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## Final Report of the Joint Select Committee to Oversee Maine Yankee Atomic Power Company, 1998

Maine State Legislature

Maine Office of Policy and Legal Analysis

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**STATE OF MAINE  
118TH LEGISLATURE  
FIRST REGULAR AND FIRST SPECIAL SESSIONS**

**Final Report  
of the  
  
JOINT SELECT COMMITTEE  
TO OVERSEE  
MAINE YANKEE ATOMIC POWER COMPANY**

**January 1998**

**Staff:**

**Jon Clark, Legislative Counsel**

**Office of Policy and Legal Analysis  
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Rep. Robert W. Spear  
Rep. Joseph B. Taylor**

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## **EXECUTIVE SUMMARY**

In May of 1997 the Maine Yankee Atomic Power Company announced that unless a buyer could be found for the Maine Yankee power plant in Wiscasset, the plant would be permanently closed. At the time Maine Yankee was in the midst of discussions with a potential purchaser, PECO Energy Company of Philadelphia. In response to this situation and uncertainty as to what the ultimate status of the plant (Maine's single largest producer of electric energy) would be, the Maine Legislature established by Joint Order the Joint Select Committee to Oversee Maine Yankee Atomic Power Company.

In early August Maine Yankee announced that no agreement for a sale could be reached and the decision was made to permanently close the plant. On August 27, the Joint Select Committee held its first meeting and began its examination of the issues surrounding closure of Maine's only commercial nuclear power reactor.

The Joint Select Committee held four work meetings over the course of four months. Members considered and discussed the range of issues related to the closure of the plant and heard from a variety of entities involved with those issues (see Appendix C for summaries of the committee's meetings). On December 11 the Committee held a public hearing in Wiscasset on the decommissioning of Maine Yankee. The Committee received both oral and written comments. Oral comments are summarized in Appendix E. Written comments may be found in Appendix F. On January 22, 1998, the Committee met a final time to review and vote on this report.

This report summarizes the history and current status of the Maine Yankee Atomic Power plant, provides an overview of the principal issues raised by the closure of the plant, provides the findings and recommendation of the Joint Select Committee and includes a directory of the major agencies and groups that are involved in issues related to the closure of the plant.

The Joint Select Committee finds that the expected failure of the federal Department of Energy (DOE) to meet its obligations pursuant to federal law and DOE contract to take possession of Maine Yankee's spent fuel (high-level radioactive waste) by January 31, 1998 would constitute gross nonfeasance. Ratepayers in Maine and across the country have been obligated for decades to make payments ostensibly to fund the DOE high-level waste program. DOE's failure to meet its obligations results in ratepayers not getting what they paid for and forces them to pay additional millions to fund for an indefinite period on-site storage. Maine Yankee currently estimates the cost associated with on-site storage of this waste to be about \$128,000,000.

Ultimate resolution of the high-level radioactive waste problem requires action by the federal government. Members support the efforts of agencies of this State and of Maine Yankee to force the DOE to meet its obligations and to encourage Congress to develop interim measures to address the vacuum created by DOE's nonfeasance. The committee recommends these efforts continue and that the State, through appropriate agencies, exploit legal opportunities to ensure proper accounting and use of the rate payer funds collected to fund the DOE's high-level

radioactive waste program and to encourage federal funding for all interim measures required as a result of DOE's nonfeasance.

The committee finds there are many state agencies involved in monitoring, regulating and overseeing matters related to Maine Yankee. The committee recommends that the State's activities should be appropriate for the present condition of the plant and that they should be well coordinated. The committee recommends that Legislative review of matters related to Maine Yankee should also be coordinated and that the Joint Standing Committee on Utilities and Energy serve as the committee of jurisdiction with respect to these matters.

As Maine Yankee decommissions, issues will continue to evolve and new issues will doubtless arise. As a result, the committee recommends that the Legislature's Joint Standing Committee on Utilities and Energy be directed to carry on the functions of this committee to monitor and oversee developments at the plant. The committee also recommends that the Joint Standing Committee on Utilities and Energy be directed to review all legislation related to Maine Yankee during the Second Regular Session of the 118th Legislature. Attached as Appendix C is a draft joint order that would implement this recommendation.

problems with the computer program used in the ECCS analysis.<sup>12</sup> In September 1997, the U. S. Attorney concluded an investigation of whether criminal activity had occurred; the investigation showed “a lack of sufficient evidence to prove beyond a reasonable doubt that criminal violations of federal law by individuals or corporations had occurred.”<sup>13</sup> On December 19, 1997, the NRC’s Office of Investigations notified Maine Yankee that it had found 13 “apparent violations” of NRC regulations, including apparent violations related to the company’s analysis of the ECCS (which the NRC attributed to “careless disregard” by Maine Yankee).<sup>14</sup> Maine Yankee has responded to the NRC’s predecisional finding by requesting a predecisional enforcement conference.<sup>15</sup> The NRC may impose civil fines.

Concern raised by problems at the plant caused the NRC to initiate an Independent Safety Assessment (ISA) of the plant. The ISA Team (ISAT), in a report issued October, 1996, identified “a number of deficiencies” in the plant’s licensing-basis, operations, testing procedures, engineering and problem analysis procedures.<sup>16</sup> The company initiated a response plan to address the problems and to correct what the ISAT identified as the root causes of the deficiencies: “(1) economic pressure to be a low-cost energy producer has limited available resources to address corrective actions and some plant improvement upgrades and (2) there is a lack of a questioning culture which has resulted in a failure to identify or promptly correct significant problems in areas perceived by management to be of low safety significance.”<sup>17</sup>

On February 11, 1997, the NRC issued an Integrated Inspection Report in which 16 apparent violations, the majority of which are related to the ISAT review, were identified for “escalated enforcement action.”<sup>18</sup> Final enforcement decisions on these matters have yet to be made.

The plant was briefly shut down in February 1996 to allow repair of a faulty valve. In August of 1996, it was discovered that a cable to a pump was severed. The plant reopened at the end of August but shut down again on December 6 (and has not reopened since) after cable separation problems were discovered. On December 20th, Maine Yankee President Charles Frizzle submitted his resignation to the company’s board. In January of 1997, the company contracted with Entergy Nuclear, Inc. of New Orleans to manage the plant to improve its performance.

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<sup>12</sup> “Event Inquiry -- Maine Yankee Power Station (Case No. 96-04S),” NRC Office of Inspector General, May 8, 1996, pp. 9-10.

<sup>13</sup> U.S. Department of Justice Press Release “U.S. Attorney Decline Prosecution in Maine Yankee Case,” September 24, 1997

<sup>14</sup> See NRC letter (w/attachments) to Mr. Michael Sellman, President, MYAPC, subject “Apparent Violations Stemming from Office of Investigations Report Nos. 1-95-050, 1-96-025, and 1-96-043,” December 19, 1997.

<sup>15</sup> See letter from Michael J. Meisner, V.P. Nuclear Safety & Regulatory Affairs to NRC, MN-98-06, MJM-98-03, January 23, 1998

<sup>16</sup> USNRC Independent Safety Assessment of Maine Yankee Atomic Power Company, pp. v-vii.

<sup>17</sup> Id. at vii.

<sup>18</sup> NRC Integrated Inspection Report 50-309/96-16, February 11, 1997.

On January 29, 1997, the NRC placed Maine Yankee on its “watch list” indicating the NRC believed the plant suffered weaknesses significant enough to require increased regulatory attention. In April Maine Yankee reported that it would be replacing a majority of the plant’s fire-barrier seals as they were not in compliance with NRC specifications.

In May, the board of Maine Yankee voted to reduce spending at the plant and announced that unless a buyer could be found, the plant would be decommissioned. David Flanagan, chair of the Maine Yankee Atomic Power Company board, stated that “an economic analysis of operations, rising expenses for plant upgrades and the projections for stable power costs fueled the decision by Maine Yankee’s eight owners to explore permanent shutdown.”<sup>19</sup>

PECO Energy Company of Philadelphia showed interest in the plant and negotiations for the sale occurred over the course of several months, but on August 1 it was announced that no agreement could be reached. The Maine Yankee Atomic Power Company board voted August 6, 1997 to decommission the plant. The next day Maine Yankee submitted to the NRC a certification of permanently ceasing power generation operations and a certification of permanent removal of fuel from the reactor.

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<sup>19</sup> May 27, 1997 Press Release, “Owners Cut Spending, Weigh Closure of Maine Yankee.”

