

STATE OF VERMONT

PUBLIC SERVICE BOARD

Petition of Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., for a certificate of public good, pursuant to 30 V.S.A. § 248 and 10 V.S.A. § 6522, authorizing the construction of a second independent spent fuel storage installation storage pad and related improvements, including installation of a new diesel generator with an electrical rating of approximately 200 kW, at the Vermont Yankee Nuclear Power Station in the Town of Vernon, Vermont

Docket No. 8300

RESPONSE OF ENTERGY NUCLEAR VERMONT YANKEE, LLC, AND
ENTERGY NUCLEAR OPERATIONS, INC., TO THE AGENCY OF NATURAL
RESOURCES' SECOND SET OF INFORMATION REQUESTS

This is the response of Entergy Nuclear Vermont Yankee, LLC ("ENVY"), and Entergy Nuclear Operations, Inc. ("ENO"), (ENVY and ENO will be referred to collectively as "Entergy VY") to the Agency of Natural Resources' ("ANR") Second Set of Information Requests. Entergy VY is filing one complete copy of its responses with the Board, with two copies served on the ANR (plus an electronic copy in Word format) and one copy served on each other party of record.

GENERAL OBJECTIONS:

1. Entergy VY objects to the "Instructions and Definitions" contained in the ANR's Second Set of Information Requests to the extent such instructions purport to place greater requirements on Entergy VY or reserve greater rights to the ANR than are permitted by the Vermont Rules of Civil Procedure, as made applicable to Board proceedings by Board Rule 2.214(A).
2. Entergy VY objects to any request for information or production of documents that is or , are subject to the attorney-client privilege, constitute work product, are protected under state or federal law or are proprietary or confidential, constitute draft and/or non-final documents and/or communications containing or concerning same. Consistent with the foregoing, Entergy VY has not provided documents from inside or outside counsels' files.
3. Entergy VY objects to the requests for documents or information relating to matters within the primary or exclusive jurisdiction of the U.S. Nuclear Regulatory Commission ("NRC"). Entergy VY will respond to ANR's requests herein noting its continued objection to the State of Vermont's assertion of jurisdiction over matters for which the federal government and the NRC have exclusive jurisdiction, including such exercise of its jurisdiction under

Section 248 of Title 30, Vermont Statutes Annotated and Chapter 157 of Title 10, Vermont Statutes Annotated.

4. Entergy VY objects to requests that are overbroad or unduly burdensome to the extent that they (a) are cumulative; (b) call for the production of documents not in the possession, custody or control of Entergy VY or their expert witnesses; (c) call for the review, compilation or production of publicly-available documents that could be obtained by the requesting party in a less burdensome manner, including on a public website; or (d) call for the review, compilation and/or production of a voluminous number of documents, *e.g.*, of questionable relevance and/or at a significant expense.

5. Entergy VY objects to the purported requirement that it identify, with respect to each request, the "name(s) and title(s) of the person or persons responsible for preparing the response," the "administrative unit which maintains the records being produced or maintains the data from which the answer was prepared," and "the date on which each question was answered," as being unduly burdensome and beyond the requirements of the discovery rules. Without waiving any objections, Entergy VY states that the foregoing responses have been prepared by identified Entergy VY personnel, including in conjunction with its consultants, advisors, and/or expert witness(es), and with assistance from Entergy VY's in-house and outside counsel.

6. Entergy VY objects to the purported requirement that it identify every person who prepared each document produced and the date on which the document was prepared as being overly broad and unduly burdensome and beyond the requirements of the discovery rules.

7. Entergy VY objects to any requests for documents or information beyond the scope of this tribunal's jurisdiction, including without limitation to the extent that (a) primary jurisdiction rests more properly with, and/or actually has been exercised by, another agency or tribunal, or (b) the document, legal issue or factual information in question has been otherwise determined by another agency or tribunal of competent jurisdiction.

8. Entergy VY objects to any instruction contained in ANR's Second Set of Information Requests purporting to require Entergy VY to provide information in response to sub-parts of a question that are additional or different to that which is expressly requested in the introductory section of the question. Accordingly, where a request makes particular reference to, or is made in the context of, a specific filing or inquiry, Entergy VY shall limit its responses and objections to that filing or inquiry as appropriate.

