short list for a DOE loan guarantee and which many expect to receive a conditional offer within the next few months, said earlier this year that an 8 percent credit subsidy cost makes the loan guarantee unworkable. Constellation was hoping to get the cost down below 1 percent, and is working to mitigate project risk while negotiating with DOE on a lower cost, *NNB Monitor* has learned. Crane of NRG, another “top four” contender for the loan guarantees, quipped that the credit subsidy should be “infinitesimal” when asked what he felt the cost should be. “I think the loan guarantee fee will vary by individual projects,” he said. “I’m not going to negotiate that right here. But I would like to say with Assistant Secretary [Pete] Miller here, ours is the lowest risk project. Our fee should be infinitesimal, and I’m sure that the federal government will agree.”

About \$10B Left in Pot

At least until Congress approves the Administration’s request for additional loan guarantee authority, the announcement of the \$8.3 billion guarantee for Vogtle leaves just over \$10 billion in the pot for nuclear projects, which totaled \$18.5 billion. While there are three projects left in the “top four”—South Texas Project, Calvert Cliffs and V.C. Summer—the competition is largely expected to be between UniStar/Constellation’s Calvert Cliffs and STP. Constellation has been actively pursuing loan guarantee negotiations over the past several months, and labor leaders recently visited the White House to advocate for the project to be awarded the first guarantee due to a project labor agreement the project had signed last year with the Building Trades Unions (*NNB Monitor*, Vol. 29 No. 3). The Vogtle project has no such agreement, although Shaw spokesperson Gentry Brann said last week that Shaw is in discussions with the building trades with the intention of eventually coming to an agreement. “We are hopeful that we will reach some kind of mutually beneficial agreement with the building trades,” Brann told *NNB Monitor*.

Constellation CEO Mike Wallace has made it clear his project cannot go forward without a loan guarantee—as has NRG’s Crane, whose company was until recently embroiled in a legal battle that stood to affect STP’s standing in the loan guarantee process. “We have reason to believe that the DOE sees a fierce dispute between two equal partners as an extra high obstacle to them committing to a loan project,” he told shareholders in a conference call late last month (*NNB Monitor*, Vol. 29 No. 4). NRG and STP resolved that issue late last week (*see related*

story) and Crane is optimistic his company is still on strong footing with DOE for the loan guarantee. NRG is hoping to finance between 60 and 70 percent of its project using a loan guarantee, however, which would constitute up to \$7 billion of the remaining authority. While Constellation has said it also plans to pursue guarantees with the French foreign investment bank, the loan guarantee authority that exists right now may not be enough to guarantee both projects.

The additional \$36 billion requested for loan guarantees in the FY11 budget won’t be an immediate boon for the industry, even if it is approved. The Congressional Budget Office has typically required loan guarantee authority to score at 1 percent of the total authority in the federal budget—meaning the \$36 billion would require a \$360 million appropriation. The Department of Energy did not request any funds for the increase in 2011. Appropriators may be hesitant to add the sum to the budget in a year when the Administration has said it is trying to keep domestic programs flat.

Loan Guarantee to Encourage Bipartisanship

Both the president and his top energy advisor, Carol Browner, acknowledged that the offer of the conditional guarantee is part of an effort to encourage a bipartisan effort to pass sweeping climate change legislation in the Senate. “There will be those that welcome this, and think it’s long overdue. Also there are going to be those that strongly disagree,” Obama said of the Vogtle conditional loan guarantee Feb. 16. “The same has been true in other areas of the energy debate: offshore drilling, putting price on carbon. Even when we have differences, we cannot allow them to prevent us from making progress. This is an issue that effects our economy and the future of our planet, and we cannot keep on being mired in same old stale debates between left and right, environmentalists and entrepreneurs.” Continued Obama: “That’s why we need comprehensive energy and carbon legislation. I raised this just last week with Congressional Republican leaders, and my Administration will be working to build on areas of agreement so we can pass a bipartisan energy and climate bill through the Senate.”

Browner told *CNBC* later in the day that the President hopes to see this legislation passed this year. “We need comprehensive energy reform, and we’ll be working in a bipartisan manner in the Senate to try to achieve that,” she said. Emissions cap legislation passed out of the House of Representatives late last year, but the Senate was not as successful in achieving success. Sens. John Kerry (D-Mass.), Joe Lieberman (I-Conn.) and Lindsey Graham (R-S.C.) are expected to introduce alternative energy and climate legislation later this year that includes provisions

for expansion of nuclear power and offshore drilling, although the climate provisions in that bill are still unclear. Graham has alluded to wanting to take a hybrid approach that regulates carbon in different ways for different energy sectors (*NNB Monitor*, Vol. 29 No. 7). “What we’re saying today is that we’re prepared to stand behind this project because it’s an important project,” Browner said of Vogtle.

