

STATE OF VERMONT

PUBLIC UTILITY COMMISSION

Joint Petition of NorthStar Decommissioning Holdings, LLC, NorthStar Nuclear Decommissioning Company, LLC, NorthStar Group Services, Inc., LVI Parent Corp., NorthStar Group Holdings, LLC, Entergy Nuclear Vermont Investment Company, LLC, and Entergy Nuclear Operations, Inc., and any other necessary affiliated entities to transfer ownership of Entergy Nuclear Vermont Yankee, LLC, and for certain ancillary approvals, pursuant to 30 V.S.A. §§ 107, 231, and 232)

Docket No. 8880

RESPONSES OF THE AGENCY OF NATURAL RESOURCES TO JOINT PETITIONERS’ FIRST SET OF INFORMATION REQUESTS

This is the response of the Agency of Natural Resources (“ANR” or “Agency”) to the First Set of Information Requests (“Requests”) made by NorthStar Decommissioning Holdings, LLC; NorthStar Group Holdings, LLC; LVI Parent Corporation.; NorthStar Group Services, Inc.; NorthStar Nuclear Decommissioning Company, LLC (collectively, “NorthStar”); Entergy Nuclear Vermont Investment Company, LLC (“ENVIC”); and Entergy Nuclear Operations, Inc. (“ENOI”); (together with NorthStar, “Petitioners”). The ANR is filing one complete copy of its responses with the Board, with two copies served on ENVY and one copy served on each other party of record.

GENERAL OBJECTIONS

- A. The Agency objects to the Requests on the grounds and to the extent that they seek responses that are subject to any or all of the following privileges: (i) the attorney-client privilege; (ii) trial preparation privilege; (iii) executive privilege, or that are otherwise privileged or protected from disclosure.
- B. The Agency objects to the Requests and/or the Requests’ Instructions and Definitions on the grounds and to the extent that they are overbroad, unduly burdensome and oppressive, purport to impose obligations on the Agency that are beyond the scope of the Public Service Board Rules or the Vermont Rules of Civil Procedure or other applicable law, cannot be produced without undue burden to the Agency and/or that require an unreasonable investigation on the part of the Agency in order to be produced, or purport to require the Agency to create documents responsive to any such Requests.

- C. The Agency objects to the Requests to the extent that they seek the production of documents and information already in the possession of, or publicly available to, or readily obtainable to the Petitioner and their counsel, on the ground that with respect to such production, Petitioner's Requests are thereby rendered unduly burdensome.
- D. The Agency objects to the Requests to the extent that they seek the production of documents and information in the possession, custody or control of entities other than the Agency, on the ground that such demanded production is beyond the scope of the Public Service Board Rules or the Vermont Rules of Civil Procedure and other applicable rules and law.
- E. The Agency expressly reserves the right to supplement, clarify, revise or correct any or all of the responses herein at any time. By making any response to the Requests, the Agency does not waive, and hereby expressly reserves, the right to assert any and all objections as to the admissibility of such responses into evidence at the time of trial of this action, or in any other proceeding, on any and all grounds, including but not limited to, competency, relevance, materiality and privilege. Further, the Agency provides the responses herein without in any manner express or implied admitting that the items in the Requests or in any response thereto are relevant or material to the subject matter of this proceeding.
- F. These General Objections are made in response to each of the below-referenced objections and responses as if the objections were fully set forth therein. The ANR does not waive any objections and reserves the right to later raise any additional, available objections.

Q.JP:ANR.1-1: Identify each communication Mr. Schwer has had with any party to this proceeding concerning Joint Petitioners' petition for a Certificate of Public Good, including (1) the method of communication, (2) the date of the communication, (3) the parties to the communication, (4) any other parties who witnessed or heard the communication and (5) identify and produce all documents concerning such communications.

A.JP:ANR.1-1: Objection. B, C. Without waiving these objections, the Agency responds:

ANR interprets this request as seeking communications between Mr. Schwer and any party to this proceeding other than ANR concerning the petition for a Certificate of Public Good.

I have had no communications with any party about the joint petition since the filing of Joint Petitioners' petition for a Certificate of Public Good on December 16, 2016.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-2: Identify each communication Mr. Schwer has had with any non-party (including, without limitation, any federal or state agency, organization or entity), concerning Joint Petitioners' petition for a Certificate of Public Good, including (1) the method of communication, (2) the date of the communication, (3) the parties to the communication, (4) any other parties who witnessed or heard the communication and (5) identify and produce all documents concerning such communications.

A.JP:ANR.1-2: Objection. A, B, C. Without waiving these objections, the Agency responds:

I have had no communications with any non-party about the joint petition since the filing of Joint Petitioners' petition for a Certificate of Public Good on December 16, 2016.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-3: Identify, list and produce all exhibits to be introduced or used at hearing in support of the prefiled testimony of Mr. Schwer in this proceeding.

A.JP:ANR.1-3: I am uncertain what exhibits I will introduce or use at the hearing. However, I may introduce the following documents (exhibits to my pre-filed testimony) at the hearing:

- Exhibit ANR-CS-1
- Exhibit ANR-CS-2
- Exhibit ANR-CS-3
- Exhibit ANR-CS-4
- Exhibit ANR-CS-5
- Exhibit ANR-CS-6
- Exhibit ANR-CS-7
- Exhibit ANR-CS-8
- Exhibit ANR-CS-9

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-4: Identify, list and produce all documents, data compilations, electronically stored information, photographs, workpapers, or other tangible things provided to, exchanged with, prepared by, reviewed by, relied upon or used by Mr. Schwer in developing his prefiled testimony and the opinion(s) underlying his prefiled testimony, including, but not limited to, all exhibits to his prefiled testimony.

A.JP:ANR.1-4: Objection. A, B, C. Without waiving these objections, the Agency responds:

- Joint Petition for Docket 8880, filed by Joint Petitions on December 16, 2017 (“the Joint Petition”)
- Information in discovery produced by Joint Petitioners on 4/25/2017, 5/31/2017, 6/1/2017, 6/15/2017, 7/21/17, 8/3/2017, and 8/15/2017
- All exhibits to my pre-filed testimony (ANR-CS-1 through ANR-CS-9)
- Drafts of pre-filed testimony of Gerold Noyes and exhibits
- Drafts of pre-filed testimony of Steve Simoes and exhibits

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-5: Identify and describe all previous work Mr. Schwer has undertaken with regard to site restoration standards and produce all documents relating to all previous work Mr. Schwer has undertaken with regard to site restoration.

A.JP:ANR.1-5: Objection. A, B. Additionally, the Agency objects to the question as vague and ambiguous with regard to what is meant by “undertaken”. The Agency also objects to the question as vague and ambiguous with regard to what is meant by “site restoration standards”. Without waiving these objections, the Agency responds:

The scope of my current job duties as Director of ANR’s Waste Management and Prevention Division and, my former duties as Section Chief of the Sites Management Section of the Division prior to my current position, include the following work on site restoration-related activities:

- Management of individual contaminated properties located in Vermont, including the review and implementation of applicable investigation and environmental remedial standards and requirements; and
- Oversight of the development of the current Investigation and Remediation of Contaminated Properties Rule (effective July 27, 2017), and iterations of the former Investigation and Remediation of Contaminated Properties Procedure (IROCPP).

See also my prefiled testimony at A.1 through A.3 (pages 2 – 4) and A.6 (page 5).

The following is being produced with this response:

See the Agency’s electronic database of hazardous site information:

<https://anrweb.vt.gov/DEC/ERT/Hazsites.aspx>.

To view a list of all sites managed by the WMPD and additional site information, select “Export All Hazsites to Excel”.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-6: Identify and describe all previous work Mr. Schwer has undertaken with regard to creating or evaluating cost estimates for nuclear decommissioning or site restoration projects and produce all documents relating to all previous work Mr. Schwer has undertaken with regard to creating or evaluating cost estimates for site restoration or nuclear decommissioning projects.

(a) Identify all regulatory proceedings by jurisdiction, date, docket number and name in which Mr. Schwer has testified or provided consulting or expert support for witnesses testifying on cost estimates for nuclear decommissioning or site restoration projects.

A.JP:ANR.1-6: Objection. A, B. Additionally, the Agency objects to the question as vague and ambiguous with regard to what is meant by “undertaken”. The Agency also objects to the question as vague and ambiguous with regard to what is meant by “site restoration projects” in the context of the question. Without waiving these objection, the Agency responds:

I have never created a cost estimate for a nuclear decommissioning project, and I have not previously evaluated a cost estimate for a nuclear decommissioning project prior to this proceeding.

Within the scope of my current job duties as Director of ANR’s Waste Management and Prevention Division and my former duties as Section Chief of the Sites Management Section of the Division prior to my current position, I have personally reviewed or have overseen the review of cost estimates related to the proposed investigation and/or remediation of sites contaminated by non-radiological hazardous constituents. Generally, these types of cost estimates are developed by site owners or operators through use of a third-party consultant for purposes of obtaining reimbursement of funds for such work from the Petroleum Cleanup Fund, or “PCF”) (see 10 V.S.A. § 1941).

Additionally, within the scope of my duties at ANR, I have reviewed or overseen the review of cost estimates prepared for disbursement of funds from the State’s Environmental Contingency Fund, or “ECF” (see 10 V.S.A. 1283). These cost estimates are prepared for activities related to investigation and remediation of sites contaminated by non-radiological hazardous constituents where a responsible party is unknown or cannot be identified, or were a responsible party is unable to perform such activities to address the contamination, and as such, the Secretary has the authority to expend ECF funds to address the contamination.

Annual reports of expenditures from the PCF for the last two years are being produced as Attachments A.JP:ANR.1-6(a) and A.JP:ANR.1-6(b). Annual reports of expenditures from the ECF for the last two years are being produced as Attachments A.JP:ANR.1-6(c) and A.JP:ANR.1-6(d).

Additionally, I have reviewed and oversee the review of cost estimates that are required to be prepared for work to address non-radiological contamination of site pursuant to consent orders or settlement agreements. Those costs for the last two years are being produced as Attachments A.JP:ANR.1-6(e) and A.JP:ANR.1-6(f).

Lastly, I oversee staff within the Waste Management and Prevention division that review requests for grant and loan funding to perform remedial and corrective action work at Vermont brownfield sites. These costs from the last two years are being produced as Attachments A.JP:ANR.1-6(g) and A.JP:ANR.1-6(h).

The following documents are being produced with this response:

- Attachment A.JP:ANR.1-6(a)
- Attachment A.JP:ANR.1-6(b)
- Attachment A.JP:ANR.1-6(c)
- Attachment A.JP:ANR.1-6(d)
- Attachment A.JP:ANR.1-6(e)
- Attachment A.JP:ANR.1-6(f)
- Attachment A.JP:ANR.1-6(g)
- Attachment A.JP:ANR.1-6(h)

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-7: Identify whether Mr. Schwer previously has testified as to the adequacy of financial assurances in any proceeding. Produce any such testimony.