9. Each of these General Objections shall be incorporated by reference into the below-referenced objections and responses as if expressly restated therein. Entergy VY does not hereby waive any objections and reserves the right to later raise any additional, available objection.

Discovery Questions

Q.ANR:EN.2-1: Please identify and describe all non-radiological waste activities that have taken place at the North Warehouse since the building was constructed.

- a. For each non-radiological waste activity identified, please identify all persons that have information about the activity.
- b. Please produce any and all documents that relate to non-radiological waste activities at the North Warehouse.

A.ANR:EN.2-1: **OBJECTION.** Entergy VY objects to this request as vague, not reasonably limited in scope or time, and not reasonably calculated to lead to the discovery of admissible evidence. Entergy VY further objects to the request for "any and all documents that relate to non-radiological waste activities at the North Warehouse" as overbroad and unduly burdensome. In addition, Entergy VY objects to the extent the request calls for the production of information or documents not in the possession, custody or control of Entergy VY or their expert witnesses. Entergy VY also objects to the extent this request calls for the production of information that is publicly available and could be obtained by ANR in a less burdensome manner.

Without waiving its objections, Entergy VY states that the North Warehouse was constructed over 40 years ago by the VY Station's former owner. Entergy VY understands that the VY Station's former owner used the North Warehouse as a short term storage area for hazardous waste and universal waste. Entergy VY also used the North Warehouse for this purpose until approximately 2006. The waste was stored and then shipped for disposal via a qualified waste disposal vendor. The types of **non-radiological waste that may have been temporarily stored in this location would have included:**

- **Universal Waste batteries**
- **Universal Waste bulbs**
- **PCB ballasts**
- **Non-PCB ballasts**
- **Mercury containing devices**
- **Used oil**
- **D002 Hazardous Waste**
- **D001 Oily rags and absorbents**
- **D001 Paint related waste**
- **D001 Flammable Aerosols**
- **Ethylene glycol**
- **Computer parts**

- a. As explained above, the North Warehouse was constructed by the former owner over 40 years ago. Consequently, Entergy VY is unable to identify "all persons" having any information about any non-radiological waste activities that may have occurred at the North Warehouse during this time period. Mr. Jeffrey Wagner, Senior Project Manager, oversaw the preparation of the October 2014 Vermont Yankee Site Assessment Study and currently has primary responsibility for overseeing non-radiological waste activities at the Vermont Yankee Station. In addition, in 2014, Entergy VY retained Radiation Safety & Control Services to prepare a Non-Radiological Historical Site Assessment, and in 2001, the former owner retained Environmental Compliance Services, Inc. to prepare an Environmental Site Assessment. In addition, as indicated in Attachment A.ANR:EN.2-1 (2001 Phase I and II Environmental Site Assessment), Clean Harbors, Inc., Advanced Recovery, Inc. and Tri-State Automotive have previously provided various disposal services for non-radiological waste stored at the North Warehouse.

- b. Entergy VY is producing non-radiological site assessments sufficient to show the general types of non-radiological waste activities that are known to have occurred at the North Warehouse. The 2014 Non-Radiological Historical Site Assessment prepared by Radiation Safety & Control Services is publicly available at <http://vydecommissioning.com/wp-content/uploads/2014/10/SAS-Appendix-F-VY-Non-Radiological-Historical-Site-Assessment.pdf> . See Attachment A.ANR:EN.2-1 (2001 Phase I and II Environmental Site Assessment).

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.2-2: Has Entergy VY, or any of the previous owners or operators of the Vermont Yankee Station, stored and/or burned PCB contaminated waste oil in the North Warehouse?

A.ANR:EN.2-2: OBJECTION. Entergy VY objects to this request as not reasonably limited in time and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Entergy VY objects to the extent the request calls for information not in the possession, custody or control of Entergy VY or its expert witnesses.

Without waiving its objections, Entergy VY states that it has neither stored nor burned PCB contaminated waste oil in the North Warehouse. Entergy VY's investigations (*see* A.ANR:EN.2-1) did not find any evidence that the previous owners/operators of the VY Station stored or burned PCB contaminated waste oil in the North Warehouse.

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.2 -3: If PCB contaminated waste oil has been stored and/or burned in the North Warehouse:

- a. Please identify all persons that have information about the storage and/or burning of PCB contaminated waste oil in the North Warehouse.
- b. Please produce any and all documents related to the storage and/or burning of PCB contaminated waste oil.
- c. Please identify and describe all steps Entergy VY has taken, and/or will take, to evaluate whether PCB contaminated oil has spilled and/or was not burned completely.