Interest Groups Voice Concerns

While members of various labor unions flanked President Obama as he announced the loan guarantee last week, organized labor still voiced some concern last week that the Administration be vigilant about assuring the loan guarantees create American jobs, rather than jobs overseas. “Sourcing key components for nuclear facilities from foreign nations—China most specifically—could put in jeopardy our citizens’ safety and undermine efforts to promote economic growth and job creation. China has proven to be a supplier of products that are unsafe and hazardous,” United Steelworkers President Leo Gerard wrote in a letter to the Nuclear Regulatory Commission last week. “I have asked that all components to be utilized in Southern Company’s reactors be released to the public,” Gerard said last week.

Environmental groups also skewered the decision to issue a loan guarantee for a nuclear project. Takoma, Md.-based group Beyond Nuclear raised the issue of the incomplete AP1000 reactor design. “It is utterly irresponsible of President Obama to risk public safety and the environment by financing the incomplete and flawed AP1000 design at Vogtle and, worse still, at taxpayers’ financial risk,” said Kevin Kamps of Beyond Nuclear. “Even if ultimately fixed, the AP1000’s major design flaw risks delays in construction and cost overruns, the same problems that delivered death blows to scores of atomic reactors three decades ago.”

—*Rebecca Cooper*

SOUTH TEXAS PARTNERS SETTLE SUIT, NRG TO PURSUE PROJECT ALONE

Princeton, N.J. utility NRG Energy has taken over nearly sole ownership of its new reactor plans at the South Texas Project, after settling a legal battle out of court last week with its partner, municipal utility CPS Energy. CPS was expected to withdraw from the project after filing a suit for declaratory judgement earlier this year seeking its rights under its contract with NRG. Under the agreement, NINA—NRG’s development joint venture with Toshiba—will assume 92.4 percent ownership of the project, leaving CPS with 7.6 percent. NINA also agreed

under the terms of the settlement to pay CPS Energy \$80 million of its investment in the project, contingent on receipt of the loan guarantee from the Department of Energy for the project. CPS Energy has said that it has invested roughly \$300 million into the project.

NRG and NINA will continue to pursue South Texas Project units 3 and 4, the company said last week, and are actively seeking potential partners to pick up some of CPS’s former share. Crane told shareholders in a conference call late last month that Japanese electric utility Tokyo Electric Power Company (TEPCO) still has an interest in investing in the project, despite the dispute over ownership. It’s unlikely, however, that TEPCO would become an equal partner with NRG, industry officials predicted last week. “I think that we will definitely be looking for partners,” NRG CEO David Crane told reporters after a speech he gave in Washington, D.C. Feb. 18. The deal is subject to final approval of the CPS Energy Board of directors, who were expected to meet Feb. 22.

Settlement Contingent on Loan Guarantee

NINA’s payback to CPS for a portion of its investment is contingent on the recipient of a Department of Energy loan guarantee for the South Texas Project expansion—likely a reflection of the accusations in one suit filed by NRG that CPS’s wavering on the project during the past several months could harm STP’s chances to receive a loan guarantee. STP was short-listed for the loan guarantees earlier this year, but DOE offered the first conditional guarantee to Southern Company for its Vogtle project last week (*see related story*). “Upon receipt of a conditional Department of Energy loan guarantee, NINA will pay CPS Energy \$80 million—half paid promptly after award receipt and the other half six months later,” NRG said of the agreement in a statement last week.

Crane still believes the company is well situated with DOE for a loan guarantee, however—now that the dispute between the partners has been settled. “We were in a very good position with DOE before this very public dispute with our partner,” Crane said last week. “We’ve been kind of treading water with DOE for a couple of months now. We hope to be right back on track with DOE now.” NRG is also hopeful that the Japanese government’s foreign investment bank will also guarantee a portion of the project, given the significant Japanese content that is expected to go into the plant. Up to 30 percent of the components of the plant are expected to come from Japan, Crane said. NRG hopes to receive a loan guarantee from DOE for somewhere between 60 and 70 percent of total project cost, put 20 percent equity into the project, and make up the rest with a Japanese investment.