## II. Principal Issues

### A. Decommissioning

The decommissioning of Maine Yankee involves dismantling and removing the plant and removing radioactive contamination from the area, including soils and groundwater, to those levels at which the site can be released for unrestricted use.<sup>20</sup> Pursuant to NRC rules, Maine Yankee submitted to the NRC in August of 1997 a Post-Shutdown Decommissioning Activities Report (PSDAR) in which a process and timetable for decommissioning is laid out in broad terms.<sup>21</sup> A site characterization study designed to identify radiological and hazardous materials contamination in the plant and the grounds is expected to be completed in March of 1998. Maine Yankee has contracted with GTS Duratek to undertake the site characterization study. Major decommissioning is expected to begin late-summer or early-fall 1998. A detailed decommissioning cost estimate is scheduled to be produced by August of 1999, a license termination plan in April of 2003 and a final site survey in October of 2004. License termination, which marks the end of NRC regulation of Maine Yankee as a power reactor, is expected in 2005; the NRC will continue to regulate spent fuel storage at the plant until all the fuel is removed from the site.

The cost of decommissioning is not yet known with precision. The most recent estimate approved for recovery by the Federal Energy Regulatory Commission, which regulates Maine Yankee's power rates, is about \$377,000,000 in 1997 dollars, assuming a 2008 closure date. Maine Yankee has so-far set aside \$195,000,000; the expectation was that the nearly \$200,000,000 difference would be collected between now and 2008. Maine Yankee has revised its own estimates of decommissioning and now projects the cost to be about \$380,000,000. In addition, Maine Yankee projects a cost of approximately \$128,000,000 to handle and store spent nuclear fuel. As mentioned below, this is a cost created by the fact that DOE will almost certainly fail to comply with federal law and contracts entered pursuant to federal law which require the DOE to take possession of this waste by January 31, 1998.

On November 5, Maine Yankee filed with the Federal Energy Regulatory Commission (FERC) a request for an increase in its collections in order to cover the increase in its decommissioning cost estimate and the cost of storing the spent fuel. Maine Yankee has proposed that this increase take effect on January 15, 1998; the increase will be subject to possible disallowance by the FERC and retroactive refund. It is expected the FERC will rule on the substance of the request in 1998 or 1999.

In electric industry restructuring legislation passed in 1997 appears the following language: As required by federal law, rule or order, the commission shall include in the rates of a transmission and distribution utility decommissioning expenses associated with a nuclear unit. (35-A MRSA §3209(4), effective September 19, 1997.) Under this

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<sup>20</sup> USNRC "Strategic Assessment Issue; 24. Decommissioning - Power Reactors" (released September 16, 1996).

<sup>21</sup> 10 CFR §50.



front payment by the waste generator (e.g. Maine Yankee) but would ostensibly guarantee 20 years of access to an allotted space in the facility. Whether this proposal will be approved by the South Carolina Legislature is uncertain and how much of a real guarantee it will provide is unclear. It may provide more certainty than is presently provided. Given that the Texas facility will not be built and accepting waste for several years at least, access to Barnwell remains an important factor in achieving timely decommissioning of Maine Yankee.

To the extent that Maine Yankee disposes of its LLRW at Barnwell it will not need capacity it purchases under the Texas Compact. If the compact is approved, Maine Yankee has indicated an interest in exploring options which would mitigate any duplicative costs.<sup>23</sup>

The following state agencies are or will be examining issues related to LLRW.

State Agency	Authority	Jurisdiction
Public Utilities Commission	Regulatory	Rates
Public Advocate	Advisory	Compact
Radiation Control Agency	Monitoring/ Regulatory	Radiation
Nuclear Safety Advisor	Advisory	Safety
Office of Nuclear Safety	Oversight/ Monitoring	Radiation /Safety Radioactive waste
Adv. Comm. on Rad. Waste	Advisory	Radioactive waste

### C. High-level Radioactive Waste

Disposal of high-level radioactive waste is the legal responsibility of the federal Department of Energy (DOE). Pursuant to federal law and contracts entered into with generators of spent nuclear fuel in accordance with that federal law, the DOE is required to begin taking possession of (and permanently disposing) spent nuclear fuel by January 31, 1998.<sup>24</sup> It does not appear the DOE will be able to meet this requirement.<sup>25</sup> The DOE is presently evaluating the feasibility of construction of a mined geologic repository at Yucca Mountain, Nevada. It is uncertain when or if a facility at this site will be built.

<sup>23</sup> The Governors of the Compact states (Maine, Texas and Vermont) have signed a letter of agreement clarifying their intent for implementing the Compact. The letter discusses issues related to mitigation of potential duplicative costs. The letter is attached as Appendix I.

<sup>24</sup> 42 USC §10222(a)(5)(B). See Standard Contract, 10 CFR §961.11, Art. II (1996).

<sup>25</sup> Several states, including Maine, a number of electric utilities and the NARUC filed suit in federal court seeking mandamus to order DOE to meet its responsibilities and to authorize signatories to the DOE's Standard Contract to set aside Nuclear Waste Fund fees in escrow until DOE does take possession of the waste. A decision was rendered in November 1997; the court did not issue the requested mandamus but did rule that the DOE may not excuse its failure to take the waste as "unavoidable" and thus that the states and utilities may seek remedy under the Standard Contract.

limitations on the PUC's ability directly to re-examine what the FERC has approved.<sup>29</sup> The PUC does have authority to intervene in the FERC proceedings; the PUC and the Public Advocate have both intervened in the rate case Maine Yankee has filed with FERC. The PUC may also have authority to review rate elements not directly reviewed by FERC but which nevertheless relate to the Maine Yankee situation.<sup>30</sup> Bangor-Hydro Electric and Maine Public Service have already filed with the PUC requests for rate increases involving costs associated with Maine Yankee. Central Maine Power Company may file with the commission in the future.

The PUC contracted with an independent auditor to conduct a general audit of Maine Yankee's management and operations since 1994. The auditor's report was issued on August 29 and found \$95.9 million of what it describes as "unreasonable costs."<sup>31</sup> The PUC opened an investigation of Maine Yankee to determine the prudence of the shutdown; the investigation has been stayed during the pendency of the FERC proceeding, though the PUC has continued a further management audit of Maine Yankee.<sup>32</sup> How the results of its investigation may be used and to what extent the PUC has authority to disallow recovery of some of the costs to Maine utilities of purchasing replacement power (if the PUC identifies any imprudence by Maine Yankee) is not clear and may be litigated. Maine Yankee, Central Maine Power, Bangor-Hydro Electric and Maine Public Service have appealed the PUC decision to investigate the issues; in consequence of the PUC stay of its investigation, the appeal has been stayed until December 31, 1998 or 30 days after the conclusion of the FERC case, whichever comes first.

Maine Yankee may continue to be at risk for potential unexpected liabilities associated with decommissioning and on-site storage of HLRW.

The following state agencies are or will be examining these cost and liability issues.

State Agency	Authority	Jurisdiction
Public Utilities Commission	Regulatory	Rates
Public Advocate	Advocacy	Rates

## **E. Emergency Planning**

In November 1997 Maine Yankee submitted to the NRC a Defueled Emergency Plan in which it presented its analysis of the risks associated with the defueled condition and requested approval to discontinue certain aspects of its emergency plan. According to Maine Yankee's assessment, the closure of the plant significantly reduces the radiological

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<sup>29</sup> The so-called "filed rate doctrine" or "Narragansett doctrine" establishes an ascendancy for FERC-approved wholesale rate determinations in the context of state PUC retail rate-setting.

<sup>30</sup> The extent of any PUC residual authority under federal law is not entirely clear.

<sup>31</sup> This audit was initiated in the context of a Bangor-Hydro's rate increase request; how the PUC may use the results is not yet determined.

<sup>32</sup> MPUC docket # 97-781. See December 2, 1997 order staying the investigation.

risks associated with potential accidents at the plant. The risks now relate mainly to the handling of HLRW and LLRW (e.g., dropping fuel rods) and transportation of these wastes (e.g., a road accident). These sorts of accidents, were they to occur, could pose localized radiological risks to workers and others. According to Maine Yankee's assessment, the sort of regional risks associated with an accident in an active plant (e.g., a melt down) are no longer present since the fuel has been permanently removed from the reactor.

If NRC grants Maine Yankee's request for a modification of its emergency plan, the Department of Defense, Veterans and Emergency Management expects to commence "collapsing" its off-site emergency response capabilities (probably in the Spring of 1998).<sup>33</sup> The department is also working to strengthen its emergency response capacity with respect to potential accidents in the transportation of nuclear materials.