A.ANR:EN.2-3: *See A.ANR:EN.2-2.*

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.2-4: Regarding the testimony of George Thomas on page 11:

"Once the tools, materials and equipment are removed from the warehouse, a radiation survey, a lead paint survey and an asbestos survey will be conducted of the building and the waste-oil burner located in the building. Areas requiring remediation will be identified and marked according."

- a. Please explain why Mr. Thomas' testimony does not indicate that Entergy VY will perform a survey and assessment for PCBs.
- b. Please identify and describe all steps Entergy VY will take to survey, assess, and remediate PCBs present in the North Warehouse.

A.ANR:EN.2-4: OBJECTION. Entergy VY objects to this request as not reasonably calculated to lead to the discovery of admissible evidence. Entergy VY further objects to the form of the request, to the extent it assumes facts that are not in the record of this proceeding.

Without waiving its objections, Entergy VY states:

- a. *See* A.ANR:EN.2-4b. Mr. Thomas' testimony provided a general description of the process for preparing the North Warehouse for removal and was not intended to provide a comprehensive listing of all of the surveys and assessments that Entergy VY plans to perform in the North Warehouse.
- b. Subsequent to Mr. Thomas' June 30, 2014 prefiled testimony and May 11, 2015 supplemental testimony, Entergy VY performed a PCB assessment of the painted surfaces in the North Warehouse. The PCB-content in the paint was found to be less than the allowable regulatory limits for PCBs. *See* Attachment A.ANR.EN.2-4. Based upon the information available to Entergy VY, the known material containing PCBs (fluorescent bulbs, ballasts, etc.) stored in the North Warehouse was properly stored with no record of degradation. Therefore, there are no plans to remediate PCBs.

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Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.2-5: Regarding the testimony of George Thomas on page 12-13:

"The aboveground, fuel oil storage tank will have a capacity of approximately 1,250 gallons. The fuel tank will be surrounded by an approximately 1,400 gallon rupture basin which contains a leak detection switch to detect a fuel oil leak from the storage tank. The fuel oil storage tank and the rupture basin will be mounted within the foundation base which is located between the enclosure and the foundation pad."

a. Please explain how the installation and operation of the new fuel oil storage tank will comply with the Vermont Aboveground Storage Tank Rules.

A.ANR:EN.2-5: OBJECTION. Entergy VY objects to this request to the extent it calls for a legal conclusion.

Without waiving its objections, Entergy VY states that the installation and operation of the new aboveground storage tank, associated with the new U.S. Environmental Protection Agency Tier 2-rated emergency diesel generator, will be compliant with the applicable Sections of the Vermont Aboveground Storage Tank Rules. The fuel tank is double-walled and is equipped with an interstitial space monitoring system that will send an alarm to a computer located in a continuously-manned location in the event a fuel leak is detected. The entire unit (i.e., the diesel generator, fuel tank and piping) will be fully enclosed. Two vents will extend through the roof of the enclosure. Any emergency or accidental release of fuel will be reported as required in § 9-103 of the Vermont Aboveground Storage Tank Rules (emergency and corrective actions). Entergy VY expects to adopt a procedure that calls for site personnel to walk through the enclosure to perform a visual inspection once per day and to conduct and observe periodic test and maintenance runs of the diesel generator. These activities will provide further opportunities for Entergy VY to detect any fuel leaks.

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.2-6: Regarding George Thomas' testimony on page 12 about removal of the old fuel oil storage tank:

"Any soil or debris contaminated with petroleum products will be handled in accordance with the requirements of the Vermont Hazardous Waste Management Rules."

- a. Please identify and describe the steps Entergy VY will take to evaluate contamination in the excavated soil or debris.
- b. Please explain how Entergy VY will address soil or debris contaminated by non-radiological contaminants other than petroleum.

A.ANR:EN.2-6: OBJECTION. Entergy VY objects to this request as vague and calling for speculation. Entergy VY further objects to the form of the request, to the extent it assumes facts that are not in the record of this proceeding.