Texas Utility Commission Steps In

Although the companies had attempted to negotiate the dispute outside of court for the past several weeks—both before and after a Texas district court judge ruled that the contract between the two companies was silent on certain key issues (*NNB Monitor*, Vol. 29 No. 6)—it wasn't until the Texas Public Utility Commission got involved that the parties were able to reach an agreement. PUC Chairman Barry Smitherman “facilitated the discussions” after several weeks of negotiations, according to NRG. “We are very grateful to the Chairman for taking the initiative to help us achieve this agreement that allows Texas to reap the many benefits of this project,” NINA CEO Steve Winn said last week. “We are looking forward to working with San Antonio officials to secure the DOE loan guarantee necessary to proceed with the project.”

In addition to the ownership shift and the one-time payment, NINA agreed in the settlement to donate \$10 million over four years to San Antonio's Residential Energy Assistance Partnership program. CPS Energy will continue to support NINA's application as necessary and will pay all costs incurred until Jan. 31, 2010, but NINA will assume all management control for the project and cost incurred in the future, according to the settlement. All litigation filed by both sides will be dismissed “with prejudice” according to the agreement.

Satisfaction in San Antonio

CPS expressed satisfaction with the settlement last week. “This agreement extracts the maximum value for our community at this stage of the project's development,” CPS Acting Energy Manager JeLynne LeBlanc Burley said in a statement last week. “It accounts for our investment to date and the value of the site with land and water rights.” CPS values the total settlement at about \$1 billion, given the continued ownership stake the municipal utility will hold in the project. San Antonio Mayor Julián Castro, whose own reservations about the South Texas expansion kicked off the questions about CPS's investment in the project last year, also expressed pleasure about the settlement. Castro had said earlier this year that he did not believe CPS needed to hold 50 or even 40 percent of the project to provide for the city's future electricity needs. “I'm pleased the partners found a strong business solution that protects ratepayers and respects the value of our previous investments,” said San Antonio Mayor Julián Castro. “This outcome will provide San Antonio clean energy for decades, while ensuring that we don't have to put any more development dollars into the nuclear project.”

—Rebecca Cooper

U.S. FIRMS EMBARK ON MISSION TO UAE SEEKING NUKE-RELATED WORK

Second- and third-tier nuclear suppliers still have high hopes of doing business in the United Arab Emirates, despite the fact that the prime contractor hired by the U.A.E. government to build the reactors is South Korean firm KEPCO, industry officials said last week. Representatives from 35 companies were expected to leave for Abu Dhabi late last week to meet with U.A.E. government officials, as well as representatives from the Emirates Nuclear Energy Corporation, the country's state-sponsored nuclear utility. Although U.S. firm GE Hitachi was passed over for the lead role on the project, U.S.-U.A.E. Business Council president Danny Sebright said last week that the industry is encouraged by the possibility of a range of opportunities for second- and third-tier nuclear suppliers in the U.A.E. nuclear program. “Even though there is a prime selected, we believe U.S. second and third tier companies have almost a level playing field to bid or to be considered,” Sebright said.

Notably, Secretary of Energy Steven Chu will be in the U.A.E. during the visit by the nuclear industry officials as part of a broader trip to the Middle East. Chu will meet with UAE Minister of Energy Mohammed al Hamli and other government leaders on Feb. 24. “Secretary Chu's visit was arranged independently of ours,” Sebright said. “However, the Obama Administration is strongly supporting the U.A.E. nuclear energy program and when Secretary Chu's office found out of our visit, he was interested in the chance to meet with and show support for our group of U.S. companies while we are in the U.A.E. next week.”

Meetings Scheduled for This Week

During the mission, which is being led by both the U.S.-U.A.E. Business Council and the Nuclear Energy Institutes, the U.S. companies will be hosted by the ENEC organization in Abu Dhabi from Feb. 22-24. The purpose of the mission is three-pronged: for U.S. companies to meet with both ENEC and the KEPCO team as prime contractor (which includes U.S. reactor vendor Westinghouse), to meet with U.A.E. government officials, and to explore partnerships with possible commercial partners already located in the Middle Eastern nation. “We will have a significant exchange not only with ENEC but with the consortium countries—KEPCO and all of their partners—as well as meet with relevant government officials,” Sebright said.

The U.A.E. has said it will build as many as four nuclear reactors, with the stipulation that those reactors be of a design that has already been certified in the vendors' home

country. In addition to using its own suppliers, KEPCO is expected to work in conjunction with some domestic firms in the U.A.E.—which is where partnerships between U.S. and U.A.E. firms could be valuable. “We plan to talk to this group of companies about how to do business in the U.A.E., and how they could set up operations there,” Sebright said. While no U.S. government officials will accompany the mission, it will be certified by the Department of Commerce’s Foreign Commercial Service, and State and Commerce Department officials that are based in the American Embassy in Abu Dhabi will participate.