The Department of Human Services expects to reposition its monitoring equipment around the plant in light of the changed nature of the activities and risks.

The following state agencies are or will be examining issues related to emergency planning.

State Agency	Authority	Jurisdiction
Dept. of Defense (MEMA)	Planning	Emergency plan
Radiation Control Agency	Advisory	Radiation
Nuclear Safety Advisor	Advisory	Safety
Office of Nuclear Safety	Oversight/ Monitoring	Radiation/Safety/ Radioactive waste
Adv. Comm. on Rad. Waste	Advisory	Radioactive waste

## F. Employees

Prior to shutdown, Maine Yankee employed 476 persons in full-time positions and about 200 others as permanent contractors. The majority of employees live in Maine in towns scattered over the south and mid-coast region from Saco to Thomaston, Norridgewock to Auburn with the greatest concentration in the local mid-coast region from Wiscasset to Brunswick. Salaries ranged from \$17,000 to \$143,000 with an average of \$54,000. The total payroll was approximately \$30,000,000. The total work force is presently reduced to 317. By February 1999, the work force is expected to be reduced to about 200 employees; as decommissioning proceeds, further reductions will occur. There will be a temporary influx of contract employees during the early stages of decommissioning.

<sup>33</sup> See letter from John W. Libby, Chairman, Radiological Emergency Preparedness Chairman to Committee on Utilities and Energy, August 22, 1997, Ltr #77-97-1. Also see summary of October 8 meeting, comments of Wayne Mallock (Appendix D) and summary of public hearing, comments of General Earl Adams (Appendix E).

A severance and early retirement package is provided by Maine Yankee. The Department of Labor has formed a Rapid Employment Training Initiative Team (with Coastal Enterprises, Inc., Drake Milardo Inglesi, Coastal Economic Development and the Small Business Development Center) which is actively assisting employees make the transition to new employment.

The following state agencies are or will be examining employee issues.

State Agency	Authority	Jurisdiction
Department of Labor	Service	Transition
State Planning Office	Planning	Economic effects

## **G. Economic Effects on Region**

The closure of Maine Yankee affects the economic landscape of Wiscasset, the Lincoln County/Sagadahoc County region and the State.

Maine Yankee has been Wiscasset's primary source of tax revenue for 25 years. Closure results in a significant reduction in the value of the plant; tax revenues collected by the town will necessarily drop significantly. Maine Yankee's 1996 municipal valuation was about \$345,000,000.<sup>34</sup> Wiscasset's current mill rate is 37/1000 which resulted in property taxes paid by Maine Yankee to the town in 1996 of about \$12,800,000. The total valuation, for assessment purposes, of all property other than Maine Yankee within the town was \$33,000,000.<sup>35</sup> The total property tax collected in Wiscasset in 1996 was about \$13,800,000. The current Wiscasset budget is just over \$13,000,000. Wiscasset is presently without debt and has a reserve of approximately \$13,000,000.

Wiscasset's loss of its major tax resource will affect its own school funding which in turn will affect area towns that tuition students to the Wiscasset schools. Alna (which has no schools of its own), Westport (which has no schools of its own), Dresden (which has no 7-12 school of its own), Edgecomb, Woolwich and Whitefield all have tuition students in the Wiscasset schools. Until recently, Wiscasset charged 50% of the state allowable tuition; it now charges 75%. Wiscasset plans, over the next three years, to increase tuition to 100% of the state allowable tuition. Wiscasset has a problem of overcrowding in its schools and has given notice to some towns that it will not be accepting tuition students after 1999.

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<sup>34</sup> This valuation was approximately 107% of the most recent Certified State Valuation which is about \$321,000,000. The 1997 Certified State Valuation is the most recent; it provides a valuation as of April 1995.

<sup>35</sup> This is about 17% of the most recent Certified State Valuation (1997) which is about \$189,000,000. State law requires that municipal assessment ratios must be at least 70% but not greater than 110% of just value. The combination of over-valuation of Maine Yankee and under-valuation of other property (relative to the State Valuation and surveyed sales) has resulted in a State certified ratio of 70%, which meets the statutory test.

*NOTE: Committee members Senator Kilkelly and Representative Rines object to the suggestion that Wiscasset's valuation of Maine Yankee was an "over-valuation."*

The loss of a major mid-coast industry will have effects on businesses who provide goods or services to the plant or to its employees. Reuse of the site by a new business or industry may alleviate direct and indirect economic effects. Other sorts of economic development in the region may help mitigate impacts. Currently there is a lack of local and regional economic development and planning infrastructure in Lincoln county and the town of Wiscasset.

The following state agencies are or will be examining economic issues.

State Agency	Authority	Jurisdiction
State Tax Assessor	Valuation	Property taxes
DECD	Service	Development
Department of Education	Administration	School funding
State Planning Office	Planning	Economy

### **III. Findings And Recommendations**

#### **A. Findings**

We find that the expected failure of the federal Department of Energy (DOE) to meet its obligations under federal law and DOE contract to take possession of Maine Yankee's spent fuel (high-level radioactive waste) by January 31, 1998 would constitute gross nonfeasance. Ratepayers in Maine and across the country have been obligated for decades to make payments ostensibly to fund the DOE high-level waste program. DOE's failure to meet its obligations results in ratepayers not getting what they paid for and paying additional millions to fund for an indefinite period on-site storage. Maine Yankee currently estimates the cost associated with on-site storage of this waste to be about \$128,000,000.

We find there are a significant number of State agencies overseeing, regulating and monitoring various matters related to Maine Yankee (see Section IV. A. of this report); activities of these agencies related to Maine Yankee should be appropriate to the present condition of the plant and well coordinated.

#### **B. Recommendations**

Resolution of the high-level radioactive waste problem requires action by the federal government. Members support the efforts of agencies of this State and of Maine Yankee to force the DOE to meet its obligations and to encourage Congress to develop interim measures to address the vacuum created by DOE's nonfeasance. We recommend that these efforts continue and that the State, through appropriate agencies, exploit legal opportunities to ensure a proper accounting and use of the rate payer funds collected to fund the DOE's high-level radioactive waste program and to encourage federal funding for all interim measures required as a result of DOE's nonfeasance.

The committee recommends the State's activities in monitoring, regulating and reviewing matters related to the plant be appropriate for the present condition of the plant and that the activities be well coordinated. The committee recommends that Legislative review of matters related to Maine Yankee be coordinated and that the Joint Standing Committee on Utilities and Energy serve as the committee of jurisdiction with regard to these matters. We recommend that all bills involving Maine Yankee be referred to that committee and in particular we recommend that the following bills related to Maine Yankee that have already been submitted to the Second Regular Session of the 118th Legislature be referred to that committee:

LD 2119 (S.P. 792), An Act to Clarify the Responsibilities of the Advisory Commission on Radioactive Waste during the Decommissioning of Maine Yankee

#### **IV. Directory of Agencies and Entities**

The following are the major State and Federal entities with authority to assist in, oversee or regulate matters related to the closure of Maine Yankee.

##### **A. State Government Agencies (regulatory and advisory)**

Advisory Commission on Low-level Radioactive Waste  
Senator Richard Carey, Chair

Contact: Dale Randall, staff  
10 State House Station  
Augusta, ME 04333

Telephone: 287-8404  
Fax: 287-4172

The Commission advises the Governor, agencies and the Legislature and provides public information on matters related to radioactive waste management. The commission is monitoring developments at Maine Yankee, but it has not formally adopted or formulated any particular approach or response.

Defense, Veterans and Emergency Management, Department of  
Emergency Management Agency  
72 State House Station  
Augusta, ME 04333

Contact: John (Bill) Libby, Director  
Telephone: 287-4080

Together with the Radiological Emergency Response Committee, MEMA has developed and continues to administer and implement the State's Emergency Radiological Response Plan to protect the public in the event of releases of radioactive materials from Maine Yankee. The Plan will be maintained at least until the NRC formally removes the requirement for off-site emergency planning.

Economic and Community Development, Department of  
59 State House Station  
Augusta, ME 04333

Contact: Alan Brigham, Policy Director  
Telephone: 287-2660

The Department of Economic and Community Development (DECD) is working with Wiscasset and the region to assist them in responding to the looming economic vacuum created by the closure of the plant.