A.JP:ANR.1-7: Objection. The Agency objects to the question as vague and ambiguous with regard to what is meant by “adequacy” and what is meant by “financial assurances”. Without waiving this objection, the Agency responds:

I have not testified as to the adequacy of financial assurances in any proceeding before an administrative agency, the Public Utility Commission, or a court of law. I have filed an affidavit in support of the State of Vermont’s Petition for Leave to Intervene and Hearing Request in the License Transfer Proceeding (Docket No. 50-271-LT-2) before the Nuclear Regulatory Commission (see Exhibit ANR-CS-2). In that affidavit, I state in provision (12) that:

“The lack of a complete non-radiological site investigation and characterization creates significant uncertainty regarding what is required and what it will ultimately cost to clean up non-radiological pollution and complete site restoration. This also means that the Agency is not able to determine at this time whether the work plan and related cost estimates for non-radiological clean up and site restoration that Entergy and NorthStar rely upon in the PSDAR, revised PSDAR, and related filings are sufficient to address non-radiological pollution at the VY site. Because the Vermont Yankee site has not been fully investigated and characterized for non-radiological contamination, there is a risk of cost overruns.”

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-8: Identify the date by which the VY Station must provide a “complete non-radiological site investigation and characterization” (page 5, lines 8-9). Identify any document supporting the date chosen.

A.JP:ANR.1-8:

See A.7 and A.8 of the prefiled testimony of Gerold Noyes (pages 4 – 6).

See also Exhibit ANR-GN-2, 10 V.S.A. §§ 6615a and 6615b.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-9: Describe Mr. Schwer's understanding of ANR's jurisdiction over site restoration activities that take place in conjunction with radiological decommissioning.

A.JP:ANR.1-9: Objection. The Agency objects to the question as vague and ambiguous as to what is meant by "in conjunction with." ANR also objects to the question to the extent that it seeks a legal conclusion. Without waiving these objection, the Agency responds:

I describe the scope of ANR's regulatory authority over non-radiological materials and non-radiological waste-related activities, including the Agency's authority regarding investigation and corrective actions and the establishment of site restoration standards governing environmental remediation, in my pre-filed testimony at **A.7** on pages 6 – 7. In that response, I also state my understanding that the Petitioners do not contest ANR's jurisdiction over non-radiological site restoration standards at the VYNPS site based on paragraph 5 of the Docket 7862 MOU (adopted by Board Order on March 8, 2014), which states that "EVY expressly acknowledges the State's jurisdiction over site restoration."

Additionally, ANR rules do not exempt nuclear power plants from compliance with rules where a rule is not preempted by the Atomic Energy Act.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-10: Describe Mr. Schwer's understanding of "[r]emoval of all structures," as used on page 9, line 1, and the basis for that understanding.

- (a) State specifically whether Mr. Schwer understands this phrase to include the removal of foundations drilled into the bedrock below the VY Station site.

A.JP:ANR.1-10:

My understanding of the quoted phrase is that this standard requires all structures, including all foundations and underground structures, to be removed. This understanding is based on paragraph 3 of the Docket 6545 MOU (adopted by Board Order on June 13, 2002), and on paragraph 5 of the Docket 7862 MOU (adopted by Board Order on March 8, 2014). See A.9 of my pre-filed testimony, at page 9.

- (a) As the phrase "removal of all structures" and the term "structures" are not qualified in either the Docket 6545 or the Docket 7862 MOUs, I understand the phrase to mean removal of all structures located on or at the VYNPS site, including all foundations and other underground structures.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-11: Admit that the Docket No. 6545 MOU provides that “once the [VY Station site] is no longer used for nuclear purposes or non-nuclear commercial, industrial, or other similar uses consistent with the orderly development of the property, the site will be restored by removal of all structures and, if appropriate, regrading and reseeded the land.” If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-11: Objection. The request is vague and ambiguous because it does not define “provides.” Without waiving this objection, the Agency responds:

Admit only that Paragraph 3 of the Docket No. 6545 MOU states “once the [VY Station site] is no longer used for nuclear purposes or non-nuclear commercial, industrial, or other similar uses consistent with the orderly development of the property, the site will be restored by removal of all structures and, if appropriate, regrading and reseeded the land.”

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-12: Admit that the June 13, 2002 Order issued in Docket No. 6545 (at page 83) interpreted the term “site restoration” to mean that, “once the [VY Station site] is no longer used for nuclear purposes or non-nuclear commercial, industrial, or other similar uses consistent with the orderly development of the property, ‘the site will be restored by removal of all structures and, if appropriate, regrading and reseed[ing] the land.’” If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-12: Objection. The request is vague and ambiguous as to what is meant by “interpreted”. Without waiving this objection, ANR responds:

Admit only that the June 13, 2002 Order issued in Docket No. 6545 states on page 83 that, given the testimony of ENVY witness Well’s testimony (regarding ENVY’s commitment to return the Vermont Yankee site to “greenfield” conditions), “the term ‘restored’ within the context of paragraph 3 of the [MOU]...mean[s] that, once the Vermont Yankee site is no longer used for nuclear purposes or non-nuclear commercial, industrial or other similar uses consistent with the orderly development of the property, ‘the site will be restored by removal of all structures and, if appropriate, regrading and reseed[ing] the land.’”

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-13: Admit that the definitions of “site restoration” provided in paragraph 3 of the Docket No. 6545 MOU and in the June 13, 2002 Order issued in Docket No. 6545 remain valid and have not been expressly invalidated or superseded by the MOU parties or the PUC. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-13: Objection. The request is vague and ambiguous as to what is meant by “provided”. The Agency objects to this question to the extent that it seeks a legal conclusion. Notwithstanding this objection, the Agency responds:

Admit only that the provision in paragraph 3 of the Docket 6545 MOU stating “Site restoration shall mean that, once the VYNPS site is no longer used for nuclear purposes or non-nuclear commercial, industrial or other similar uses consistent with the orderly development of the property, the site will be restored by removal of all structures and, if appropriate, regrading and reseeded the land” and the provision on page 83 of the June 13, 2002 Order issued in Docket No. 6545 defining site restoration has not been expressly invalidated or superseded by the MOU parties or the PUC.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-14: Admit that use of the VY Station site for any other type of power generation would be an industrial use as provided in the Docket No. 6545 MOU. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-14: Objection. C, D. The ANR also objects to the question as vague and ambiguous because the terms “power generation” and “industrial use” are not defined. ANR also objects to the question to the extent that it calls for a legal conclusion. Without waiving these objection, ANR responds:

Neither admit nor deny. ANR does not know whether any and all types of power generation would be considered “industrial use.”

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-15: Admit that IROCP Rule does not impose residential standards on remediation of sites for industrial use. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-15: Objection. ANR objects to the question as vague and ambiguous as to what is meant by the term “impose” or “industrial use” in the context of the question. Without waiving this objection, the Agency responds:

Neither admit nor deny. The standards applied to a site depend on the characteristics of the site. Under the Investigation and Remediation of Contaminated Properties Rule contaminated sites must be remediated to specific environmental media standards depending on current and future use(s). In some cases, responsible parties may be required to clean up a site to meet residential standards where the site is or has been used for an industrial purpose. For instance, sites may be used for a mix of industrial and/or commercial and residential (“mixed use”), and therefore, residential standards may apply to certain areas of the site. Additionally, a contaminated site that has been historically used for industrial or commercial uses may be required to remediate contamination below industrial levels where the future use of the site includes non-industrial/non-commercial uses (such as residential).

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-16: Admit that, as used in Exhibit ANR-CS-4, “the period of ‘site restoration’ applies only to the period of time after radiological decommissioning has been completed to the satisfaction of the NRC.” If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-16:

Admit only that Exhibit ANR-CS-4 (Docket 7862 MOU) states that “As used in this MOU, the period of ‘site restoration’ applies only to the period of time after radiological decommissioning has been completed to the satisfaction of the NRC.”

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-17: Admit that the Docket No. 7862 Settlement Agreement provides that “EVY, PSD, ANR, and VDH shall work in good faith to determine in a timely and cost-effective manner overall site restoration standards necessary to support use of the property without limitation.” If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-17:

Admit only that the Docket No. 7862 Settlement Agreement states “EVY, PSD, ANR, and VDH shall work in good faith to determine in a timely and cost-effective manner overall site restoration standards necessary to support use of the property without limitation.”

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-18: Identify Mr. Schwer's basis for asserting that "the VYNPS site must be restored to standards that 'support the use of the property without limitations,'" page 9, lines 8-9, absent a good-faith agreement.

A.JP:ANR.1-18: Objection. The request mischaracterizes my testimony at page 9, lines 8 – 9. Without waiving this objection, ANR responds:

The basis for my assertion at page 9, lines 8 – 9 of my prefiled testimony, is paragraph 5 of the Docket 7862 MOU.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-19: Explain Mr. Schwer's basis for the statement on pages 9-10 of his prefiled testimony that any structures remaining underground would be contaminated.

A.JP:ANR.1-19: Objection. The request is argumentative because it requires the Agency to assume a fact that the Agency disputes. Without waiving this objection, ANR responds:

My testimony stated that the structures remaining underground "may be" (i.e. not would be) contaminated. The bases for my assertion at page 9 – 10 of my prefiled testimony (that the structures and rubble from these structures at the VYNPS site may be contaminated or contain materials that are contaminated with non-radiological contamination) are stated at A.10 of my prefiled testimony (page 10, lines 2 – 7).

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-20: Identify with specificity the regulatory obligation requiring ENVY to address the “gaps and deficiencies” ANR identified in the 2014 Site Assessment Study.

A.JP:ANR.1-20: Objection. The Agency objects to the request to the extent that it seeks a legal conclusion. The request is also vague and ambiguous because it does not define “regulatory obligation”. Without waiving these objections, the Agency responds:

- Paragraph 5 of the MOU between ENVY and other State agencies in Docket No. 7862
- Investigation and Remediation of Contaminated Properties Rule (July 27, 2017)
- Generator closure requirements under VHWMR

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-21: Admit that any Post-Shutdown Decommissioning Activities Report (“PSDAR”) is required to be submitted by federal NRC regulations and is not subject to state regulation or guidance. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-21: Objection. ANR objects to the question to the extent that it requires a legal conclusion. In addition, the request is vague and ambiguous because it does not define the term “subject to” or “state regulation or guidance.” Without waiving this objection, ANR responds:

Neither admit nor deny. NRC regulations set forth the minimum requirements for a PSDAR. However, a nuclear power plant operator must comply with Agency statutes, regulations, and guidance documents that apply to non-radiological activities identified in a PSDAR to the extent that the statutes, regulations, and guidance documents are not preempted by the Atomic Energy Act. See also my response to Q.JP:ANR.1-9, above.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-22: Admit that no document cited in Mr. Schwer's testimony uses the phrase "residential standards" or "residential use" in describing site restoration standards for the VY Station site. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-22: Admit only that Exhibit ANR-CS-3 and Exhibit ANR-CS-4 do not include the terms "residential standards" or "residential use."