Opportunities for U.S. Companies

Both Sebright and NEI’s Lisa Stewart said last week that even though the prime contractor for the U.A.E. reactors is not a U.S. firm, there are encouraging signs that U.S. companies can stand to gain a significant amount of work there. “I think there’s a good relationship between all three countries—South Korea, the U.A.E. and the U.S.—and I think there are honest and good opportunities for our companies,” Stewart said. “We’re the first group that’s going to be meeting with the prime contractor and the consortia, so I think that shows a great interest in looking to U.S. companies.” American companies are also well-regarded around the world for nuclear components and technology, Sebright said. “U.S. companies still bring some of the best technological and manufacturing capability, processes, software and security practices to the table,” he said. “It’s very much in the U.A.E. interest to have the U.S. involved, not only from a political standpoint but from a commercial standpoint.”

KEPCO will likely be looking for contractors to work on “everything outside the nuclear island,” Sebright said. “These reactors will be built in areas where basic infrastructure will have to be created. It’s going to be a lot more involved in this than just the plants themselves.” He pointed out that “ENEC will be working hand in hand to ensure that the best in class at the best price is chosen and I feel very strongly that U.S. companies are going to have a really level playing field in competing for this second and third tier business,” he said. While ENEC is already beginning some site preparation now, Sebright said he would anticipate some of these subcontracts coming down the pike in the next 12 to 18 months.

The focus right now will be helping companies familiarize themselves with the region, and with the common business practices in the Middle East. “For an American company that’s never done any work in the region, some of the immediate challenges are going to be cultural, meaning the cultural aspects of how they do business there,” Sebright said. “One of the strengths of this delegation is that there is really going to be a lot of effort in helping create the

opportunities for these companies to see with whom to partner. Partnerships are a very big piece of how business is done in Middle East.”

—Rebecca Cooper

DOE FACING LAWSUIT THREAT OVER PLANS TO CANCEL YUCCA MOUNTAIN

Stakeholders at the Savannah River Site, Hanford Considering Legal Action to Reverse Stance

Elected officials and business leaders representing two of the Department of Energy’s main cleanup sites threatened legal action last week over the Obama Administration’s decision to cancel the planned national high-level waste repository at Yucca Mountain in Nevada. Publically leading the charge were lawmakers from the state of South Carolina, home to DOE’s Savannah River Site, who held an event at the South Carolina State House on Feb. 16 to lambast the Administration’s move.

“We’d respectfully but fervently disagree with the Obama Administration’s decision to abandon the 23-year bipartisan project establishing Yucca Mountain as the nation’s primary permanent nuclear waste storage site,” South Carolina Gov. Mark Sanford said in a statement after the event. “Not only does this spectacularly misguided decision break a decades-long promise made to South Carolina and other states, but it represents the same Chicago-style political patronage that this President has indeed campaigned against.” In a separate statement, South Carolina Attorney General Henry McMaster said his office has been researching “what legal avenues and remedies are available to South Carolina” since the Administration formally announced its decision to cancel the Yucca Mountain project.

The specter of a lawsuit over the end to the Yucca Mountain project is not limited to South Carolina and Savannah River, with business leaders near the Hanford site in Washington state also threatening legal action. In a Feb. 18 letter to President Barack Obama and Secretary of Energy Steven Chu, Barry Hartman, a lawyer with the Washington, D.C.-based firm K&L Gates, threatened to file a petition in federal court to block the decision on behalf of his clients—Bob Ferguson, Bill Lampson and Gary Petersen—unless the Administration reversed its stance. Ferguson has previously worked for DOE, the former Washington Public Power Supply System and as an entrepreneur. Lampson is president of Lampson International and vice chair for Hanford programs for the Tri-City Development Council (TRIDEC), an economic development group for the Hanford area in Washington state, while Petersen is TRIDEC’s vice president for Hanford programs. “In the interest of saving taxpayer dollars and

judicial resources, we respectfully request the opportunity to meet with your representatives to determine if this matter can be resolved without litigation, and in particular, what steps will be taken to withdraw the decision to abandon the Yucca Mountain site and to comply with the law,” Hartman wrote in his letter, obtained by *NNB Monitor*.