Education, Department of  
Management Information System Team  
23 State House Station  
Augusta, ME 04333

Contact: Jim Watkins, Team/Policy Leader, MIS  
Telephone: 287-5841

The department administers the school funding formula. The funding formula is based on the State Valuation which is two years behind current values. The department has run some rough scenarios of possible changes down the road in school funding to the town.

Finance Authority of Maine  
94 State House Station  
P.O. Box 949  
Augusta 04332-0949

Contact: Charles Mercer, Director of External Affairs  
Telephone: 623-3263

FAME offers a variety of business assistance programs to new and expanding businesses including loan guarantees, tax credits and bond financing backed by state obligation. It is not presently involved in any projects directly related to the closure of Maine Yankee.

Labor, Department of  
Bureau of Employment and Training Programs  
55 State House Station  
Augusta, ME 04333

Contact: Paul Luce, State Rapid Response Coordinator  
Telephone: 624-6390

Immediately following the decision by the Maine Yankee board of directors to cease power production at the plant, the Bureau of Employment and Training Programs developed a Rapid Employment Training Initiative team (RETI) to assist workers displaced by the closure. The RETI is an outgrowth of the federal Economic Dislocation Worker Adjustment Assistance Act of 1988, which provides federal funding for retraining and job placement. The RETI includes CEI, CED and Drake Milardo Inglesi (see descriptions below).

Nuclear Safety Advisor, State Planning Office



38 State House Station  
Augusta, ME 04333

Contact: Uldis Vanags, Safety Advisor  
Telephone: 287-3261

The Advisor advises the Governor and the Legislature on issues pertaining to safe operation of Maine Yankee and safe transportation and storage of nuclear waste. The Advisor continues to monitor activities at the plant and developments with regard to waste storage and disposal and is involved with the Nuclear Waste Strategy Coalition which is lobbying for development of an interim high-level waste repository in Nevada.

Office of Nuclear Safety, Bureau of Health  
10 State House Station  
Augusta, ME 04333-0010

Contact: Patrick Dostie, State Nuclear Safety Inspector  
Telephone: 882-5349

The Office of Nuclear Safety is located at Maine Yankee. Its mission is to oversee and monitor day-to-day activities at the plant; it is overseeing and monitoring the decommissioning process. It conducts environmental monitoring, inspects radioactive waste shipments and storage, reviews and comments on technical submission to the NRC, investigates allegations and participates in and observes NRC inspections. The Office recently convened a decommissioning response team consisting of Bureau of Health staff; the Nuclear Safety Inspector is the team leader. The team will provide oversight and review of developing technical issues throughout the decommissioning process. The team is currently reviewing the site characterization survey. It expects future involvement with the Nuclear Safety Advisor.

Public Advocate  
112 State House Station  
Augusta, ME 04333

Contact: Steve Ward, Public Advocate  
Telephone: 287-2445

The Public Advocate represents the using and consuming public on matters within the jurisdiction of the Public Utilities Commission. The Advocate is currently a party in the Bangor-Hydro rate case in which Maine Yankee costs are a central issue. The Advocate has intervened in the Maine Yankee rate case filed at the FERC. The Advocate negotiated the Texas Compact on behalf of the State, has testified in favor of its approval by Congress and continues to follow its progress and issues raised with regard to it.

Public Utilities Commission

18 State House Station  
Augusta, ME 04333

Contact: Thomas Welch, Chair  
Telephone: 287-3831

The PUC regulates public utilities. It is currently reviewing a rate case brought by Bangor Hydro-Electric in which issues related to management of Maine Yankee have been raised. The PUC commissioned an independent audit review of Maine Yankee and the report from the audit was released August 29th. The PUC has opened an investigation of Maine Yankee prudence associated with events leading to the shut down and the shut down itself (currently stayed, pending the rate case at FERC). The PUC has intervened in the Maine Yankee rate case filed at FERC.

Radiation Control Agency  
Division of Health Engineering  
Bureau of Health  
Department of Human Services  
10 State House Station  
Augusta, ME 04333-0010

Contact: Jay Hyland, Acting Program Manager  
Telephone: 287-8401

The Agency is the State's radiation regulator. With respect to Maine Yankee the agency is involved in matters related to radioactive materials, including low-level radioactive waste, environmental surveillance and emergency response planning. The agency participates in the decommissioning response team (see description under Office of Nuclear Safety). The agency continues to perform these functions and will adjust its surveillance and monitoring activities should high-level waste be stored in dry cask at the plant.

State Planning Office  
Executive Department  
38 State House Station  
Augusta, ME 04333

Contact: Laurie Lachance, State Economist  
Telephone: 287-1479

The SPO serves as the coordinator between regional councils of government and planning commissions and the state. The SPO also administers the various state community block grants including the land use planning block grant. A part of this grant may be used to fund a study of the effects of the shutdown and how the effect may be mitigated.

The working group is an informal ad hoc group of representatives of relevant state agencies; it was established by the Governor to coordinate state agency responses to the Maine Yankee closure. The group meets every 2-3 weeks.

#### **D. Private Entities**

##### Coastal Enterprises Incorporated

P.O. Box 286

Wiscasset, ME 04578

Contact: Constance Magistrelli, Acting Director, Small Business Assistance Center

Telephone: 882-3430

Coastal Enterprises Inc. (CEI) is a private, nonprofit community development corporation located in Wiscasset. CEI strives to develop opportunities for Maine people with low incomes who need additional resources to reach an adequate and equitable standard of living, learning and working. The organization provides financial and human resources to Maine business through partnerships with banks, public and private agencies, and community organizations.

CEI's Small Business Development Center is currently involved with the training of people interested in self-employment who have been displaced by the closure of Maine Yankee; it is involved with the Maine Department of Labor's Rapid Employment Training Initiative Team. CEI provides entrepreneurship education and training; its business counselors provide one-on-one business management assistance. Loans are available to businesses that meet loan requirements. As a result of the Maine Yankee closure, CEI was awarded a \$1.85 million grant to actively pursue economic diversification, to provide technical assistance to businesses, to capitalize the loan fund, to support affordable housing and to conduct economic development research in Lincoln County.

##### Coastal Economic Development

39 Andrews Road

Bath, ME 04530

Contact: Christa Baade, Rapid Response Coordinator, Mid-Coast Maine

Telephone: 800-491-0089

Coastal Economic Development (CED) is a nonprofit, community development corporation located in Bath. CED administers job training programs, WIC and Headstart programs, as well as others, for the mid-coast region.

Christa Baade is the Dept. of Labor's Rapid Employment Training Initiative Team coordinator for the Maine Yankee situation.

Community Advisory Panel  
Senator Marge KilKelly, Chair

Contact: Eric Howes, Government Affairs Director  
Maine Yankee Atomic Power Company  
329 Bath Road  
Brunswick, ME 04011  
Telephone: 798-4195

CAP was established by Maine Yankee to enhance communication and public involvement and education on Maine Yankee decommissioning issues. It serves as an information link between the public and Maine Yankee on decommissioning but has no decisional authority.

Drake Inglesi Milardo, Inc.  
50 Portland Pier  
Portland, ME

Contact: Susan Arledge, Senior Consultant  
Telephone: 882-5632

Drake Inglesi Milardo is a human resources consulting firm located in Portland. The firm has been working to assist Maine Yankee employees in a variety of ways and is working in concert with the Department of Labor, CEI, CED and the Small Business Association in serving the employee needs.

Friends of the Coast  
P.O. Box 98  
Edgecomb, ME 04556

Contact: Ray Shadis  
Telephone: 882-7801

Friends of the Coast is a citizen group which has closely monitored activities at the plant in terms of its safety and environmental impacts. Ray Shadis, a spokesperson for the group, serves on the Community Advisory Panel.

Kennebec Valley Council of Governments  
17 Main Street  
Fairfield, ME 04937

Contact: Leonard Dow, Economic Development Director  
Telephone: 453-4258

KVCOG is a private non-profit entity whose funding derives from member towns, state and federal grants and loans. KVCOG is a planning and information resource to towns and businesses within Kennebec, Somerset and Western Waldo counties. KVCOG is not involved in any direct fashion with displacement related to the Maine Yankee closure. It will, however, be offering educational training programs for entrepreneurs (starting new businesses) in the area; these may be of assistance to some of the displaced workers.

## **E. Federal agencies**

### Nuclear Regulatory Commission

NRC regulates civilian use of radioactive materials to ensure public safety, including regulation of the operation of nuclear power plants and the transportation, storage and disposal nuclear materials and waste. It has regulatory responsibility for the safe decommissioning the plant. (42 USC various chapters.)