My response in A.1 of my prefiled testimony references Exhibit ANR-GN-2. This exhibit is ANR's Investigation and Remediation of Contaminated Properties Rule, which became effective on July 27, 2017. Appendix A of the Rule include the environmental media standards applicable to contaminated sites in Vermont, and includes residential soil screening values and residential air/vapor intrusion values for sites.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-23: Explain whether ANR anticipates the VY Station site will be used as a residential site.

(a) Identify all facts relied upon in your answer.

A.JP:ANR.1-23: Objection. D. Without waiving this objection, ANR responds:

I do not know the future use(s) of the VY Station site.

(a) Joint Petitioners have not provided concrete plans for future use of the VY Station site. See A.ANR:NS.1-4. I am not aware of any other plans for future use of the site.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-24: Identify the site restoration standards acceptable for an industrial-use site.

A.JP:ANR.1-24:

See A.8 of my pre-filed testimony. See also A.42 of Noyes pre-filed testimony.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-25: Identify any estimate in Mr. Schwer's or ANR's possession, custody, or control of the cost of removing "underground structures (including pipes)" at the VY Station site other than estimates by Joint Petitioners. Produce any such estimate.

A.JP:ANR.1-25:

I am unaware of any such cost estimates in ANR's possession, custody, or control other than those provided by Joint Petitioners.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-26: Explain whether the Nuclear Decommissioning Trust and Site Restoration Trust combined currently contain funds sufficient to remove “underground structures (including pipes)” on the schedule identified in the Joint Petition.

(a) Identify all facts considered in answering this request.

A.JP:ANR.1-26: Objection. B, C, D. ANR also objects to the question as vague and ambiguous as to what is meant by “sufficient” in the context of the question. Additionally, the question is vague and ambiguous as it does not define the scope of the removal of underground structures (including piping) or what is meant by “the schedule identified in the Joint Petition.” Without waiving these objections, ANR responds:

I do not have sufficient information to be able to respond to this request.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-27: Identify whether removal of “underground structures (including pipes)” is consistent with the goal of the Elnu Abenaki to minimize further disturbances of the land, as set forth in the Prefiled Testimony of Rich Holschuh.

A.JP:ANR.1-27: Objection. The Agency lacks information about the specific goals of the Elnu Abenaki. In addition, the request is vague and ambiguous because it does not define what minimize further disturbances of the land means. Without waiving this objection, ANR responds:

I do not know the specific goals of the Elnu Abenaki with respect to minimization of further disturbances of the land, and I do not know whether removal of underground structures (including pipes) is consistent with the goals of the Elnu Abenaki.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-28: Explain how ANR has taken into consideration the concerns of the Elnu Abenaki, as identified in the testimony of Richard Holschuh.

A.JP:ANR.1-28: Objection. The question is vague and ambiguous as to what is meant by “has taken into consideration”. Without waiving this objection, ANR responds:

I did not review the testimony of Richard Holschuh of the Elnu Abenaki prior to the submission of my testimony. My testimony provided an overview of the applicable standards for non-radiological site restoration of the Vermont Yankee power station and the need for a complete non-radiological site investigation and characterization.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-29: Explain Mr. Schwer's understanding of the term "rubblization."

- (a) Identify the basis for that understanding.
- (b) Identify and produce all documents that used or relied upon in this response.

A.JP:ANR.1-29:

My understanding of the term "rubblization" is that the term refers to demolition of an above-grade decontaminated concrete structure into rubble that is buried on site.

- (a) The basis for my understanding is paragraph 5 of the Docket No. 7862 MOU.
- (b) See Exhibit ANR-CS-4.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-30: Explain how ANR's position on rubblelization comports with the ANR Construction and Demolition Waste Recycling program.

A.JP:ANR.1-30: Objection. ANR objects to the question as vague and ambiguous as to what is meant by "ANR's position" and the term "comports". Without waiving this objection, ANR responds:

Rubblelization is currently prohibited at the Vermont Yankee site. See A.9 of my pre-filed testimony.

There is no program administered within ANR called the Construction and Demolition Waste Recycling Program. Vermont law permits certain construction and demolition waste and architectural waste materials to be separated from landfill wastes on a project site, and then recycled or salvaged into useful products or new structures, in an effort to reduce the amount of these materials that are disposed of in landfills.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-31: Identify whether any Vermont industrial site has used concrete as clean fill or left clean basement structures in place.

(a) List any such sites.

A.JP:ANR.1-31: Objection. B. In addition, the request vague and ambiguous because it does not define the terms “industrial,” “clean,” or “fill”. Without waiving this objection, ANR responds:

I am aware of the following sites in Vermont where concrete from a site on which industrial activity was taking place or had previously taken place was disposed of on or off-site within the last 10 years:

- Jones and Lamson, Springfield (SMS #77-122)
- JARD, Bennington (SMS #77-138)
- Depot Street, Brattleboro (SMS #2008-3836)
- Moran Plant, Burlington (SMS #2005-3357)
- Whites Park, Rutland (SMS #2015-4601)
- PVDC (Former Fellow Gear Shaper), Springfield (SMS# 97-2235)
- Windsor Welcome Center, Windsor (SMS# 2007-3638)
- Former Fonda Container Company, St. Albans (SMS #2008-3777)
- Unifirst, Williamstown (SMS #87-0007)

Additionally, I am aware of the following sites in Vermont where basement structures were left in place within the last 10 years:

- Dirigo Paper Mill, in Gilman, VT

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-32: State whether ANR regulations allow the burial of septic system components, such as concrete tanks, under the solid waste regulations.

(a) If yes, identify any differences between the burial of septic system components and the use of clean concrete as fill in an industrial remediation/site restoration setting.

A.JP:ANR.1-32: Objection. The request is vague and ambiguous because it does not define the terms “components,” “industrial,” “clean,” “industrial remediation,” or “site restoration setting”. The request is also not relevant to the subject matter of this case and will not lead to the discovery of admissible evidence. Without waiving these objections, ANR responds:

ANR interprets the term “burial” as used in this question as meaning the excavation of concrete materials from a site and disposal of those materials in a different location.

Under this scenario, excavated concrete materials (that are not contaminated by non-radiological hazardous materials) would be considered a solid waste and would be required to be managed at a certified solid waste facility under the Solid Waste Management Rules.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-33: Admit that Mr. Schwer’s reference to site restoration standards “most protective of public health,” as used in A.4, is the same as “standards for site restoration most protective to the environment as employed at similar sites nationwide or required by law,” as used in paragraph 5 of the Docket No. 7862 MOU. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-33:

Denied. My testimony in A.4 and the reference to site restoration standards “most protective of human health and the environment” is based on the provision in paragraph 5 of the Docket 7862 MOU that states that site restoration standards must “support use of the property without limitation.” See A.10 of my pre-filed testimony.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-34: Describe whether the site restoration standards for Maine Yankee and Connecticut Yankee were the “most protective of public health.” If so, explain why.

A.JP:ANR.1-34: Objection. C. The Agency does not know all of the specific site restoration standards applicable to Maine Yankee and Connecticut Yankee. ANR also objects to this question to the extent it requires a legal conclusion. ANR also objects to this question as vague and ambiguous with regard to what is meant by “most protective” of public health in the context of the question. Notwithstanding these objections, ANR responds:

I do not know all of the specific site restoration standards for the Maine Yankee and Connecticut Yankee plants. I do not know whether all of the site restoration standards applicable to the Maine Yankee and Connecticut Yankee plants and sites were the “most” protective of public health under Maine or Connecticut law, respectively. I also do not know if those standards would be the most protective of public health if applied to the VYNPS site.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-35: Explain Mr. Schwer's understanding of the site restoration standards used at Maine Yankee and Connecticut Yankee.

(a) Identify the basis for that understanding.

A.JP:ANR.1-35:

See response to A.JP:ANR.1-34.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-36: Admit that ANR will work with the owner of the VY Station site during decommissioning and site restoration of the VY Station to ensure that sampling and characterization meet the required standards. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-36:

Neither admit nor deny. ANR typically provides coordination and technical assistance to property owners and environmental consultants hired to work on contaminated sites in Vermont, including providing oversight of activities to ensure that sampling and characterization of non-radiological contamination will meet the required standards.

Though ANR has and plans to continue to extend these same technical support and coordination services to Joint Petitioners and Joint Petitioner's contractors, ANR cannot guarantee the extent to which this work and coordination will ultimately take place as this depends upon the cooperation of Joint Petitioners and their contractors. ANR will not work with the owner to ensure that sampling and characterization of radiological contamination meets required standards, as those aspects of site activities are outside of the scope of ANR's authority.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-37: Is it Mr. Schwer's opinion, as stated on page 11 of his prefiled testimony, that additional sampling and characterization must occur prior to the transfer of the site from the Entergy petitioners to the NorthStar petitioners? If yes, explain in detail the legal and/or regulatory basis for your opinion.

A.JP:ANR.1-37: Objection. The request is argumentative and mischaracterizes my testimony. The Agency also objects to the request to the extent it calls for a legal conclusion. Without waiving this objection, the Agency responds:

I did not state that additional sampling and characterization must occur prior to the transfer of the site. As I stated in my pre-filed testimony in A.14 of my testimony (page 15), “[w]ithout an understanding of the scope and extent of non-radiological contamination, the Agency is not able to determine what corrective actions are required to protect human health and the environment from non-radiological releases and remediate the contamination at the site. Therefore, the Agency cannot determine whether NorthStar has identified the full range of corrective actions required at the VYNPS site and, in turn, whether its cost estimates for site restoration work are accurate.”

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-38: Describe ANR's coordination with the Department of Public Service in Docket No. 6545, including, but not limited to, coordination concerning requirements for site characterization and sampling imposed on Vermont Yankee Nuclear Power Corporation before transfer of ownership of the VY Station site to ENVY.