Four Cleanup Sites Could be Impacted

Four of DOE’s cleanup sites house various wastes that were intended to go to the Yucca Mountain repository. At Savannah River, DOE is in the process of vitrifying high-level waste taken from underground tanks at the site, with the resultant canisters full of glass to be shipped to a high-level waste repository. At Hanford, DOE is currently constructing a massive facility—the largest and most expensive construction project in the Department’s entire cleanup program—also intended to vitrify waste taken from underground tanks there for eventual disposal at a high-level waste repository. In addition, the West Valley Demonstration Project in New York state is home to approximately 275 canisters of vitrified waste intended for a high-level waste repository, while DOE’s Idaho site stores spent nuclear fuel that was destined to go to Yucca Mountain.

Stakeholders at both Savannah River and Hanford expressed concern last week over the potential cleanup impacts of the decision to cancel the Yucca Mountain Project. “The Yucca Mountain project provides a path out for the roughly 4,000 metric tons of nuclear waste temporarily housed at the Savannah River Site and other environmentally-sensitive areas across South Carolina today. Over the last 18 years, South Carolina ratepayers have contributed over \$1.2 billion to the Yucca Mountain project, and the Obama Administration’s recent decision means we will get nothing—literally nothing—in return,” Sanford said in his statement. “So for environmental and financial reasons—and to honor the promises made to this state and others—we’re asking the Obama Administration and Congress to recommit to the Yucca Mountain project.”

In his letter, Hartman wrote, “This final action abandoning the Yucca Mountain project creates the very danger that the DOE and Congress said should be avoided: environmental and human health risk arising from the continued existence of 121 sites where nuclear waste continues to be stored in ways far less safe than Yucca Mountain. Indeed, at the Hanford Site, leaking HLW [high-level waste] storage tanks have contaminated ground water and threaten the Columbia River, and the absence of a repository for its permanent disposal will only increase the costs and continue to expose the residents around the Hanford site to unacceptable environmental and human health risks.”

‘Blue Ribbon’ Panel to Develop Alternatives

In lieu of the Yucca Mountain repository, the Obama Administration has put together an expert panel to look at other options for the disposal of high-level waste, including that from DOE’s cleanup sites. “President Obama believes that nuclear power is a vital part of our energy mix which can create jobs and fuel our economy. As we move to expand nuclear power, the President is fully committed to ensuring that the nation meets our long term storage obligations for nuclear waste. That’s why he has established a bipartisan Blue Ribbon Commission, led by Lee Hamilton and Brent Scowcroft, to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle, including all alternatives for the storage, processing, and disposal of civilian and defense used nuclear fuel and nuclear waste,” DOE spokeswoman Jen Stutsman said in a statement last week.

However, Hartman wrote that the Obama Administration’s efforts to shut down the Yucca Mountain project, which include withdrawing a license application filed with the Nuclear Regulatory Commission, violate the Nuclear Waste Policy Act. “The NWPA requires that the Secretary follow very specific steps and undertake very specific obligations to assure that preparation and construction of the Yucca Mountain site proceeds forward quickly. Directing that the Secretary take Yucca Mountain ‘off the table’ and announcing that it is ‘no longer an option’ directly violates the law. The Secretary’s withdrawal of the NRC license application, and his announced intent to do so ‘with prejudice,’ his withdrawal of hundreds of other permit applications, his reassigning of employees, and other action both taken and planned in order to implement the Presidential directive to abandon the Yucca Mountain site also violates the NAPA,” Hartman wrote. “While it is possible that Congress might choose to change the law and consider other alternatives, until that happens the President has the legal and Constitutional obligation to uphold and follow that law and may not direct Cabinet officials to ignore it.”

—Mike Nartker

SPENT FUEL DISPOSITION TAKES CENTER STAGE FOR NUCLEAR INDUSTRY, PUCs

The huge question marks hanging over the future of spent nuclear fuel disposal in the wake of the Obama Administration’s decision to cancel the Yucca Mountain repository project were a key focal point as the nuclear industry and state utility commissioners gathered for separate meetings. Answers, though, were few and far between, especially when it comes to the potential effectiveness of the Blue

Ribbon Commission appointed by the President to study alternatives to Yucca Mountain and the path forward set forth by Secretary of Energy Steven Chu. "I am frankly a little concerned at the vision that [Chu] seems to have, that this is a long-term proposition and with advancing technology we can improve upon the technology of the past," Brian O'Connell, director of nuclear waste programs for the National Association of Regulatory Utility Commissioners said at the group's conference last week. Chu "takes the view ... that we can store waste for up to 100 years in its present configuration. ... That's a long period of time," O'Connell said.