### Department of Energy

DOE is responsible for siting, building and operating a high-level waste disposal facility and for taking title to and safely disposing of high-level radioactive waste and spent nuclear fuel beginning January 31, 1998. (42 USC §10222.)

### Federal Energy Regulatory Commission

FERC regulates the use and sale of electric energy in interstate commerce and has regulatory jurisdiction over the rates of wholesale generators such as Maine Yankee. (16 USC §824 et seq.)

## **APPENDIX A**

Joint Order Establishing  
Joint Select Committee to Oversee Maine Yankee

**JOINT ORDER ESTABLISHING THE JOINT SELECT COMMITTEE TO  
OVERSEE MAINE YANKEE  
H.P. 1345**

**ORDERED**, the Senate concurring, that the Joint Select Committee to Oversee Maine Yankee Atomic Power Company is established as follows:

**1. Establishment.** The Joint Select Committee to Oversee Maine Yankee Atomic Power Company, referred to in this order as the “committee,” is established.

**2. Membership.** The committee consists of 13 Legislators appointed jointly by the President of the Senate and the Speaker of the House. Of those Legislators, 7 must be members of the Joint Standing Committee on Utilities and Energy and of the remaining 6, 4 must represent Lincoln County.

**3. Duties.** The committee shall monitor the developments at the Maine Yankee Atomic Power Company and report its findings to the Legislature.

**4. Meetings.** In conducting its duties, the committee may meet as often as necessary with any individuals, departments, organizations or institutions it considers appropriate.

**5. Appointments.** All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the committee no later than October 15, 1997. The committee shall select a chair from among its members.

**6. Staff assistance.** The committee shall request staffing and clerical assistance from the Legislative Council, which must be provided from within the available resources.

**7. Compensation.** Members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the committee.

**8. Report.** The committee shall submit its finding, along with any necessary implementing legislation, to the Legislative Council and the Second Regular Session of the 118th Legislature by January 31, 1998. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

## **APPENDIX B**

### List of Joint Select Committee Members



## **APPENDIX C**

Draft Joint Order  
Directing Utilities and Energy Committee to continue to monitor  
Maine Yankee developments

**JOINT ORDER DIRECTING THE JOINT STANDING COMMITTEE ON  
UTILITIES AND ENERGY TO OVERSEE  
DEVELOPMENTS AT MAINE YANKEE  
S.P. \_\_\_\_\_**

**ORDERED**, that the Joint Standing Committee on Utilities and Energy, referred to in this Order as the committee, is directed to oversee Maine Yankee Atomic Power Company as follows:

**1. Duties.** The committee shall review all legislation introduced in the Second Regular Session of the 118th Legislature related to Maine Yankee. The committee shall also monitor developments at the Maine Yankee Atomic Power Company and report its findings to the Legislature.

**2. Meetings.** In conducting its duties, the committee may meet as often as necessary with any individuals, departments, organizations or institutions it considers appropriate.

**3. Staff assistance.** To support its work after the adjournment of the Second Regular Session of the 118th Legislature, the committee shall request staffing and clerical assistance from the Legislative Council, which must be provided from within available resources.

**4. Compensation.** Members of the committee are entitled to receive legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the committee occurring after the adjournment of the Second Regular Session of the 118th Legislature.

**5. Legislation.** The committee may report out legislation related to Maine Yankee to the Second Regular Session of the 118th Legislature.

**6. Report.** The committee shall submit a final report of its findings, along with any necessary implementing legislation, to the First Regular Session of the 119th Legislature. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

## **APPENDIX D**

### Summaries of Joint Select Committee Meetings

## OFFICE OF POLICY AND LEGAL ANALYSIS

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Augusta, ME 04333  
voice 207-287-1670  
fax 207-287-1275

### MEMORANDUM

To: Members, Joint Select Committee to Oversee Maine Yankee

From: Jon Clark, Legislative Counsel

Date: August 28, 1997

Re: Summary of First Meeting (8/27/97)

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The first meeting of the committee was convened at about 10:30 by Speaker of the House Elizabeth Mitchell, Chair of the Legislative Council. Ten members were in attendance. Senator Cleveland, Senator Harriman and Representative Jones were unable to attend.

Without objection, Senator Carey was elected chair and Representative Kontos vice-chair of the committee.

The committee discussed several of the issues raised by the closure of Maine Yankee, including economic effects on the region, radioactive waste issues, utility/rate-payer issues and employee transition issues. The committee also discussed the fact that there are a number of entities looking at and attempting to address these various issues, among them the Governor's Task Force, the Advisory Commission of Low Level Radioactive Waste and a nascent group which Senator Kilkelly is organizing to address economic issues in the Wiscasset region.

The committee considered the list of issues distributed by staff and by general consensus determined that, due to its limited budget and the fact that many entities were already working on the various issues, the committee should not attempt to study and develop policy proposals but rather to serve as a sort of coordinator:

1. Gathering information for the Legislature about the efforts of various governmental and quasi-governmental entities which are looking at and dealing with the issues;
2. Helping to coordinate those efforts; and
3. Identifying issues that seem to need further attention and which entity or entities should examine them.

It was suggested and generally agreed that utility and rate-payer issues, while very important, could and would best be overseen by the Utilities and Energy Committee; for the present at least, the select committee set them to one side.

The committee directed staff to gather information about the several groups especially charged to examine issues related to the Maine Yankee shutdown and to ensure that information was shared and lines of communication opened. Staff will also be gathering information about the various governmental and quasi-governmental entities that have significant jurisdiction over issues related to Maine Yankee.

The committee had a brief presentation from Uldis Vanags, State Nuclear Safety Advisor, regarding the status of the suit brought by a number of states and utilities against the DOE to force DOE to meet its responsibility under federal law to dispose of high-level radioactive waste (decision expected in the fairly near future) and federal legislation to create an interim storage facility in Nevada (House and Senate bills moving forward but Presidential veto expected; not clear there are sufficient votes to override).

The committee decided its next meeting will be on October 8, at 10:00 in room 124 of the State Office Building. At that time the committee will hear about the activities of key entities involved with the radioactive waste, decommissioning, economic impact, and employee impact issues.

The committee adjourned at about 12:30. Members were invited to attend a briefing at 1:00 by Michael Meisner, a Vice President of Maine Yankee, to the Advisory Commission on Low-level Radioactive Waste on Maine Yankee's nearly finalized PSDAR. Mr. Meisner gave an overview of what appears in the PSDAR and answered several questions. Most members were able to stay for at least some of the briefing. Staff of the Advisory Commission (Dale Randall, 287-8404) tape recorded the presentation.

## OFFICE OF POLICY AND LEGAL ANALYSIS

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### MEMORANDUM

To: Members, Joint Select Committee to Oversee Maine Yankee

From: Jon Clark, Legislative Counsel

Date: October 9, 1997

Re: Summary of October 8 Meeting

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The committee had its second meeting on October 8 from 10 am to 3:30 p.m. in Room 124 of the State Office Building. Senator Cleveland and Senator Harriman did not attend. Of the eleven members that did attend, a number were unable to stay for the entire meeting. State Nuclear Safety Advisor, Uldis Vanags, who was scheduled to provide a presentation to the committee, was detained in Washington and was unable to attend.

In the morning, the committee had a presentation from Michael Meisner, a Vice President of Maine Yankee, who provided an overview of matters related to decommissioning, radioactive waste, the upcoming FERC rate case and employee reductions. He provided copies of the following materials to the committee: Slides he used with his presentation; letter to Governor King inviting a cooperative approach with the State in monitoring decommissioning; press release on Texas Compact.

Representative Rines indicated that he had heard from sources that appeared well informed than materials were being prematurely taken out of the plant. Mr. Meisner indicated that only uncontaminated materials should be and were being removed for salvage. He stated that no decommissioning was occurring. Representative LaVerdiere queried whether the company was keeping a clear and detailed accounting of the salvaged materials: what material? sold to whom? for what price? Mr. Meisner indicated he believed there was an accounting, but would get back with further information.

Mr. Meisner indicated that a couple of entities have recently queried Maine Yankee about possible use of the site for gas-fired generators. These are very preliminary inquiries and no proposals have been made. Mr. Meisner also indicated that emergency planning would be modified now that the fuel is removed from the plant; he suggested that the risks associated with potential accidents are now of a much smaller scale than those associated with an active plant.