A.JP:ANR.1-38:

I was not personally involved with ANR's coordination with the Department of Public Service in Docket No. 6545. To my knowledge, any ANR employees that may have been involved in any coordination with Department of Public Service in that docket are no longer employed by ANR. After speaking with several current ANR personnel, I do not have information regarding ANR's coordination with the Department of Public Service in Docket No. 6545.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-39: Admit that the removal of below-grade structures to four-feet below grade is a more stringent standard than the three-feet below grade standard that Vermont Yankee Nuclear Power Corporation assumed in its decommissioning cost studies used to obtain the funds that would be needed to complete decommissioning and site restoration by it. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-38: Objection. ANR objects to the question as vague and ambiguous as to what is meant by “more stringent standards”. Additionally, ANR objects to the extent that the question calls for a legal conclusion. Without waiving these objections, ANR responds:

Neither admit nor deny. I have not reviewed Vermont Yankee Nuclear Power Corporation’s decommissioning cost studies, including the assumptions relied upon by the Vermont Yankee Nuclear Power Corporation to complete those studies.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-40: Identify the specific facts Mr. Schwer contends require submission of a generator closure plan for the VY Station site, as described on page 16, lines 15-17.

A.JP:ANR.1-40: See A.13 of the pre-filed testimony of Steve Simoes.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-41: Admit that the submission of a generator closure plan is not necessary for the sale or transfer of a generator to a new owner. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-41: Admitted.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-42: Identify all costs estimates for non-radiological site investigation, remediation, and restoration for Vermont sites that ANR has reviewed, as described in A.15.

- (a) Produce all such cost estimates.
- (b) For each cost estimate, identify whether ANR determined the cost estimate was accurate and the basis for that determination.

A.JP:ANR.1-42: Objection. The request is vague and ambiguous because it does not define “accurate” in the context of a cost estimate. Without waiving this objection, ANR responds:

I did not describe specific cost estimates in my testimony at A15. My testimony in A15 discusses, generally, the principal that a cost estimate for non-radiological waste-related activities is dependent on the estimate being informed with complete information about conditions at the site, and what proposed activities to address those conditions are warranted.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-43: Produce all ANR analyses of cost estimates for non-radiological remediation and site restoration for Vermont industrial sites.

A.JP:ANR.1-43: Objection B. ANR also objects to this question as vague and ambiguous as to what is meant by “industrial” in the context of the question. Notwithstanding these objections, ANR responds:

See A.JP:ANR.1-6 and documents produced with that response.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-44: Explain ANR's understanding of the concept of intergenerational equity.

A.JP:ANR.1-44: Objection. ANR objects to this question as vague and ambiguous as to what is meant by the terms "understanding" and "intergenerational equity". Notwithstanding this objection, ANR responds:

I am not familiar with the concept of intergenerational equity.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-45: Describe how ANR’s approach to the proposed transaction takes into consideration intergenerational equity.

A.JP:ANR.1-45: Objection. ANR objects to this question as vague and ambiguous because it does not define the terms “approach” or “intergenerational equity”. Notwithstanding this objection, ANR responds:

See A.JP:ANR.1-44. Additionally, ANR’s approach to this proposed transaction is based on previous Public Service Board Orders (e.g., Dockets 6545 and 7862), MOUs adopted by those Orders, and ANR’s statutory authorities.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-46: Identify each communication Mr. Simoes has had with any party to this proceeding concerning Joint Petitioners' petition for a Certificate of Public Good, including (1) the method of communication, (2) the date of the communication, (3) the parties to the communication, (4) any other parties who witnessed or heard the communication and (5) identify and produce all documents concerning such communications.

A.JP:ANR.1-46: Objection B, C, D. Without waiving these objections, the Agency responds:

ANR interprets this request as seeking communications between Mr. Simoes and any party to this proceeding other than ANR concerning the petition for a Certificate of Public Good.

Since the filing of Joint Petitioners' petition for a Certificate of Public Good on December 16, 2016, I have had the following types of correspondence with parties to this proceeding concerning the petition:

- Informal oral communications with Scott State and other NorthStar representatives and members of other parties to this docket at the site visit at the VYNPS station on July 12, 2017.
- Written and oral communications with ENVY technical personnel Lynn DeWald regarding redevelopment of the railroad spur for the purposes of shipping waste from the VYNPS site.

The following documents are being produced with this response:

Attachment A.JP:ANR.1-46(a)
Attachment A.JP:ANR.1-46(b)
Attachment A.JP:ANR.1-46(c)
Attachment A.JP:ANR.1-46(d)
Attachment A.JP:ANR.1-46(e)

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-47: Identify each communication Mr. Simoes has had with any non-party (including, without limitation, any federal or state agency, organization or entity), concerning Joint Petitioners' petition for a Certificate of Public Good, including (1) the method of communication, (2) the date of the communication, (3) the parties to the communication, (4) any other parties who witnessed or heard the communication and (5) identify and produce all documents concerning such communications.

A.JP:ANR.1-47: Objection. B, C, D. Without waiving these objections, the Agency responds:

Since the filing of Joint Petitioners' petition for a Certificate of Public Good on December 16, 2016, I have had no communications with non-parties about this matter since the joint petition was filed on December 6, 2016.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-48: Identify, list and produce all exhibits to be introduced or used at hearing in support of the prefiled testimony of Mr. Simoes in this proceeding.

A.JP:ANR.1-48:

I am uncertain what exhibits I will introduce or use at the hearing. However, I may introduce the following documents at the hearing (all exhibits to my pre-filed testimony):

- Exhibit ANR-SS-1
- Exhibit ANR-SS-2
- Exhibit ANR-SS-3
- Exhibit ANR-SS-4
- Exhibit ANR-SS-5

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-49: Identify, list and produce all documents, data compilations, electronically stored information, photographs, workpapers, or other tangible things provided to, exchanged with, prepared by, reviewed by, relied upon or used by Mr. Simoes in developing his prefiled testimony and his opinion(s) underlying his prefiled testimony, including, but not limited to, all exhibits to his prefiled testimony.

A.JP:ANR.1-49: Objection. A, B, C. Without waiving these objections, the Agency responds:

- Exhibits ANR-SS-1 through ANR-SS-5
- The Joint Petition
- Information in discovery produced by Joint Petitioners on 4/25/2017, 5/31/2017, 6/1/2017, 6/15/2017, 7/21/17, 8/3/2017, and 8/15/2017
- Maine Yankee Atomic Power Company Hazardous Waste Treatment Facility Abbreviated License for Treatment in Tanks (License #O-000159-HL-B-N)

The following documents are being produced with this response:

Attachment A.JP:ANR.1-49

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-50: Identify all assumptions, materials, inputs, data or information provided to Mr. Simoes in preparing his prefiled testimony.

A.JP:ANR.1-50: Objection. B, C, D. Without waiving these objections, the Agency responds:

See A.JP:ANR.1-49.

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-51: Identify each individual who worked with Mr. Simoes or supported his testimony or exhibits, by name, title and division within ANR or, if the person does not work within ANR, by the company or entity with whom she/he works.

A.JP:ANR.1-51: Objection. B. ANR objects to the question as overly burdensome to the extent that it seeks information of each individual who supported the documents and information used as exhibits by Mr. Simoes in his pre-filed testimony. Without waiving this objection, ANR responds, with respect to ANR employees:

- Chuck Schwer, Division Director, Waste Management and Prevention Division, Department of Environmental Conservation
- Gerold Noyes, Environmental Engineer, Waste Management and Prevention Division, Department of Environmental Conservation
- Jordan Gonda, Associate General Counsel, Department of Environmental Conservation
- Jen Duggan, General Counsel, Agency of Natural Resources

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-52: Identify and describe all previous work Mr. Simoes has undertaken with regard to site restoration standards and produce all documents relating to all previous work Mr. Simoes has undertaken with regard to site restoration standards.

- (a) Identify all regulatory proceedings by jurisdiction, date, docket number, and name in which Mr. Simoes has testified or provided consulting or expert support for witnesses testifying on site restoration standards.

A.JP:ANR.1-52: Objection. B, C, D. Additionally, the Agency objects to the question as vague and ambiguous because it does not define “site restoration standards”, “site restoration,” or “regulatory proceeding”. Without waiving these objections, the Agency responds:

My normal job duties as Environmental Analyst in the Vermont Hazardous Waste Management Program normally do not include oversight of restoration of contaminated sites. At times, when restoration of a contaminated site occurs, and depending on the particular circumstances of the site (e.g., current uses and activities occurring onsite), I have provided guidance to the ANR site manager(s) and responsible parties on compliance with hazardous waste regulations that may apply to waste(s) generated by site-related activities (e.g., determining whether those wastes are non-radiological hazardous wastes, and if so, how those wastes must be managed). Examples of written provision of guidance are being produced with this response.

I have also provided technical review of and feedback on the ANR’s regulations regarding contaminated sites (the current Investigation and Remediation of Contaminated Properties Rule, and the former Investigation and Remediation of Contaminated Properties Procedure and prior iterations). This review and feedback has primarily been limited to references to VHWMR requirements for the management of non-radiological hazardous waste.

- (a) See A.5 of my prefiled testimony.

The following documents are being produced with this response:

Attachment A.JP:ANR.1-52(a)
Attachment A.JP:ANR.1-52(b)

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-53: Identify and describe all previous work Mr. Simoes has undertaken with regard to creating or evaluating cost estimates for nuclear decommissioning or site restoration projects and produce all documents relating to all previous work Mr. Simoes has undertaken with regard to creating or evaluating cost estimates for nuclear decommissioning or site restoration projects.

- (a) Identify all regulatory proceedings by jurisdiction, date, docket number, and name in which Mr. Simoes has testified or provided consulting or expert support for nuclear decommissioning or site restoration projects.

A.JP:ANR.1-53: Objection. A, B. Additionally, the Agency objects to the question as vague and ambiguous because it does not define “site restoration” or “site restoration projects,” or “regulatory proceeding”. Without waiving these objections, the Agency responds:

As stated prior, my normal job duties as Environmental Analyst in the Vermont Hazardous Waste Management Program do not include oversight of restoration of contaminated sites or projects. See A.JP:ANR.1-52, and A.2 of my prefiled testimony.

- (a) I have not testified or provided consulting or expert support for cost estimates for nuclear decommissioning or site restoration projects in any proceeding before the Public Utility Commission or a court of law.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-54: Admit that the Mixed Waste Rule does not require choice of a method of management of LLMW prior to the proposed transfer of ownership of the VY Station. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-54: Admitted.

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-55: State whether ENVY will be a Large Quantity Generator prior to the transfer of ownership sought in Docket No. 8880.

- (a) Identify all facts and produce all documents relied upon in answering this request.

A.JP:ANR.1-55: Objection. C, D. The request calls for a legal conclusion. In addition, the Agency does not have the information necessary to respond to the request. Without waiving these objections, ANR responds:

ENVY's status as a hazardous waste generator depends on how much non-radiological hazardous waste is generated by ENVY in any given month at the ENVY site. The quantity of non-radiological hazardous waste to be generated onsite in the future, including prior to any transfer of ownership of the site, is not known by the ANR. If there is any change in generator status based on how much non-radiological waste is generated, it is a requirement of the current site owner/operator to notify ANR of the change in status.