Costs were the primary concern of Adam Levin, director of spent fuel and decommissioning for the Exelon Corporation, during his remarks at a Platts nuclear energy conference in Bethesda, Md. last week that the company currently stores about 230,000 cubic feet of used fuel at its 17 reactor sites. Levin estimated Exelon spent \$360 million from 2000-2009 on dry cask storage. "I would imagine the cost going forward would be between \$15-16 million dollars a year," he said. In addition to the cost, Levin said, "Dry cask storage is really a distraction from normal plant operations." Levin said that, until the outlook at long-term used fuel management changes, Exelon won't pursue new nuclear plant construction. "Our position right now is that we are not prepared to commit resources to a new plant build until there is some progress made with respect to long term waste management issues. We don't expect it to be resolved in order to move forward but we do need to see some progress."

Waste Issue an Impediment to Revival?

For her part, Allison MacFarlane, professor of environmental science at George Mason University and a member of the Blue Ribbon Commission, said at the Platts conference that she believes the lack of a repository will impact new nuclear plant projects, though she does not believe Yucca Mountain is the answer. "If we are going to experience a nuclear revival we are going to have more waste and that waste will become an issue that may hold up a nuclear revival," MacFarlane said. She cited that as one compelling reason to pursue another geologic repository, despite the failure to complete the Yucca Mountain project. "Are there alternatives to repositories? No. If there's any message I leave with you today, it's that no matter what, we need a repository, at least one," MacFarlane said. "There are other waste management strategies ... but in the end we will need a repository. We can't wish this stuff away." However, in a reflection of DOE's stance, MacFarlane did not show a sense of urgency to relocate the waste. "I don't think there's a rush to get this done in the near future," she said, "but I do at the same time see the need to

be slowly plugging away at this problem at a steady pace because it is a time-consuming issue."

MacFarlane said many approaches to planning for a disposal option could use rethinking. "We may need more than one repository, even if Yucca would work, because there are geologic constraints on the capacity at Yucca which never get talked about," MacFarlane said. "I think multiple repositories would restore a sense of fairness to the waste siting issue. And that's been lost and it needs to be recovered." MacFarlane also said she believes new siting criteria for a repository should be enacted, possibly along the lines of the criteria that the IAEA established in 2003. "Those would be: a site that is tectonically stable; a site that has relatively low groundwater flow; a site that is a geochemically reducing environment, and a site that is excavatable," MacFarlane explained. "There are many, many, many sites like that in our country."

Industry leaders and state officials, though, expressed hesitancy last week about whether the Blue Ribbon Commission will actually be able to do much good in finding a solution. "Is [the Blue Ribbon Commission] just a hack job?" O'Connell asked national utilities regulators at the NARUC conference. "I hope not. I hope this is a serious effort." O'Connell added that, though the mechanics of the Commission remains unclear at this point, "I do expect with the caliber of people on this Commission I think they won't meet very often. They will rely upon the staff that has yet to be assembled that should be able to draw from some experts in the field." Steve Kraft, senior director of used fuel management for the Nuclear Energy Institute, said, "They need to get a more strategic roadmap for [HLW management] policy going forward. ... I have heard from a DOE Assistant Secretary that currently the plan is to do extensive R&D for multiple decades ... I submit that is not enough. We need to have a better idea, we need a solution sooner. I think it's fair to say that the nation wants, needs, new nuclear plants."

Central Storage a 'No-Brainer'

NARUC's O'Connell pointed out last week that there are "at least nine locations where a reactor used to be but is otherwise not ready for turnover to other economic use because it is still stranded with spent fuel and the ancillary wherewithal of protecting it." It is "literally a no-brainer that that stuff should be rounded up and put in a central location where it could be more efficiently managed, at lower cost to the government, so we are going to push for that irrespective of the two-year period that this Commission will do its work," O'Connell said. He added that moving SNF from inactive reactor sites would be seen as an act of good faith to the communities. "It is something we can do to show to the rest of the communities that this

material eventually will get relocated,” he said, “a confidence builder if you will.”

At the NARUC conference, Marshall Cohen, senior director for state and local government affairs for NEI, outlined the agency’s efforts to identify a location for long-term centralized used fuel storage. “We have spent the last two years trying to develop an interim storage facility. . . . We have been going around the country, meeting with communities and talking with them, trying to do the politics right to see if we could find some interest in hosting and developing an interim facility,” Cohen said. “And so far, to this point, we have succeeded in doing that.” Cohen said NEI is in advanced discussions with at least three communities—one in particular, which he declined to identify beyond saying it was west of the Mississippi and had a history of nuclear involvement—and with “very significantly sized industrial companies” interested in operating the facility. “In our view, this would not be a government run and operated facility,” Cohen said. “This would be a private, NRC-licensed interim storage facility. . . . it would be a privately licensed facility, that the Department of Energy would be directed to pick up the fuel and move it, put it there and pay rent. That makes it easy for a business plan and adds to the viability of the industrial company.”