There was some discussion of the House vote approving the Texas Compact and the fact that language was added to the authorization conditioning Congressional approval on Texas not accepting waste from any state other than Maine and Vermont. Senator Carey requested that Dale Randall, staff of the Advisory Commission on Radioactive Waste, seek an Attorney General's opinion on whether the added condition, if finally adopted, would require approval by the member states, including approval by referendum. There was a brief discussion of Maine Yankee's claim that staying in the compact would add some \$40 million to the cost of decommissioning. Dale Randall indicated that the Public Advocate had run figures suggesting a much lower cost differential between remaining in the compact and getting out of the compact. The assumptions underlying the different calculations were not explored, though it was mentioned that should Barnwell close during decommissioning and no alternative site be available, the cost of stoppage could amount to \$20 million/year. Senator Kilkelly pointed out that if Maine Yankee in fact sends its waste to Barnwell and pays for capacity in Texas, it will in effect pay twice for disposal of the waste (unless Maine Yankee can sell its right to capacity in Texas).

Mr. Meisner indicated that the company is interested in exploring use of high-level waste escrow funds to help pay for on-site storage of spent fuel until the DOE takes possession of the waste. He also indicated that the site will be useable for other purposes after decommissioning even while a portion of the site may remain occupied by dry cask storage of the spent fuel.

State Economist Laurie Lachance gave a brief overview of the work of the Governor's ad hoc work group on Maine Yankee: The purpose of the group is to explore the issues raised by developments at Maine Yankee, to plan for agency responses to those developments, and to coordinate the activities of the various agencies. The group has held 3 or 4 meetings.

Ms. Lachance provided her analysis of the economic impacts of the closure of the plant. She provided to the committee spreadsheets showing the numbers she has run for 1998 and 1999. These suggest that while there will be statewide losses in payroll and business sales in both years, Lincoln County will see some net gains in 1998 before beginning to see losses in 1999. This, she indicated, is due to the influx of contract employees during decommissioning. Representative Pieh noted that the figures seemed not to factor into the base line the fact that whenever Maine Yankee has been shut down for refueling, etc., there has been an influx of contract employees. Ms. Lachance indicated that since the influxes were occasional and irregular, she had not included contract employees in the base line, but she would examine this issue again to see if some adjustment was appropriate.

Ms. Lachance was asked whether the Governor was going to be submitting any legislation related to Maine Yankee this session. She indicated she did not know but that she would check and report back to the committee.

Senator Carey spoke briefly about the Advisory Commission on Radioactive Waste of which he is the chair. The Commission continues to follow radioactive waste issues. Senator Carey also gave an overview of visits he recently made to the Crystal River and Surrey nuclear plants. He spoke about the dry cask storage system which Virginia Electric has developed and is using at the Surrey facility. Senator Carey then showed a video produced by Virginia Electric about its use of

dry cask storage. Copies of the tape were provided to the Citizens Advisory Panel and the Advisory Commission.

Dale Randall gave a brief overview of the activities of the Radiation Control Program at DHS whose mission is to protect the public from unnecessary radiation exposure. The DHS has established a Decommissioning Team to monitor decommissioning “without unduly impeding the process.” He provided to the committee a written outline of his remarks and a copy of a Low Level Waste Forum “News Flash” on the House approval of (“consent” to) the Texas Compact which includes the language of the conditional consent mentioned above.

Senator Kilkelly briefly described the activities of the Citizen Advisory Panel of which she is the chair. The CAP has held 2 meetings. The first meeting in August was an organizational meeting and included a presentation by and discussion with Mike Meisner on decommissioning. The second meeting in September focused on site characterization and radiation issues. Each meeting of the CAP is divided into halves: half tutorial and half panel business. The next meeting will be on October 29 at 6:00 and will preview the rate case which Maine Yankee will be taking to the FERC this fall.

Senator Kilkelly mentioned she continues to work on organizing a group to fill the regional planning vacuum in Lincoln county. She envisions a group having a life of only a couple of years serving as a clearinghouse of information for new businesses that may wish to move into the region.

Wayne Malloch, a nuclear planner with the Department of Defense, Veterans and Emergency Management, mentioned that the department expects to commence “collapsing” off-site emergency response capabilities in the Spring of 1998. The department is also working to strengthen its emergency response capacity with respect to potential accidents in the transportation of nuclear materials.

Paul Luce, State Rapid Response Coordinator, gave a quick overview of the Department of Labor’s RRT efforts in assisting displaced workers. While job offers for employees are not in short supply, most are from out-of-state employers. Many employees wish to remain in Maine. The RRT is working with spouses and family in order to work through the transitional decisions and adjustments that must be made. He indicated that he believes the effort will be adequately funded. He observed that it tends to take a year or two before the ripple effects of the loss of a major industry are felt by regional businesses. He provided several handouts to the committee relating to the RRT and its work, and a list of towns where Maine Yankee employees live and the number of employees that live in each town.

Christa Baade of CED and the Rapid Response Coordinator for the mid-coast, indicated there is a high degree of interest in self-employment and in training to up-grade skills, particularly computer skills. CED is offering training and other career resources. She provided a handout outlining the services of the CED.



Susan Arledge of Drake Inglesi Milardo noted that employees at Maine Yankee are among the highest paid in the state. Some have yet to appreciate that it will not be possible for them simply to shift to other local employment without a substantial salary reduction. She indicated that the employees have very marketable skills in the Maine but that some will need re-training in order to find work. Drake Inglesi Milardo is working to provide career transition services to the employees. She provided a handout describing her company's mission.

Constance Magistrelli of CEI is providing assistance to employees starting their own businesses. CEI recently received funding of \$1.8 million to provide services. She provided an outline of what CEI has done, is doing and plans to do with respect to providing assistance for Maine Yankee employees.

Mike Duguay of DECD emphasized that the State can only do so much to facilitate economic development in the local area; a community needs to be prepared to react productively to support economic development. He observed that there are 2 voids in the region needing to be filled: Lincoln County's lack of a regional planning entity and Wiscasset's lack of an economic development infrastructure. He indicated that DECD can work with the town and the region to help, but that the state can't do the work for the town and region. He indicated that Wiscasset is beginning from scratch in terms of establishing an economic development infrastructure. DECD has begun dialogue with Wiscasset officials and the area Chamber of Commerce. He provided a handout outlining his comments.

Fran Rudoff of the SPO indicated that the SPO is working with the Lincoln County Commissioners to sort out how the \$13,000 land use planning grant should be used. Some of that money may be used to develop a economic impact study.

Larry Record of Maine Revenue Services (formerly the Bureau of Taxation) explained the process and purpose of the State Valuation process. He pointed out the 2 year lag in the valuations (1998's valuation is as of April 1996) and noted the statutory rule that municipal assessment ratios must be at least 70% but not greater than 110% of just value. He indicated that in 1995, the residential property assessment in Wiscasset was 12% of the surveyed market values. In 1996 this improved to 15%. He also indicated that all state subsidies to local government (such as school funding) were based on the State Valuation and not local valuations.

Representative Rines noted that while Maine Yankee's assessment is going down, residential assessments are going up; he suggested that residents were not pleased about this. He questioned whether it was the "70% rule" imposed by the state that was forcing this adjustment. There was some discussion about the history of taxation in Wiscasset.

Senator Carey asked whether spent fuel in dry cask storage would have a taxable value. Mr. Record noted that if the fuel was not reusable and thus un-marketable, it might have no value or a negative value. Senator Carey requested Maine Yankee produce an estimate of the number of dry casks that might be necessary to store its spent fuel. Eric Howes agreed to provide this.

The remaining committee members discussed with staff the structure of the final report; the basic outline developed by the chairs was deemed acceptable and staff will be producing a draft report based on that outline for the next meeting. The committee agreed to meet next on November 6 at 3:00 at Maine Yankee to discuss any findings or recommendations to be made in the final report. At 7:00 that evening, members will be able to attend the NRC's public hearing on Maine Yankee's PSDAR.

## OFFICE OF POLICY AND LEGAL ANALYSIS

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### MEMORANDUM

To: Members, Joint Select Committee to Oversee Maine Yankee

From: Jon Clark, Legislative Counsel

Date: 13 November, 1997

Re: Summary of November 6th Meeting

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The committee held its third meeting on November 6th from 3:00 p.m. to 5:30 p.m. at the Career Center at the Maine Yankee plant in Wiscasset. Senators Cleveland and Kilkelly and Representatives Kontos, LaVerdiere, Peavey and Spear did not attend.