See also Exhibit ANR-SS-2 (VHWMR), subchapter 3, § 7-305.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-56: Admit that the closure plan that ANR has requested (page 14, line 5-12) does not need to be submitted until 90 days prior to commencement of closure activities. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-56:

Neither admit nor deny. The VHWMR § 7-309(c) requires the submission of a Pre-closure Notification Form to be submitted 90 days prior to commencement of closure activities. Based on the information provided by the generator in the form, the Secretary may require the submission of a closure plan. See also A.13 of my prefiled testimony.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-57: Admit that ANR's rules were not drafted for nuclear power plant sites subject to NRC jurisdiction. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

- (a) Identify and produce any documents that you rely upon in your answer.

A.JP:ANR.1-57: Objection. The request is vague and ambiguous in that it does not identify which specific ANR rules fall within the scope of the request or what "drafted for" means. In addition, the Agency objects to the request to the extent the request calls for a legal conclusion. The Agency also objects to subsection (a) of this request because it is improper under V.R.C.P. 36.

Neither admit nor deny. ANR rules do not exempt nuclear power plant owners and operators from compliance with rules where a rule is not preempted by the Atomic Energy Act.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management & Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-58: Identify who at ANR (page 14, lines 17-18) “routinely review[s] costs associated with management and disposal of non-radiological hazardous waste.” Include in the response the name and title of each person identified.

A.JP:ANR.1-58:

I am unaware of anyone at ANR who routinely reviews cost estimates associated with management and disposal of non-radiological hazardous waste (i.e., costs associated with management of non-radiological hazardous waste, such as sampling, laboratory costs, disposal facility costs, compliance-related costs, etc.).

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-59: Identify the “permitted non-radiological hazardous waste facilities in Vermont” as referenced in A14.

- (a) For each of these facilities, provide the costs or cost estimates ANR has reviewed.

A.JP:ANR.1-59: Objections. B, D. Without waiving these objections, the Agency responds:

This testimony references facilities that are issued a permit by the Agency to treat, store, or dispose of non-radiological hazardous waste in Vermont (called Treatment, Storage, Disposal Facilities, or “TSDFs”). These facilities are primarily regulated and permitted by the VHWMR, subchapter 5.

TSDFs are required to develop and submit a closure plan and closure cost estimate as elements of initial and renewal application for a hazardous waste facility permit.

Permits issued to Vermont TSDFs, including the facility’s closure plan and cost estimate, are publicly-accessible and available through the WMPD website at the following link:
<http://dec.vermont.gov/waste-management/hazardous/permit-facilities>

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-60: Identify the specific information or documents Mr. Simoes reviewed before reaching his conclusion that “it [is] not possible to assess the adequacy of NorthStar’s cost estimate for remediation of the site with respect to non-radiological hazardous waste management” (page 15, lines 16-20).

A.JP:ANR.1-60:

- The Joint Petition
- Information in discovery produced by Joint Petitioners on 4/25/2017, 5/31/2017, 6/1/2017, 6/15/2017, 7/21/17, 8/3/2017, and 8/15/2017

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-61: Admit that the Haley & Aldrich documents referenced in A.15 are drafts. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-61:

Neither admit nor deny. I do not know whether these documents are drafts. However, there was no such representation (of the draft status of these documents) made to me, and no designation of “draft” or similar term is visible on or described in A.ANR.NS.2-8.1 through A.ANR.NS.2-8.3.

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-62: Identify each attempt ANR has made to coordinate and work with NorthStar, as referenced at page 16, lines 11-13.

(a) If no attempt has been made, explain why.

A.JP:ANR.1-62: Objection. The question is vague and ambiguous as it does not define what is meant by the terms “coordinate with” and “work with”. Without waiving these objections, ANR responds:

For purposes of this response, the Agency will assume the request asks the Agency to identify each attempt the Agency has made to discuss the Waste Acceptance Grouping Identification Plan (Plan) with NorthStar. The Agency has not had an opportunity to discuss the Plan with NorthStar. Prior to July 21, 2017, which was the date the Agency received the plan documents in response to a discovery request, NorthStar had not provided the Agency with the Plan.

(a) See response above.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-63: Explain whether coordination between NorthStar and ANR to develop final versions of the three documents prepared by Haley & Aldrich, Inc. referenced in A.15 would address the concerns listed in the testimony submitted by ANR.

A.JP:ANR.1-63: Objection. The question is vague and ambiguous as to what is meant by “the concerns listed in the testimony submitted by ANR.” Without waiving these objections, ANR responds:

While I would welcome an opportunity to work with NorthStar to develop a plan that will ensure compliance with the VHWMR if the transaction is approved, I do not know whether coordination between NorthStar and ANR to develop final versions of the three documents will ultimately address my substantive concerns regarding the Waste Acceptance Grouping Identification Plan. Ultimately, NorthStar must comply with the VHWMR.

See also the response of Chuck Schwer to A.JP:ANR.1-36.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-64: Identify what specific documents Mr. Simoes reviewed in relation to the VY Station Chemistry Laboratory in preparing A.15 of his prefiled testimony.

A.JP:ANR.1-64: Objection. C. Without waiving this objection, ANR responds:

I reviewed the following documents related to the VY Station Chemistry Laboratory in preparing A.15 of my prefiled testimony:

- Attachment A.ANR:NS.1-3.132
- Attachment A.ANR:NS.1.3-153
- Attachment A.ANR:NS.1.3-156
- Attachment A.ANR:NS.1.3-158
- Attachment A.ANR:NS.1.3-162
- Attachment A.ANR:NS.1.3-164
- Attachment A.ANR:NS.1.3-165
- Attachment A.ANR:NS.1.3-173
- Attachment A.ANR:NS.1.3-175
- Attachment A.ANR:NS.1.3-193

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-65: Identify what documents ANR possesses related to the VY Station Chemistry Laboratory.

(a) Produce all such documents.

A.JP:ANR.1-65: Objection. C. I am aware of the following documents in ANR's possession related to the VY Station Chemistry Laboratory:

- Department of Environmental Conservation Incident Report Form (dated 3/6/91), Case No. 054-91 re: Hazardous/radioactive waste leak at Vermont Yankee (3 Ferry Road, Brattleboro), with attachments

See also documents produced in response to A.JP:ANR.1-64.

The following documents are being produced with this response:

Attachment A.JP:ANR.1-65

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 27, 2017

Q.JP:ANR.1-66: Admit that the NRC has regulatory authority over the Chemistry Laboratory, located in the Radiologically Controlled Area, as referenced in A.15. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-66: Objection. ANR objects to the request to the extent it seeks a legal conclusion. The mental impressions, conclusions, opinions, or legal theories of an attorney are protected. In addition, the request is vague and ambiguous because it does not identify what activities in the Radiologically Controlled Area the request refers to. Without waiving this objection, ANR responds:

Neither admit nor deny. NRC has the authority delegated to the NRC under the Atomic Energy Act. Generally, ANR rules do not exempt nuclear power plants from compliance with rules where a rule is not preempted by the Atomic Energy Act.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management & Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-67: Admit that the State of Vermont received notification of the 1991 leak from the Chemistry Laboratory drain line within hours of it occurring. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-67: Objection. C, D. ANR objects to the request as vague and ambiguous as to what is meant by the terms “notification”, “within hours” and “occurring” with respect to the leak. In addition, the Agency lacks knowledge as to when notification was provided to other agencies or representatives of the State of Vermont. Without waiving these objections, ANR responds:

Neither admit nor deny. The Agency does not know whether the State of Vermont was notified within hours of the occurrence of the leak. The attached “Chronology of Events” included in Attachment A.JP:ANR.1-65 suggests that the VT nuclear engineer and Public Service Department) were first notified 5 days after the first logged entry of “examination of leaking sink drain in Chemistry Lab” on 1/31/19 [*sic*]. The “Chronology of Events” also suggests that the ANR VT Hazmat line and the National Response Center were notified on 2/20 at 08:30 pursuant to section 7-105(2) of the VHWMR.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-68: Describe how any non-radiological waste constituents could be separated from radiological waste constituents in soils in the vicinity of the Chemistry Laboratory.

A.JP:ANR.1-68: Objection. The question is vague and ambiguous as it does not define “constituents” or what is meant by “separated” or “vicinity”. Without waiving this objection, ANR responds:

The Agency does not have sufficient information about the scenario described in this request to provide a response.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-69: Identify each communication Mr. Noyes has had with any party to this proceeding concerning Joint Petitioners' petition for a Certificate of Public Good, including (1) the method of communication, (2) the date of the communication, (3) the parties to the communication, (4) any other parties who witnessed or heard the communication and (5) identify and produce all documents concerning such communications.

A.JP:ANR.1-69: Objection. A, B, C. Without waiving these objections, the Agency responds:

ANR interprets this request as seeking communications between Mr. Noyes and any party to this proceeding other than ANR concerning the petition for a Certificate of Public Good.

Since the filing of Joint Petitioners' petition for a Certificate of Public Good on December 16, 2016, I have had the following communications with parties to this proceeding concerning the petition:

- Oral communications with Joint Petitioners and other parties during a site visit of the Vermont Yankee Station on July 12, 2017.
- I received written communications from the Department of Public Service.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-70: Identify each communication Mr. Noyes has had with any non-party (including, without limitation, any federal or state agency, organization or entity), concerning Joint Petitioners' petition for a Certificate of Public Good, including (1) the method of communication, (2) the date of the communication, (3) the parties to the communication, (4) any other parties who witnessed or heard the communication and (5) identify and produce all documents concerning such communications.

A.JP:ANR.1-70. Objection. A, B. Without waiving this objection, the Agency responds:

Since the filing of Joint Petitioners' petition for a Certificate of Public Good on December 16, 2016, I have had the following communications with non-parties to this proceeding concerning the petition:

I have had no communications with any non-party about the joint petition since the filing of Joint Petitioners' petition for a Certificate of Public Good on December 16, 2016.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-71: Identify, list and produce all exhibits to be introduced or used at hearing in support of the prefiled testimony of Mr. Noyes in this proceeding.

A.JP:ANR.1-71:

At this time, I am uncertain as to what exhibits I will introduce or use at hearing. However, I may use or introduce the following exhibits at hearing:

- ANR-GN-2
- ANR-GN-3
- ANR-GN-4
- ANR-GN-5
- ANR-GN-6
- ANR-GN-7
- ANR-GN-8
- ANR-GN-9

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-72: Identify, list and produce all documents, data compilations, electronically stored information, photographs, workpapers, or other tangible things provided to, exchanged with, prepared by, reviewed by, relied upon or used by Mr. Noyes in developing his prefiled testimony and the opinion(s) underlying his prefiled testimony, including, but not limited to, all exhibits to his prefiled testimony.