Reprocessing Facility a Benefit?

Though Cohen was optimistic about NEI’s efforts on establishing interim centralized storage to date, he said, “I am here to tell you, we continue to need to do a lot of politics on this.” Cohen suggested the cost of the facility could be paid for with the interest from the Nuclear Waste Fund. Also, “We do need a couple of policy changes here in Washington. It’s unfortunate, but we do need that,” Cohen said. “We think it’s important to set up a mechanism of community incentives for getting this facility built.” One benefit the community NEI is working most closely with has expressed interest in, Cohen said, is the possibility of nuclear fuel reprocessing. “They understand the compelling logic that says, if the fuel is stored there, when the country gets around the reprocessing and recycling, that’s where it’s going to be,” Cohen said. “There’s no need to move [the waste] twice if you have the right facility and the right type of land available, which in this community you do, you can put a reprocessing facility there.”

Taking the responsibility for long-term SNF management out of the hands of the federal government, at least partially, was floated in regards to a geologic repository as well. “We feel that it’s fair game to look into a different organizational arrangement,” O’Connell said at the Platt’s conference. “It is not cast in concrete that the Department

of Energy is necessarily the best organization to be implementing a program of this long-term nature. There are some who feel it might better be moved out of government, into the private sector where a bunch of the expertise on implementation resides anyhow.”

—Sarah Anderson

NUCLEAR INDUSTRY, NARUC PLAN LAWSUIT TO BLOCK WASTE FUND FEES

The Nuclear Energy Institute and the National Association of Regulatory Utility Commissioners plan to sue the government to stop the collection of fees they pay into the Nuclear Waste Fund, NEI President Marvin Fertel told Wall Street analysts at a briefing in New York last week. “The companies are collecting about \$800 million, about one-tenth of a cent per kilowatt hour, and they’re contributing that to the Nuclear Waste Fund. The basis for the fee level is set by a life cycle cost estimate for the project. Well, that project was Yucca. If you stopped Yucca Mountain and you haven’t defined a new project, we would say you don’t know whether the [fee] is right,” Fertel said. NEI and NARUC each petitioned Secretary of Energy Steven Chu in July to suspend the collection of fees in the Nuclear Waste Fund (*NNB Monitor*, Vol. 28, No. 27). “Our proposal to the Secretary, as was the regulators’ proposal, was just take a time out,” Fertel said. “Stop collecting money in a bad economy until you know the new project. Then decide what you need to collect. They refused that. I think we will go forward along with NARUC and file a lawsuit asking them to do that.” Fertel said electricity customers contribute more than \$750 million a year into the fund, which he estimates has “\$22 billion and earns more than \$1 billion a year in interest.”

Some states, such as Minnesota and South Carolina, have proposed legislation that would require state nuclear utilities to put money earmarked for a national nuclear waste repository instead into a state fund until the federal site begins operating. But Fertel said an NEI/NARUC lawsuit would be better for the industry, indicating that preventative action taken by states may put utility companies at risk of losing their operating licenses. “If a state takes an action that prevents a regulated utility from contributing to the Nuclear Waste Fund, it could create a problem . . . because of the fact that the operating license for a nuclear plant requires you to satisfy the Nuclear Waste Policy Act, which requires you to contribute to the Waste Fund,” Fertel said. “So our goal at NEI is to keep our companies out of the middle of an emotional battle and that’s what we will try and do as best we can. We will try to educate our friends in [the states] that they aren’t punishing the federal government as much as they think.”

Fertel added, "I think going forward, NARUC is committed to the lawsuit and I think that that may make some of

the state folks feel better that they are suing the federal government at least."

—Sarah Anderson

Wrap Up

IN THE INDUSTRY

Tom Sanders, president of the American Nuclear Society and manager of Global Nuclear Futures Program at Sandia National Laboratories, was recently appointed to the U.S. Department of Commerce's Civil Nuclear Trade Advisory Committee (CINTAC). The group advises Secretary of Commerce Gary Locke on issues related to programs that expand U.S. exports of civil nuclear technology and services in accordance with applicable regulations. It also provides advice from U.S. industry on how activities affect the domestic civil nuclear industry's competitiveness and ability to participate in the international market. "Most of today's global market is do-

minated by foreign industries," Sanders said in a statement last week. "Many foreign companies are owned outright or heavily subsidized by their national governments who rightfully believe that their ability to export nuclear goods and services is critical to their financial, energy and national security. Such ownership and subsidies aren't available to American companies."