The members present reviewed the draft report prepared by staff. Staff reviewed with the committee comments and suggestions received from Maine Yankee, Central Maine Power Company, the Public Advocate and the Public Utilities Commission and all modifications designed to clarify, update or augment information in the draft were approved by the members present.

The Public Advocate made a brief presentation regarding the status of the Texas Compact in Congress and the status and future availability of the Barnwell Facility. He indicated that it was his position and that of the King Administration that approval of the Compact continued to be in the best interests of the State.

Language in the draft report was modified to reflect Maine Yankee's desire to sell to other generators capacity it will purchase in the Texas facility, if the Compact is ratified. Since Maine Yankee hopes to be able to continue to send its LLRW waste to Barnwell through the decommissioning process, it is not expecting to need capacity it would purchase in the Texas facility. By reselling that capacity, Maine Yankee would hope to recover the cost of the purchase. At present, however, there is uncertainty as to whether Maine Yankee will in fact need capacity in Texas and whether it would be permitted to arrange to sell unneeded capacity to other generators.

The Public Advocate proposed modifying the draft report to state that the Public Utilities Commission has exclusive authority over recovery of replacement power costs incurred by retail utilities in Maine as a result of the decision to close Maine Yankee. The draft report points out that the scope of the commission's authority is a legal issue, is not clearly settled and may be

litigated. A representative of Bangor-Hydro Electric, which has filed a rate case at the commission in which this issue of commission authority is raised, opposed the Advocate's proposal. Staff noted that while the committee was free to take whatever position it wished on the matter, the proposal offered by the Advocate was a legal conclusion and not merely a statement of fact. The committee determined the draft should explicitly state the fact that a rate case involving costs associated with Maine Yankee had been filed and that other cases may follow. The committee decided not to take any position on the legal question of the PUC's authority, exclusive or otherwise.

The committee decided to add two appendices beyond those listed in the draft report: the most recent schedule for GTS Duratek's site characterization study and the decommissioning cost estimate report of TLG Services.

The committee discussed whether to include any findings and recommendations in the report. The committee decided to include only one finding and recommendation.

The committee found that the expected failure of the federal Department of Energy (DOE) to meet its obligations under federal law and under contract to take possession of Maine Yankee's spent fuel (high-level radioactive waste) by January 31, 1998 would constitute gross nonfeasance. Ratepayers here in Maine and across the country have been obligated for decades to make payments ostensibly to fund the DOE high-level waste program. DOE's failure to meet its obligations results in ratepayers not getting what they paid for and paying additional millions to fund for an indefinite period on-site storage. Maine Yankee currently estimates the cost associated with on-site storage of this waste to be about \$128,000,000.

Staff will revise the report in accordance with the decisions made by the committee and distribute the final review draft before the next meeting scheduled for November 24 at 1:00 p.m.

improved. He commented that he had hoped the committee would hold hearings at the plant and receive public comment on the decommissioning process. He suggested the committee had not had input from critics of Maine Yankee or independent consultants on safety issues and that there had been a lack of adequate public input at the meetings of the committee.

Representative Taylor noted that the committee's charge was limited to monitoring developments at the plant and that the committee at its first meeting determined that many other groups and agencies (including the Community Advisory Panel) were looking at the issues raised by decommissioning and the committee should use its limited time to understand, assess and, to the extent necessary, coordinate the activities of these entities and not substantively to examine the decommissioning process.

Ray Shadis suggested that he felt that meetings of the Community Advisory Panel and the Governor's Ad Hoc group on Maine Yankee were inadequate forums for airing and examining public concerns about the decommissioning.

Senator Treat, who attended in the audience, mentioned that she had introduced a bill to expand the authority of the Advisory Commission on Radioactive Waste and that the Commission might become a good forum for airing and examining concerns about decommissioning.

The committee discussed how it might accommodate Ray Shadis' concerns and agreed to seek authority to hold a further meeting in Wiscasset to take public comment on the decommissioning process. The hearing was tentatively planned for December 11 beginning at 6 p.m. at the Wiscasset Middle School.

Senator Harriman initiated a brief discussion about the increased cost to Maine Yankee associated with storage of HLRW and the fact the Maine Yankee's recent cost estimate of decommissioning was only marginally higher than the previous estimate approved by FERC. He suggested that the distinction in costs had not been adequately noted by the press.

Representative LaVerdiere suggested that the report include a provision memorializing Maine Yankee's assurance that no materials were or would be salvaged or sold without proper accounting to assure rate payer protection. After brief discussion, including comment from Steve Ward suggesting that the law required such accounting, the committee did not approve the addition of this language.

There was a motion to finally accept the report, as revised. Representative Honey suggested that the vote should follow the public hearing since the committee might wish to make additions or modifications based on what was said at the hearing. The committee tabled the vote and agreed that the committee should attempt to meet in January, after the hearing, to finalize the report.

## **APPENDIX E**

Summary of December 11, 1997 Hearing

## OFFICE OF POLICY AND LEGAL ANALYSIS

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### MEMORANDUM

To: Members, Joint Select Committee to Oversee Maine Yankee

From: Jon Clark, Legislative Counsel

Date: December 12, 1997

Re: Hearing Summary

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On December 11, 1997 from 6 to 9 p.m. the Committee held a public hearing at the Wiscasset Middle School in Wiscasset. Senator Cleveland and Representative Jones did not attend.

Chairman Carey began the meeting by showing a video produced by Virginia Electric about its use of dry cask for short-term storage of spent fuel (this is the same film shown to members at the Committee's second meeting).

Chairman Carey noted that the Committee was holding the hearing at the suggestion of Ray Shadis of Friends of the Coast and he thanked Mr. Shadis for making the suggestion. Chairman Carey noted that he had extended an invitation to the town officials of Wiscasset, Dresden, Westport, Woolwich, Edgecomb and Alna to provide written and oral comments the Committee. Written comments were received in advance from Lawrence Gordon, Jr., Chair of the Wiscasset Board of Selectmen and Charles Batchelder, Wiscasset Superintendent of Schools. No comments oral or written were received from the officials of the other towns at the time of the hearing. Chairman Carey noted that he would follow-up with those officials to encourage them to provide written comments to the Committee. The committee received written comments from Stanley Tupper of Boothbay Harbor.

The DHS Radiation Control Program was invited to provide a representative to discuss the controversy regarding the radiation cleanup standards for decommissioning. Jay Hyland made an extended presentation regarding the history of millirem/year standards and how they have changed over the years. He noted that there are different standards for hospitals, nuclear plants and CERCLA (superfund) sites. The NRC standard for decommissioning is currently 25 millirem/year or as low as reasonably achievable (ALARA). The EPA CERCLA standard is 15 millirem/year and the EPA water pathway standard is 4 millirem/year. Based on his evaluation of what has been achieved at other decommissioned sites he suggested that the 15 millirem is probably achievable.

He also suggested that the standards are somewhat arbitrary and that there was no significant risk difference between the two standards.

Ray Shadis noted that the Friends of the Coast had raised the issue with Maine Yankee before any action or reaction from DHS had occurred. He suggested that the issue is not merely academic nor the difference in standards unimportant; he noted that the EPA has determined that the NRC limit is “not protective.”

An unidentified member of the audience questioned whether Montsweag Bay was contaminated and whether it was being tested. Jay Hyland indicated that the area is considered an “affected area” and is being tested for contamination.

Jim Perkins of the New England Coalition on Nuclear Pollution suggested that the State had an obligation to take a lead roll in protecting public health and that the DHS should not be an apologist for Maine Yankee. Jay Hyland responded by suggesting that the NRC had sole regulatory authority and that the State had “no control.”

General Earl Adams, Commissioner of the Department of Defense, Veterans and Emergency Management, provided a brief presentation in which he noted that emergency planning around Maine Yankee will not be changed in the near future. As things change at the plant, the plan may change.

Alna resident Kris Christine questioned whether the State was exploring the possibility of seeking DOE funding for emergency planning given the fact that DOE is responsible for the HLRW which will be stored at the plant site. General Adams indicated that this had not yet been considered because it was not yet clear what sort of emergency plan would be needed.

Chairman Carey questioned whether dry cask storage would result in a smaller planning zone. General Adams thought perhaps it would, but that the analysis had not been done to make a final determination.

Senator Kilkelly noted that there appeared to be a disconnect between NRC emergency planning and State planning. She suggested that the State should take an active roll in reviewing the Defueled Emergency Plan submitted by Maine Yankee to NRC. General Adams suggested that his department did not have the expertise to evaluate the particulars of the Defueled Emergency Plan; the department relies on other agencies (federal and state) for technical expertise.