A.JP:ANR.1-72: Objection. A, B, C. Without waiving this objection, the Agency responds:

- See exhibits listed in A.JP:ANR.1-71
- Information in discovery produced by Joint Petitioners on 4/25/2017, 5/31/2017, 6/1/2017, 6/15/2017, 7/21/17, 8/3/2017, and 8/15/2017
- Attachment A.JP:ANR.1-72(a)
- Attachment A.JP:ANR.1-72(b)
- Drafts of pre-filed testimony of Chuck Schwer and exhibits
- Drafts of pre-filed testimony of Steve Simoes and exhibits

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-73: Identify all assumptions, materials, inputs, data or information provided to Mr. Noyes in preparing his prefiled testimony.

A.JP:ANR.1-73: Objection. B, C. The Agency also objects to the request to the extent it seeks documents that are protected by the attorney-client or trial preparation privilege. Without waiving this objection, the Agency responds:

See documents referenced and produced in response to A.JP:ANR.1-72.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-74: Identify and describe all previous work Mr. Noyes has undertaken with regard to site restoration standards, and produce all documents relating to all previous work Mr. Noyes has undertaken with regard to site restoration.

A.JP:ANR.1-74: Objection. B. The Agency also objects to the request to the extent it seeks documents protected by the attorney-client or trial preparation privilege. In addition, the request is vague and ambiguous because it does not define “site restoration standards,” “site restoration,” or “regulatory proceeding.” Without waiving this objection, the Agency responds:

I have been the project manager for approximately 600 contaminated sites. I am currently the project manager for approximately 146 contaminated sites. See Attachment A.JP:ANR.1-74. See also Exhibit ANR-GN-1, which describes my job duties as an environmental engineer and project manager for contaminated sites with the Agency.

- (a) Identify all regulatory proceedings by jurisdiction, date, docket number, and name in which Mr. Noyes has testified or provided consulting or expert support for witnesses testifying on site restoration.

I have not testified or provided consulting or expert support for witnesses testifying on the topic of remediation of releases of hazardous materials in any administrative tribunal or court of law.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-75: Identify and describe all previous work Mr. Noyes has undertaken with regard to creating or evaluating cost estimates for nuclear decommissioning or site restoration projects, and produce all documents relating to all previous work Mr. Noyes has undertaken with regard to creating or evaluating cost estimates for nuclear decommissioning or site restoration projects.

A.JP:ANR.1-75: Objection. B. The Agency also objects to the request to the extent it seeks documents protected by the attorney-client or trial preparation privilege. In addition, the request is vague and ambiguous because it does not define the term “regulatory proceeding.” Without waiving this objection, the Agency responds:

As a project manager for contaminated sites, I review budgets and cost estimates related to the remediation of releases of hazardous materials where state or federal funding will be utilized, if the project is enrolled in the BRELLA program, or where requested by the Secretary. See also Exhibit ANR-GN-1. For a list of all of the contaminated sites where cost estimates were required, see A.JP:ANR.1-6.

- (a) Identify all regulatory proceedings by jurisdiction, date, docket number and name in which Mr. Noyes has testified or provided consulting or expert support for witnesses testifying on cost estimates for nuclear decommissioning or site restoration projects.

I have never testified or provided consulting or expert support for witnesses testifying on cost estimates for nuclear decommissioning or remediation of releases of hazardous materials in an administrative tribunal or court of law.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-76: Describe Mr. Noyes' responsibilities as site manager of the VY Station site for releases of non-radiological hazardous materials between 1999 and 2008.

A.JP:ANR.1-76:

I was the site manager for the release of hazardous materials from an underground storage tank for a diesel back-up generator. As site manager for this specific release, I reviewed the Phase I/Phase II report that identified the release, reviewed release reports, oversaw the site investigation and reviewed the site investigation report, oversaw actions to respond to release (i.e. installation of monitoring wells, limited product recovery), and prepared a SMAC letter for management review for this release.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-77: Identify all site investigation work plans prepared for the VY Station site between 1999 and 2008.

A.JP:ANR.1-77: Objection. C. Without waiving this objection, the Agency responds:

See Attachments A.JP:ANR.1-77(a) through A.JP:ANR.1-77(a), being produced with this response.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-78: Identify all categories of information regarding releases at the VY Station site that ANR has received from 2002 to present.

A.JP:ANR.1-78:

- Spill reports
- Information contained in the Waste Management and Prevention Division's SITES file(s)
- Information in discovery produced by Joint Petitioners on 4/25/2017, 5/31/2017, 6/1/2017, 6/15/2017, 7/21/17, 8/3/2017, and 8/15/2017
- Site Assessments
- National Response Center incident reports

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-79: Identify all VY Station permits Mr. Noyes reviewed in preparation of his testimony.

A.JP:ANR.1-79:

I did not review any VY Station permits in preparation for my testimony.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-80: In relation to Mr. Noyes' statement that "the minimal site investigation and characterization of the Vermont Yankee Site conducted to date is inadequate," page 3, lines 15-16, identify decontaminated or decommissioned sites in Vermont with "site investigation and characterization" that ANR deemed adequate.

A.JP:ANR.1-80: Objection. B. In addition, the request is vague and ambiguous because it does not define "decontaminated" or "decommissioned." Without waiving this objection, the Agency responds:

The scope of a site investigation is highly dependent upon the specific characteristics of the site. Generally, a contaminated site will be closed when site investigation and characterization is adequate and appropriate corrective actions have been completed. See the Agency's electronic database of hazardous site information: <https://anrweb.vt.gov/DEC/ERT/Hazsites.aspx>.

To view a list of closed sites and additional site information, select "Export All Hazsites to Excel".

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-81: Describe ANR's evaluation of the adequacy of the site investigation and characterization for the sale of the IBM chip manufacturing facility in Essex Junction, Vermont to GlobalFoundries.

A.JP:ANR.1-81:

At the time of the transfer of the IBM chip manufacturing facility to Global Foundries, IBM had already completed a site investigation and an approved Resource Conservation and Recovery Act Corrective Action Plan had been approved by the Agency. Pursuant to a consent order, IBM retains a continuing obligation to perform remedial and monitoring activities even after the transfer of the facility to Global Foundries.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management & Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-82: Identify what provisions of the Membership Interest Purchase and Sale Agreement (“MIPA”) Mr. Noyes reviewed related to off-site non-radiological contamination.

A.JP:ANR.1-82:

I previously reviewed this document briefly, but I do not remember the specific provisions in the document.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-83: Describe the scope of ANR's continuing authority over the Vermont Yankee Nuclear Power Corporation and/or its owners for the release of any non-radiological hazardous materials on the site before Entergy Nuclear Vermont Yankee, LLC acquired the site in 2002.

A.JP:ANR.1-83: Objection. The Agency objects to the request to the extent it seeks a legal conclusion. Without waiving this objection, the Agency responds:

See 10 V.S.A. § 6615.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-84: Admit that the IROCP Rule became effective on July 27, 2017, and does not provide ANR with any authority that applies retroactively to releases or suspected releases that occurred or arose prior to July 27, 2017. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-84: Objection. The Agency objects to the request to the extent it seeks a legal conclusion. The request is argumentative because it requires the Agency to assume a fact that it disputes. In addition, the request is vague and ambiguous because it does not define “arose” or “applies retroactively.” Without waiving this objection, the Agency responds:

Admit only that the Investigation and Remediation of Contaminated Properties Rule took effect on July 27, 2017.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-85: Identify and produce all prior versions of the IROCP Rule and their effective dates.

A.JP:ANR.1-85:

There are no prior versions of the IRCOP rule. The prior investigation and remediation of contaminated properties procedures are:

- August 1996, Site Investigation Guidance
- June 2005, Site Investigation Procedure
- April 2012, Investigation and Remediation of Contaminated Properties Procedure

See Attachments A.JP-ANR.1-85(a) through A.JP-ANR.1-85(c), being produced with this response.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-86: Admit that the requirement in § 35-301 of the IROCP Rule to conduct a site investigation applies to releases or suspected releases of non-radiological hazardous materials that occur or arise after the effective date of July 27, 2017. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-86: Objection. The Agency objects to the request to the extent it seeks a legal conclusion. In addition, the request is vague and ambiguous because it does not define “arise.” Without waiving this objection, the Agency responds:

Denied. Section 35-301 of the Investigation and Contaminated Properties Rule states that “A PRP shall provide the Secretary with a site investigation work plan within 30 days of the release or discovery of the release.”

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-87: Identify all releases or suspected releases at the VY Station site to which ANR contends the July 27, 2017 IROCP Rule applies.

A.JP:ANR.1-87: Objection. The Agency objects to the request to the extent it seeks a legal conclusion. Without waiving this objection, the Agency responds:

All recognized environmental conditions and/or areas of concern identified in the site assessments are, at a minimum, potential releases. At a minimum, the following recognized environmental conditions require additional investigation:

- Area 'B-2' waste oil reportedly spread
- Dry cleaning operation in the Turbine Building, chlorinated solvents detected in groundwater
- Former 5,000-gallon heating oil UST (SMAC site #99-2617)
- Multiple gasoline, heating oil and diesel fuel USTs require UST assessments according to UST Rules when removed
- ASTs would require assessment only if contamination is observed
- 1,230-gallon sulfuric acid storage tank spill reported in 1997
- Main Transformer spill and fire reported; fire-fighting foam used
- Spare Transformer oil leaked to ground
- Auxiliary Transformer explosion and fire
- Auto Transformer leak with soil removal, additional contaminated soil may remain under concrete pad
- Drainage system for 345kV Switchyard has sorbent pads in use
- Chemistry lab drain leak
- List of spills identified in Table 2 of the Normandeau Phase I report

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-88: Based on the conclusions of the Phase I Environmental Site Assessment conducted in 2017, what are the applicable requirements for submission of a site investigation work plan for the VY Station site?

A.JP:ANR.1-88: Objection. The Agency objects to the request to the extent it seeks a legal conclusion. Without waiving this objection, the Agency responds:

See Investigation and Remediation of Contaminated Properties Rule § 35-301 through § 35-306.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-89: Admit that the IROCP Rule itself applies only to releases or suspected releases, not to RECs, AOCs, or potentially impacted areas. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-89: Objection. The Agency objects to the request because it is argumentative and requires the Agency to assume a fact that the Agency disputes. Without waiving this objection, the Agency responds:

Admit only that the Investigation and Remediation of Contaminated Properties Rule establishes requirements for conducting investigations and corrective actions at properties where a release or suspected release of hazardous materials has occurred.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR:1-90: Identify specifically each and every area of the site where Mr. Noyes believes there is:

- (a) both radiological and non-radiological contamination requiring remediation; and
- (b) non-radiological contamination requiring remediation but no radiological contamination requiring remediation.