USEC's Steve Penrod has been elected vice president of the company. He will also remain the Paducah Gaseous Diffusion Plant's general manager. Penrod has served as general manager of the Paducah plant since 2005. Prior to this assignment, he served as the plant manager for seven years. ■

Calendar

February

- 22 **Forum: Nuclear Energy Institute's Small Reactor Forum; L'Enfant Plaza Hotel, Washington, D.C.; Information: <http://www.nei.org/newsandevents/conferencesandmeetings>**
- 23 **Summit: Nuclear Energy Institute R&D Summit; L'Enfant Plaza Hotel, Washington, D.C.; Information: <http://www.nei.org/newsandevents/conferencesandmeetings>**

- 24 **Meeting: House Cleanup Caucus briefing on the DOE Office of Environmental Management with Assistant Energy Secretary for Environmental Management Ines Triay; 1334 Longworth House Office Building, Washington, D.C.; 8:00 a.m.-9:00 a.m.**

March

- 2-3 **Conference: Nuclear New Build—2010 Nuclear's Next Generation; Queen Elizabeth II Conference Centre, Westminster, London; Info: <http://nnb10.nuclearinst.com>.**

(Changes from previous Calendar in Bold)



The *NNB Monitor* is a weekly publication (50 issues a year) providing in-depth coverage of all facets of the nuclear 'renaissance,' including: New Plant Licensing; Financing & Loan Guarantees; Advanced Reactors; Fuel Fabrication; Uranium Enrichment; NGNP and other DOE Initiatives; Reprocessing; and Safeguards.

YES! Please enter my subscription for one full year at \$1,295.00*.

Standard Delivery** *(Delivered in PDF form via email)* Print Delivery *(Delivered via mail)*

Check Enclosed Charge My: VISA MC AMEX
(Circle One)

Card No.: _____

Expiration Date: _____

Cardholder's Name: _____

Billing Address: _____

Name: _____

Title: _____

Affiliation: _____

Address: _____

City: _____

State/Province: _____ Zip: _____

Tel.: _____ Fax: _____

Email: _____

I would like information on rates for Multi-user/Enterprise/Site Subscriptions

Fax to: 202-296-2805 or Mail to: ExchangeMonitor Publications, Inc., Attn.: Subscription Services; PO Box 39289, Washington, DC 20016; For more information email: subservices@exchangemonitor.com or call 1-800-776-1314 ext. 101.

* Effective 10/1/94 all subscriptions within the District of Columbia MUST add 5.75% sales tax to amount due.
** Due to copyright purpose, all recipients asked to sign electronic subscription agreement

EXCHANGEMONITOR PUBLICATIONS, INC. is the publisher of the *Weapons Complex Monitor* (50 issues/year \$1,595); *Nuclear Weapons & Materials Monitor* (50 issues/year \$1,495); *Nuclear New Build Monitor* (50 issues/year \$1,295); *RadWaste Monitor* (24 issues/year \$895); and *GHG Transactions & Technologies* (50 issues/year \$1,295). The annual subscription rate for foreign subscription is \$40 additional. Email/Multi-users/Enterprise/Site Subscriptions available. Correspondents are located in Oak Ridge, Tenn.; Albuquerque, N.M.; Amarillo, Texas; Cumbria, U.K.; and Moscow, Russia. All subscription inquiries to: ExchangeMonitor Publications, Inc. Attn.: Subservices; P.O. Box 39289, Washington, DC 20016-5782; Tel.: 1-800-776-1314 or 202-296-2814 ext. 101; Fax: 202-296-2805; e-mail: subservices@exchangemonitor.com. Editorial Comments to: ExchangeMonitor Publications, Inc. Attn.: Martin Schneider, Editor-in-Chief; 4455 Connecticut Avenue, N.W., Suite A-700, Washington, DC 20008; Tel.: 202-296-2814 ext. 105; Fax: 202-296-2805; e-mail: schneider@exchangemonitor.com. Visit our web page at <http://www.exchangemonitor.com>. Copyright ©2010 by ExchangeMonitor Publications, Inc. Printed in Washington, DC by Sir Speedy. All right reserved. No part of this publication or may be reproduced by any means (photocopied, electronic submission, etc.) without written permission of the publisher.