Michael Sellman, President of Maine Yankee, noted that the Defueled Emergency Plan had been submitted to the NRC, that it was open for public scrutiny and that the NRC would be taking public comments on the plan.

Donald Siviski, Assistant Superintendent of Schools, Wiscasset, read the letter from Charles Batchelder, Superintendent of Schools, to the committee. He noted that the Wiscasset Middle School and the High School currently had significantly more students than the designed capacity of the schools.



Senator Kilkelly noted that she has filed a bill request, which has been approved by the Legislative Council, to deal with the 2-year delay in the state evaluation in order to speed up state aid to the affected towns.

Senator Kilkelly briefly described the work and purpose of the Community Advisory Panel and noted that the CAP was a forum for getting questions about the decommissioning on record and answered. The next meeting is January 15 at 6:00 at Maine Yankee.

Ray Shadis of Friends of the Coast made a presentation to the committee. He will be providing written comments to the Committee at a later date. He noted that the State of Nevada had produced a video explaining why it did not want to be the nations' HLRW dump. Senator Carey requested that the committee be provided with a copy of the video; Mr. Shadis agreed to provide this. Mr. Shadis noted that the Department of Defense has in the past intentionally exposed people hazardous substances without informing the people of the risks and dangers. He noted the case of a Lewiston native who had worked on the Manhattan Project where he was employed milling U238 apparently without proper protections. Mr. Shadis indicated that the man and his children have since suffered a number of serious health problems. Mr. Shadis indicated that he had been told by the man that when the project was over the equipment he was working on was taken away and buried in the desert. Mr. Shadis suggested that such governmental behavior in this and other cases was corrupt and criminal. Based on this history, he suggested that when dealing with hazardous materials such as nuclear waste one should view all information critically, regardless of source. He suggested that the State's agencies with oversight authority over safety have been passive; he suggested that because of the magnitude of the risk associated with radioactive waste, the state had a duty to be proactive to ensure safety. He suggested that the Maine Legislature "has to be the best defender of the people." He noted that a third of the people of Wiscasset have voted consistently to close Maine Yankee.

Chairman Carey noted that Maine Yankee had suggested at the NRC hearing on the PSDAR that the cost/benefit analysis indicated that dry cask storage was economical if the storage would last longer than 11 years. Chairman Carey indicated he believed the evidence suggested that dry cask storage was safer than pool storage and that the spent fuel should be placed in dry cask as soon as possible, regardless of the economical analysis. Mike Sellman noted that the cost/benefit analysis was preliminary but that the issue was not really economics. He indicated that he was looking to the CAP to provide input on the proper treatment of the spent fuel.

Ray Shadis indicated that the environmental community believed dry cask to be the preferred method of storage. He noted, however, that dry cask is not risk free. He suggested that because dry cask is relatively easy to maintain and easy to monitor, it's use may encourage the DOE to procrastinate in finding a permanent repository for the waste. He also expressed concern that a Maine Yankee HLRW dry cask storage site could become federalized (taken over by the DOE) and become the spent fuel dump for the region.

Alna resident Kris Christine made a presentation to the committee. She provided a handout to the committee regarding soil removed to a landfill from the Millstone 3 facility that was subsequently

Alan Clemence of Friends of the Coast and the New England Coalition on Nuclear Waste, made a presentation to the committee. He indicated concern about the testing of Montsweag Bay. He suggested that because of the steam generator problems, leaks to the non-nuclear side of the system had occurred and as a result some level of radionuclide contamination of the bay had also occurred. He indicated that the State needs to employ experts to properly test the bay and to ensure it is safe.

John Arnold, a contract employee of Maine Yankee who is involved in overseeing the GTS Duratek site characterization project, indicated that the bay was being examined and that Maine Yankee and GTS Duratek were working with Pat Dostie in taking and analyzing samples from the bay. Through this testing they will determine the radionuclide levels and determine the response needed.

Senator Kilkelly noted that a number of years ago the clam flats had been extensively tested.

Wiscasset resident Carla Dickstein made a presentation to the committee. She indicated that she was pleased the plant was shut down. She indicated that she was an employee of CEI which had a \$1.85 million grant from HUD to help diversify the local economy. She indicated that the major difficulty to be addressed was not so much the number of jobs lost but the quality of the jobs.

Claire Johnson read a letter (copy provided to the committee) from Mike McConnell to the committee regarding decommissioning cost estimates and liabilities.

Mike Sellman briefly reviewed the situation involving Barnwell and the Texas Compact and noted that if the compact is approved by Congress it could result in Maine Yankee paying \$24 million in capital costs pursuant to the compact for a facility it may not need.

Jim Perkins indicated he had spoken with U.S. Senator Snowe about the compact and that she had suggested to him that entering the compact would preclude other states shipping waste to Maine. He questioned whether there were other justifications for the staying with the compact. Mike Sellman indicated that the primary argument was that the compact was a sort of insurance policy against the possibility that Barnwell might shut down.

Mr. Sellman indicated that Maine Yankee welcomes scrutiny of the calculations underlying its Defueled Emergency Plan and that the NRC will be taking comments on Maine Yankee's filing. He indicated that loss of water from the spent fuel pool would not make the fuel go "critical." When questioned whether criticality could be reached under some circumstances, he indicated that under the right conditions it is theoretically possible and agreed that an airplane crash into the pool could possibly create those conditions. He indicated that the chances of such conditions occurring were extremely small. He also indicated that Maine Yankee had offered to "trade liabilities" with DOE, a proposal that would address DOE's liability for spent fuel storage by allowing Maine Yankee to use the Maine spent fuel fund. He indicated that DOE declined the offer.

Ray Shadis questioned why Maine Yankee believed it could decommission at a cost lower than Yankee Rowe, given that Maine Yankee is a much larger facility. Mr. Sellman said “I don’t know.” He indicated that Maine Yankee is attempting to be “innovative” and this may account for its lower costs.

Newcastle resident Chris Elliot made a presentation to the committee. He indicated that he was a shellfish harvester and that he had volunteered to collect shellfish for testing for DMR. He suggested decommissioning should be done slowly and carefully to ensure safety and that the Nuclear Safety Inspector should have funding for sufficient staff to do his job properly. He asked who had done the early flat studies to which Senator Kilkelly had referred.

Senator Kilkelly indicated that her recollection was that they were done by the plant and reviewed by the university, but that she would need to check to be sure.

Damariscotta resident Peter Arnold made a presentation to the committee. He indicated that he owned a wellness center in Damariscotta and that he viewed the committee as his advocate on the “health issue” with regard to Maine Yankee. He suggested that there was a need to be very careful on this issue to ensure people are protected.

Wiscasset resident Ellen Wanser made a presentation to the committee. She indicated that her maiden name was Bailey and that it was her family that sold the property to Maine Yankee. She suggested that the property had been “purchased with deceit” and indicated she wished it had never been sold to the company.

Wiscasset resident Ken Gray made a presentation to the committee. He indicated he was a fisherman in Montsweag Bay and that he was concerned that the bay be adequately tested and decontaminated. He provided a letter from Anne Burt to the committee.

Chairman Carey thanked the audience for their attendance and interest and for the cordial and respectful manner in which all comments had been delivered. He again thanked Ray Shadis for suggesting the hearing. He indicated that he felt the final report of the committee should mention the effect of the closure on the area towns who tuition students to Wiscasset.

## **APPENDIX F**

Written Comments on Maine Yankee Decommissioning  
Received by the Joint Select Committee (available in the printed document)

## **APPENDIX G**

Maine Yankee Certification of Permanent  
Cessation of Power Operation and Permanent Removal of Fuel (available in the printed document)

## **APPENDIX H**

Maine Yankee PSDAR (available in printed document only)



**APPENDIX I (available in printed document only)**

**GTS Duratek Site Characterization Study Schedule**

(This is a working document; the schedule changes weekly as the work develops)

**APPENDIX J (available in printed document only)**

Decommissioning Cost Estimate  
by TLG Services for Maine Yankee



**APPENDIX K (available in printed document only)**

Memo from Eric Howes to Senator Carey  
re: spent nuclear fuel and dry cask storage

**APPENDIX L (available in printed document only)**

Governor's Letter of Agreement and Clarification of Intent  
Regarding Texas Compact

**APPENDIX M (available in printed document only)**

Interested Parties  
(Service list of the Joint Select Committee)