A.JP:ANR:1-90:

As I stated in my testimony, the four site assessments have identified numerous areas of concern and recognized environmental conditions. I do not know the scope and extent of potential non-radiological contamination because the site has not been investigated and characterized adequately.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR:1-91: Identify specifically each and every area of the site where Mr. Noyes believes sampling is required in order to conduct “a meaningful review” (Q&A 14) of NorthStar’s proposal for non-radiological remediation and restoration. For each such area identified, describe specifically the nature and extent of sampling that you believe is required.

A.JP:ANR:1.91: Objection. B, C. Without waiving this objection, the Agency responds:

At a minimum, all areas of concern and recognized environmental conditions identified in the four site assessments described in my testimony should be investigated appropriately, which would include sampling of environmental media. I provided several examples of the type of sampling that is required for several of the areas of concern and recognized environmental conditions in my pre-filed testimony. See A.25 and A.26 of my pre-filed testimony. The Agency would expect Entergy and/or NorthStar to submit a site investigation work plan that meets the minimum requirements of the Investigation and Remediation of Contaminated Properties Rule.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR:1-92: State whether testing groundwater samples for non-radiological contaminants would provide sufficient information about the nature and extent of non-radiological contamination at the site to allow Mr. Noyes to conduct “a meaningful review” (Q&A14) of NorthStar’s proposal for non-radiological remediation and restoration. If not, explain why not.

A.JP:ANR:1-92:

It depends. The scope of a site investigation work plan is highly dependent on the specific characteristics of a release or suspected release, including but not limited to the type of contaminants, volume of release or suspected release, geology of the site, and hydrology of the site. In many instances, sampling of other environmental media in addition to groundwater may be required to adequately investigate the release or suspected release.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR:1-93: State whether Mr. Noyes has any direct knowledge, other than the data being collected as part of the ENVY groundwater sampling program, that there has ever been off-site contamination or any groundwater contamination above drinking water levels.

- (a) Identify the source of such knowledge.
- (b) Produce all documents relied upon in connection with this response.

A.JP:ANR:1-93: Objection. The request is vague and ambiguous because it does not define “ENVY groundwater sampling program.” Without waiving this objection, the Agency responds:

Other than data from groundwater sampling for radiological contamination, I am unaware of other data that demonstrates that off-site contamination or groundwater contamination above drinking water levels has occurred. I am also unaware of any data that demonstrates that off-site non-radiological contamination or non-radiological groundwater contamination has not occurred.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-94: Define “area of concern” as that term is used throughout Mr. Noyes’ testimony.

A.JP:ANR.1-94:

In my pre-filed testimony, “area of concern” is an “area of concern” or “AOC” as defined in the 2017 Haley & Aldrich HSA. The document states “[i]n support of the D&D efforts, a Historical Site Assessment (HSA) was completed following Multi-Agency Radiological Survey and Site Investigation Manual (MARSSIM) to identify any *areas where chemicals or radiological materials were used, released, or had the potential to impact the environment* (RSCS, 2014a).”

This report includes additional information on the potential release pathways and identifies Areas of Concern (AOCs). Fifteen AOCs have been identified at the VYNPS. These areas were based on known or documented chemical releases, as well as Site practices where there was a potential for chemical constituents to have been released to the environment. A list of the AOCs is presented in Table 4.0-1 and each is shown on Figure 3.

The term “Area of Concern” appears to be used in the same manner in the H&A 2017 QAPP.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-95: Describe the basis for the statement in A.22 that “AOCs in an HSA are essentially equivalent to RECs noted in Phase I Environmental Site Assessments.”

A.JP:ANR.1-95:

I compared the use and meaning of AOC in the H&A HSA and the H&A QAPP with the definition of REC in ASTM E1527-13 and concluded that the terms REC and AOC are essentially equivalent. Both of these terms are used to identify areas or conditions on the Vermont Yankee property that warrant investigation of non-radiological contamination based on historical uses, reported releases, or potential releases.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-96: Admit that the 2014 Historical Site Assessment identified 134 “areas on or adjacent to the VYNPS site where current or former activities may have resulted in non-radiological impacts potentially significant to the decommissioning effort.” If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-96: Admitted.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-97: Admit that the 14 examples of “RECs and/or AOCs” identified in A.25 were previously identified as RECs or potentially impacted areas in either the 2001 Phase I and Phase II Report or 2014 Historical Site Assessment. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-97:

Neither admitted or denied. The 14 examples of “RECs and/or AOCs” identified in A.25 were taken from the Draft Normandeau Phase 1 ESA and included the 2010 tritium release as an REC. The Final Normandeau Phase 1 ESA omitted the list of RECs and/or AOCs containing tritium and referred to Table 1 of the 2014 HSA as a complete list RECs and AOCs. In essence, the ANR comments to the 2014 HSA were not responded to in the Normandeau Phase 1 ESA from 2017. See also A.JP:ANR.103.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-98: Explain whether Mr. Noyes is aware of any chemical/hazardous release at the VY Station site not already documented by the current or former owner of the VY Station.

A.JP:ANR.1-98:

I am not aware of actual, suspected, or potential releases beyond those that have been identified in the four site assessments that I have described in my testimony.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-99: Admit that some areas of the VY Station site are inaccessible and cannot be characterized by sampling today because they are blocked by buildings and structures that remain in use. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-99: Objection. The request for admission assumes the Agency has detailed knowledge about the current configuration of the site. Without waiving this objection, the Agency responds:

Neither admit nor deny. The Agency does not have knowledge regarding specific details about the current configuration of the site and where and when sampling may or may not be possible.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-100: Admit that some areas of the site will remain inaccessible for sampling until radiological remediation occurs. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-100: Objection. The request for admission assumes the Agency has detailed knowledge about the current configuration of the site. Without waiving this objection, the Agency responds:

Neither admit nor deny. The Agency does not have knowledge regarding specific details about the current configuration of the site and where and when sampling may or may not be possible.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-101: Admit that “some conditions, including levels of contamination in some structures, equipment, or soils, are not possible to discern until the dismantlement work is underway.” If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-101: Objection. The request for admission is vague and ambiguous because it does not provide sufficient specificity as to what specific conditions the request refers to. Without waiving this objection, the Agency responds:

Neither admit nor deny. I do not know what specific conditions the request refers to.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-102: State whether Exhibit ANR-GN-8 meets the requirements of Section 35-303. If the answer is no, explain why.

A.JP:ANR.102:

Partially. The H&A Non-Radiological Site Sampling Plan, Rev. A meets the requirements for an initial site investigation work plan. In my experience, for all but the simplest contaminated sites, additional investigation beyond the initial investigation is required to meet all of the requirements of Section § 35-303. Site Investigation is an iterative process and information gained in the initial site investigation is used to refine the Conceptual Site Model, confirm or deny releases at identified RECs, and direct subsequent investigations.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-103: Admit that the final Normandeau 2017 Phase I report dated August 9, 2017, did not identify any new or different RECs, controlled RECs, historical RECs, AOCs, or potentially impacted areas that had not been previously identified in the 2001 Phase I and Phase II Report or 2014 Historical Site Assessment. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.103:

Neither admit nor deny. The Normandeau report states “[t]his Phase I ESA has identified no new or different non-radiological RECs, CRECs, or HRECs in connection with the Site, beyond those already identified in the Prior Site Assessments.”

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-104: Identify the regulatory basis for the statement in A.26 that environmental sampling is “required to determine the scope of and extent of non-radiological contamination associated with the RECs identified in the draft Phase I report.”

A.JP:ANR.1-104: Objection. The Agency objects to the request to the extent it seeks a legal conclusion. Without waiving this objection, the Agency responds:

My testimony at A.26 focused on the technical work that must be done in order to know the scope and extent of non-radiological contamination, determine what corrective actions are required to address non-radiological contamination, and evaluate whether NorthStar’s proposed corrective actions are sufficient.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-105: With regard to the “REC/AOC 1” described at page 14, lines 17-19, admit that a groundwater monitoring program and a recovery system to remove the accumulated oil were approved by the Vermont Department of Environmental Conservation (VTDEC), Sites Management Section (SMS Site No. 99-2617). If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR:1-105:

Denied. There was no “recovery system” associated with SMS Site No. 99-2617. Approximately, 150 liters of free product was recovered from monitor wells via manual bailing. This product recovery and groundwater monitoring occurred at the 5,000-gallon diesel fuel UST located adjacent to the turbine building (Site #99-2617). REC/AOC 1 was identified northeast of the Radiological Waste Building during the tritium release investigation. If REC/AOC 1 is associated with the release identified as SMS Site No. 99-2617, then the release appears to be larger than previously delineated. Regardless of whether it is related to SMS Site No. 99-2617 or is a separate and unrelated release, additional investigation and, potentially, remediation is warranted.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-106: Admit that in September 2008, the Site Management Section issued a “SMAC” (sites management activity complete) designation for Site 99-2617. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-106: Admitted.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-107: Describe what steps ANR took in 1991 to obtain additional information from the prior owners of the VY Station regarding the chemistry lab sink drain leak.

A.JP:ANR.1-107:

I was not personally involved with any steps that ANR took in 1991 to obtain additional information from the prior owners of the VY Station regarding the chemistry lab sink drain leak. To my knowledge, ANR employees that may have been involved in any such response are likely no longer employed by ANR. After speaking with current ANR personnel, I do not have information regarding any steps that ANR took in 1991 to obtain additional information from the prior owners of the VY Station regarding the chemistry lab drink drain leak.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-108: Produce all records ANR retained related to the chemistry lab sink drain leak, described in A.27.

A.JP:ANR:1-108:

See A.JP:ANR:1-64 and A.JP:ANR:1-65.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-109: Admit that the State of Vermont coordinated with the NRC in 1991 regarding remediation of the chemistry lab sink drain leak. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR:1-109: Objection. The request is vague and ambiguous because it does not define “coordinated” or “remediation.” Additionally, the request does not define what is meant by “NRC”.

See A.JP:ANR.1-107. I was not personally involved with any steps that ANR took in 1991 to coordinate with other entities regarding the chemistry lab sink drain leak. To my knowledge, ANR employees that may have been involved in any such coordination are likely no longer employed by ANR. After speaking with current ANR personnel, I do not have information regarding any steps that ANR took in 1991 to coordinate with other entities regarding the chemistry lab sink drain leak.

Person Responsible for Response: Chuck Schwer

Title: Director, Waste Management and Prevention Division

Date: September 27, 2017

Q.JP:ANR.1-110: Describe what action ANR plans to take against the Vermont Yankee Nuclear Power Corporation and/or its prior owners with regard to the chemistry lab sink drain leak.