Without waiving its objections, Entergy VY states:

- a. Entergy VY or its contractor plans to retain an experienced underground storage tank closure contractor or subcontractor to remove the 175 kW diesel generator's fuel oil storage tank. The underground storage tank closure contractor will be responsible for generating the closure plan, overseeing the removal of the tank, performing the necessary closure monitoring and sampling, and preparing and submitting the closure report to ANR's Waste Management Division. The Vermont Underground Storage Tank Rules (October 1, 2011) and UST Closure and Site Assessment Requirements (June 2010) will be used to design the removal and monitoring plan. Excavated soil or debris will be inspected for staining and screened with a Photo-Ionization Detector during the removal activities. Soil or debris indicating the presence of petroleum contamination will be segregated during the excavation process, reported to the ANR in accordance with the Underground Storage Tank Rules and stored on-site until the proper disposition of the soil can be determined. Excavated soil will be sampled and surveyed for the presence of radioactive contamination as part of the disposition evaluation.
- b. Entergy VY's investigation supporting the September 2014 Non-Radiological Historical Site Assessment that was submitted with the Site Assessment Study did not identify the potential for non-radiological, non-petroleum contaminants being present in this portion of the VY Station site. If during the excavation non-radiological contaminants are suspected in the excavated soil or debris based on visual indication, odor, or the professional opinion of the environmental consultant, then Entergy VY will collect samples of the soil or debris and have the samples analyzed by an appropriate laboratory to determine the disposal options for the excavated soil and/or debris. Suspect soil and/or debris will be stored at the site while disposal options are being evaluated.

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.2-7: Regarding the testimony of George Thomas on 16-17 re excavated soil:

- a. Please identify and describe the steps Entergy VY will take to evaluate contamination in the excavated soil or debris.
- b. Please explain how Entergy VY will address soil or debris contaminated by non-radiological contaminants other than petroleum.

A.ANR:EN.2-7: OBJECTION. Entergy VY objects to this request as vague and calling for speculation. Without waiving its objections, Entergy VY states:

- a. Entergy VY assumes that subpart (a) of the request refers to both radiological and non-radiological contamination in the excavated soil or debris. During the excavation of the area described in Mr. Thomas' testimony, Entergy VY plans to perform scans and soil sampling of the excavated soil and the final contours of the excavation for the presence of radioactive material. Entergy VY's review of the September 2014 Non-Radiological Historical Site Assessment that was submitted with the Vermont Yankee Site Assessment Study did not identify any known non-radiological soil contamination issues in this portion of the site. If excavation exposes soil that is suspected of having potential non-radiological contamination based on soil staining or odor, the material will be segregated and stored on site pending sampling and analysis to identify potential non-radiological contaminants in the soil.
- b. As noted above, a review of the Non-Radiological Historical Site Assessment did not identify any known non-radiological soil contamination issues in this portion of the site. If non-radiological contamination is suspected in excavated soil or debris, then the soil and/or debris will be segregated and stored on site pending sampling and analysis. Once Entergy VY is able to determine the constituents, matrix, and volume of any non-radiologically contaminated soil and/or debris, it will then be able to determine the appropriate disposition for the material.

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Requests to Produce

Q.ANR:EN.RTP 2-1: To the extent not already provided in the June 17, 2015 Response of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operation's Inc., to the Agency of Natural Resources' First Set of Information Requests, please produce any and all documents regarding, relating to, referencing, or concerning the geological and seismological characteristics used by Sargent & Lundy to perform its analysis related to the seismic response and design of the Second ISFSI storage pad.

A.ANR:EN.RTP.2-1: OBJECTION. Entergy VY incorporates by reference its objections to ANR:EN.RTP.1-1.

Without waiving its objections, Entergy VY states that it is unaware of any additional documents that are responsive to this request that have not yet been produced.

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.RTP 2-2: Please produce all documents requested in the information requests.

A.ANR:EN.RTP.2-2: *See Attachments A.ANR:EN.2-1 and A.ANR:EN.2-4.*

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.ANR:EN.RTP 2-3: Please produce any and all documents identified, referenced, relied upon, or referred to in responding to these information requests.

A.ANR:EN.RTP.2-3: *See Attachments A.ANR.EN.2-1 and A.ANR:EN.2-4.*

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

As to objections where responsive information was provided over stated objections:

St. Johnsbury, Vermont. July 20, 2015.

Respectfully submitted,

ENTERGY NUCLEAR VERMONT
YANKEE, LLC, AND ENTERGY
NUCLEAR OPERATIONS, INC.

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