A.JP:ANR:1-110: Objection. A. In addition, the Agency objects to the request to the extent the request seeks a legal conclusion. The Agency also objects to the request because it seeks information that is irrelevant to the issues of this case and is not reasonably calculated to lead to the discovery of admissible evidence.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management and Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-111: Identify whether Mr. Noyes reviewed the 2002 Memorandum of Understanding Between the Environmental Protection Agency and the Nuclear Regulatory Commission: Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites (“NRC-EPA MOU”).

(a) If so, when?

A.JP:ANR.1-111:

I have not reviewed this document.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-112: Explain ANR's policy regarding the deferral policy in the NRC-EPA MOU as applied to the VY Station site.

- (a) Produce any documents related to ANR's policy, consideration of, or approach to the NRC-EPA MOU deferral policy.

A.JP:ANR.1-112: Objection. The Agency objects to this request to the extent that it seeks information protected by the attorney-client privilege. In addition, the Agency objects to the request to the extent the request seeks a legal conclusion. The Agency also objects to the request because it seeks information that is irrelevant to the issues of this case and is not reasonably calculated to lead to the discovery of admissible evidence.

ANR does not have a policy regarding the NRC-EPA MOU.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management & Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-113: Admit that the removal and disposal of radiologically contaminated soil will also remove any non-radiological contaminants in that same soil. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-113: Objection. The request is vague and ambiguous because it does not define “remove” or “same soil”. Without waiving this objection, the Agency responds:

Neither admit nor deny. Non-radiological contamination may be more mobile than radiological contamination in some instances, which means that removing radiologically contaminated soil mixed with non-radiological contamination may not remove all non-radiological contamination.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-114: As discussed in A.37, identify any remediation method other than excavation that ANR anticipates could be “appropriate.”

A.JP:ANR.1-114:

As I stated in my testimony in A.37, “Because the site has not been characterized and we do not know the degree and extent of non-radiological releases on the site, I cannot make a determination as to what the appropriate remediation method may be for any of the releases or suspected releases.” There are other types of remediation options besides excavation that may or may not be appropriate depending upon the scope and extent of the contamination.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-115: Describe all other steps beyond excavation Mr. Noyes thinks may be required to remediate non-radiological contamination at the VY Station site.

- (a) Identify the extent to which such measures were required at other nuclear sites like Connecticut Yankee and Maine Yankee.

A.JP:ANR.1-115: See response to Q.JP:ANR.1-114. I did not review remediation measures that have been required at other nuclear sites.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-116: Admit that excavation of contaminated soils removes at least some of the contamination and prevents it from spreading. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-115: Objection. The request for an admission is argumentative and includes a fact that the Agency disputes. Without waiving this objection, the Agency responds:

Admit only that excavation of contaminated soils removes at least some of the contamination. Neither admit nor deny that excavation of contaminated soils prevents contamination from spreading. Whether excavation of contaminated soils prevents contamination from spreading depends upon the specific characteristics of the contamination and removal operations.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-117: Admit that it is good practice to remove a source of contamination, like contaminated soils, when possible in remediating a contaminated area. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-117: Neither admit nor deny. Though it is generally good practice, there may be scenarios where an exception to this practice is appropriate, such as where source removal may cause additional environmental damage than leaving the contamination in place.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-118: With regard to “NorthStar’s cost estimates for non-radiological remediation and site restoration,” A.29, explain how Mr. Noyes calculated NorthStar’s cost estimate for non-radiological remediation and site restoration as opposed to radiological decommissioning.

- (a) Identify the total dollar amount Mr. Noyes concludes NorthStar estimates for non-radiological remediation and site restoration.
- (b) Identify the site restoration standards Mr. Noyes used to make that calculation.

A.JP:ANR.1-118:

Mr. Noyes did not calculate NorthStar’s cost estimate.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-119: Admit that Mr. Noyes does not know whether NorthStar's estimates for non-radiological remediation and site restoration are inaccurate. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-119: Admitted.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-121: Identify the number of budgets for corrective action plans that ANR has reviewed.

A.JP:ANR.1-121: Objection. B. Without waiving this objection, the Agency responds:

See A.JP:ANR.1-6.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management & Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-122: Identify all instances in the past five years in which ANR has requested a cost estimate for a proposed corrective plan, as referenced in A.31.

A.JP:ANR.1-122:

See A.JP:ANR.1-6.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management & Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-123: Identify the relevant personnel, and their credentials and experience, who evaluate whether “cost estimates for the work are accurate” and whether “there are sufficient funds to pay for the work that is necessary to protect public health and the environment and remediate non-radiological contamination at contaminated sites.”

- (a) Identify all instances in the past five year in which ANR has made a determination that funds were not sufficient.

A.JP:ANR.1-123: Objection. B. Without waiving this objection, the Agency responds:

Project managers in the Sites Management Section of the Waste Management & Prevention Division evaluate whether cost estimates for the work are accurate. There are approximately 17 project managers. Ultimately, the Director of the Waste Management & Prevention Division makes a determination as to whether there are sufficient funds available from the petroleum cleanup fund, the environmental contingency fund, other funds, or responsible parties. See Exhibit ANR-GN-1 and Exhibit ANR-CS-1.

In the past few years, there have been instances where a potentially responsible party does not complete required remedial work required by the Agency. Non-completion of work can be because of lack of funds or resources to conduct the work.

Person Responsible for Response: Chuck Schwer
Title: Director, Waste Management & Prevention Division
Date: September 27, 2017

Q.JP:ANR.1-124: Describe the “ANR allowable labor and equipment rates” and “prevailing industry rates,” as referenced in A.33, necessary to evaluate the cost estimates and financial assurance for the VY Station.

- (a) Produce all documents reflecting such rates used to evaluate a budget for any Vermont site within the past five years.
- (b) Identify the rate that would be used to conduct such an analysis for the VY Station.

A.JP:ANR:1.124:

When I referenced “ANR allowable labor and equipment rates” in my pre-filed testimony, I was referring to the allowable labor and equipment rates for reimbursement from the petroleum cleanup fund.

- (a) See Attachment A.JP:ANR:1.124.
- (b) There is no pre-set rate that would be used to review cost estimates for the VY Station.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

Q.JP:ANR.1-125: Admit that NorthStar provided a draft plan for waste sampling and classification. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-125: Objection. ANR objects to this question as vague and ambiguous as to what is meant by “draft plan” and “waste sampling” and what is meant by “classification”. Without waiving this objection, ANR responds:

Neither admit nor deny. Assuming the request is referencing the Waste Acceptance Grouping Identification Plan (A.ANR.NS.2-81 through A.ANR.NS.2-81): these documents appear to address some aspects of non-radiological hazardous waste sampling and characterization, but as I state in my prefiled testimony, aspects of the plan are not clear, and I have other concerns about the content of these documents (see A.15).

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 27, 2017

Q.JP:ANR.1-126: Admit that the H&A Voluntary Corrective Action Plan is a draft. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-126:

Neither admit nor deny. I do not know whether the voluntary corrective action plan is, in fact, a draft. Admit only that the H&A Voluntary Corrective Action Plan, Exhibit ANR-GN-9, is labeled “draft.”

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-127: Describe what additional information Mr. Noyes would expect H&A to include in the draft before the Voluntary Corrective Action Plan is final.

A.JP:ANR.1-127:

See my pre-filed testimony at A.40. In addition, a site investigation and site investigation report must be completed and approved before a corrective action plan is reviewed and approved.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-128: Explain whether Mr. Noyes has any basis for concluding that H&A will not include the information listed in A.40 in the final Voluntary Corrective Action Plan.

A.JP:ANR:1-128:

I have no basis for concluding that H&A will or will not submit a corrective action plan that complies with the Investigation and Remediation of Contaminated Properties Rule.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-129: Explain whether any version of the IROCP Rule applies to a Voluntary Corrective Action Plan.

A.JP:ANR.1-129: Objection. This request is vague and ambiguous because it does not define “voluntary corrective action plan.” The Agency also objects to the request to the extent it seeks a legal conclusion. Without waiving this objection, the Agency responds:

The Investigation and Remediation of Contaminated Properties Rule applies to all releases and suspected releases of hazardous materials into the environment.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-130: Admit that, because Mr. Noyes “ha[s] no way of knowing what other remediation and site restoration activities are necessary but are not included in NorthStar’s proposal,” page 26, lines 4-5, he does not know if any remediation or site restoration activities will be required beyond what NorthStar included in its proposal. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-130: Admitted.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-131: Describe how Mr. Noyes took into account the results from groundwater monitoring at the VY Station site, including but not limited to the GZA Report.

A.JP:ANR.1-131:

I reviewed the GZA Report, groundwater sampling that was conducted as part of the Environmental Compliance Services, Inc., and groundwater sampling conducted as part of the investigation of the release from the underground storage tank in April 30, 1999. The results of the available groundwater sampling I reviewed is not current and/or comprehensive.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-132: Identify and describe the cost estimate for the site characterization ANR proposes. Provide all estimates and data that underlie this estimate.

A.JP:ANR.1-132: Objection. B. In addition, the request would require the Agency to create documents not in existence. Without waiving this objection, the Agency responds:

I have not developed a site investigation and characterization workplan or cost estimate for a site investigation and characterization for the Vermont Yankee site.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-133: Identify and describe the time duration required for the site characterization ANR proposes. Provide all estimates and data that underlie this calculation.

A.JP:ANR.1-133: Objection. B. The request would require the Agency to create documents not in existence. Without waiving this objection, the Agency responds:

See response to Q.JP:ANR.1-132. The timeframe duration required for any site investigation and characterization depends upon the scope of releases and suspected releases and the specific workplan proposed by a potentially responsible party and approved the Agency.

Person Responsible for Response: Gerold Noyes

Title: Environmental Engineer

Date: September 27, 2017

Q.JP:ANR.1-134: Admit that ANR's site characterization demands will remain even if they prevent the parties from closing the proposed transaction and result in the VY Station remaining in SAFSTOR for decades. If denied, explain in detail the basis for your denial. If neither admitted nor denied, explain in detail the basis for your response.

A.JP:ANR.1-134: Objection. The request is argumentative. Without waiving this objection, the Agency responds:

Neither admit nor deny. The provisions of 10 V.S.A. §§ 6615, 6616 and the Investigation and Remediation of Contaminated Rules apply regardless of whether the proposed transaction is approved.

Person Responsible for Response: Gerold Noyes
Title: Environmental Engineer
Date: September 27, 2017

As to objections:


DATED at Montpelier, Vermont, September 27, 2017.

AGENCY OF NATURAL RESOURCES

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