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Via U.S. Mail And E-mail:
sharon.ferguson@state.mn.us

Ms. Sharon Ferguson
Department of Commerce
85 7th Place, Suite 500
St. Paul, MN 55101-2198

Re: In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for a Certification of Need to Establish an Independent Spent-Fuel Storage Installation at the Monticello Generating Plant
Docket No. E-002/CN-05-123

Dear Ms. Ferguson:

The purpose of this letter is to provide the Department of Commerce (the "Department") with comment, made on behalf of ME3 and MCEA, on the Environmental Impact Statement (the "EIS") prepared on or about March 20, 2005. (sic). While the proposed EIS identifies the preparation date as March 20, 2005, I will presume that the accurate date is March 20, 2006.

After reviewing the proposed EIS, the comments that were made to the same as well as the Department's modifications and changes, I submit the following comments on behalf of ME3 and MCEA to the proposed EIS.

1. On page 15, under "Installation Capacity", the second full paragraph is not yet accurate and needs further specificity. First, Xcel Energy did not indicate in its Application that spent fuel will be transferred to a federal repository "like Yucca Mountain". Rather, Xcel Energy has applied for a temporary storage permit indicating spent fuel will be transferred to Yucca Mountain. As currently configured, Yucca Mountain has no capacity for any of the spent fuel that is generated by Monticello after 2010.

Second, there are currently no plans for a second federal repository. Until such time as this second federal repository is identified and opened, there can be no increase in Yucca Mountain's storage capacity.

Accordingly, there can be no determination, one way or another, as to whether the storage facility will be temporary or permanent. Since all of these items were virtually undisputed in the proceedings for the ALJ, in the License Application and in the EIS scoping decision itself, this paragraph should be modified to accurately reflect, among other things, the status of the storage facility and the availability of relief of the same by Yucca Mountain.

2. On page 18, under "Facility Operation", the last paragraph, which identifies operation and maintenance expenses, should be amended to indicate that Xcel Energy has not identified how it will fund maintenance and operations of the spent fuel storage system after the year 2039. The proposed EIS should reflect this lack of planning, funding and operation. The Department's testimony, through Ms. Pile, that it is the federal government's obligation to somehow pay for or maintain the storage facility is incorrect. That obligation belongs to Xcel Energy, as the generator, and it will continue until such time the federal government, if ever, takes title to the spent fuel.

3. On page 19, under Section 3.4, the proposed EIS should reflect that the Department of Energy may require generators such as Xcel Energy to transfer the spent fuel into storage-ready containers prior to shipment for permanent storage at any repository. This requirement would obligate Xcel to construct some sort of transfer facility or to pay to have the spent fuel transferred prior to any shipment.

4. On page 29, under "Cumulative Impacts", the Department still has not addressed several assumptions that are being made relative to the cumulative impacts matrix which has been identified on page 32. First and foremost, is the assumption that Xcel Energy, or some responsible entity, is going to monitor, maintain and operate the spent fuel storage system.

As previously mentioned, the testimony of Ms. Pile relative to this obligation is incorrect. The federal government has no obligation to maintain any independent spent fuel storage system. That obligation resides with the generator, in this case Xcel Energy. Accordingly, if there is an assumption that the facility is going to be around until 2210, there must be an accompanying assumption that there will be responsible entity to maintain, monitor and operate that system. This section should be modified to reflect that assumption.

Second, there is an assumption that this entity will possess adequate funds for the maintenance and operation of the spent fuel system. This also should be referenced.

5. On page 37, under Section 5.3, the changes made from the draft EIS to the proposed EIS provide no clarification whatsoever on the degradation or decomposition of the proposed spent fuel storage system. First, the proposed EIS does not segregate any of the terminology that is used by the cask manufacturer. That manufacturer uses a number of different terms including, but not limited to, "service life", "design life" and "expected life". Each of these terms should be identified and explained in order to provide a proper analysis on the life of the facility.

However, the most appropriate measure of time by the manufacturer is the warranty period. Testimony by Xcel's witnesses indicated the warranty period is twenty years. This should also be referenced.

Second, the proposed EIS ignores the standards identified in the federal EIS for Yucca Mountain. Specifically, the federal EIS identified a maximum life span of one hundred years for any temporary storage facility. It determined that any spent fuel storage system after that time would degrade and therefore should be replaced at the 100 year mark. This should also be referenced.

Finally, for reasons that are unexplained, the Department has backed off its own analysis that the design lifetime of the cask storage system is sixty years. There is no explanation why the Department modified this statement or provision. As suggested above, it is more appropriate for the Department to identify the sixty-year design life period and temper that with the other periods identified by the manufacturer on its website and the federal EIS for Yucca Mountain.

6. On page 49, under section 6.3 entitled "Private Fuel Storage" an additional paragraph should be added relative to a recent proposal by PFS, LLC. Specifically, in a letter written in December 2005 but released in March of 2006, PFS, LLC made what appears to be an alternative offer to the federal government. In its letter, PFS, LLC, offered that the federal government either take title to the spent fuel stored (or to be stored) at the Skull Valley and pay for its storage at that facility, or let the utilities continue to own the fuel and reimburse them for the storage costs. A copy of a New York Times article dated March 20, 2006, identifying the letter, is attached hereto. Accordingly, this section must be modified to reflect this new alternative.

7. Under section 6.4, entitled "Yucca Mountain", stronger language is warranted as to the availability of room at Yucca Mountain for spent fuel generated by the Monticello plant after 2010. It is undisputed that there is no room in Yucca Mountain for spent fuel generated by Monticello after 2010. Indeed, it appears that there may not even be sufficient room for spent fuel generated by the Monticello power plant up to 2010.

Second, relative to Yucca Mountain itself, additional language should be added that the Department of Energy is investigating the engineering and geology of the proposed

repository. As part of this investigation, the Department of Energy will redo its engineering and geological analysis. Yucca Mountain will face additional timing and cost complications.

I thank you for your time and cooperation in this matter. If I may be of any further assistance or provide any additional information please do not hesitate to call.

Very truly yours,

MADIGAN, DAHL & HARLAN, P.A.

Thomas P. Harlan

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NATIONAL DESK

Utilities Offer Energy Dept. Site for Waste

By MATTHEW L. WALD (NYT) 515 words
Published: March 20, 2006

WASHINGTON, March 19 - A group of nuclear utilities that is planning to build a private nuclear waste dump on an Indian reservation in Utah has offered to sell space there to the federal government. The move could help the government avoid billions of dollars in potential legal damages over its failure to build its own repository.

This month the utilities, eight companies from around the country, won a license from the Nuclear Regulatory Commission to open a repository at Skull Valley, on land leased on a Goshute Indian reservation, about 60 miles west of Salt Lake City.

The utility consortium, called Private Fuel Storage, does not have the permits it needs to transport waste to the site, however, and the State of Utah is trying to block those.

The Energy Department signed contracts in the 1980's with each of the nuclear operators, promising to accept their spent fuel beginning in January 1998, in exchange for a payment of a tenth of a cent for each kilowatt-hour they generated.

The project now appears to be at least 20 years behind schedule, and the department faces approximately $50 billion in damage claims from the utilities, many of which have resorted to building giant casks adjacent to their reactors to store the old fuel.

In a letter to the chairmen and the ranking minority members of the House and Senate Energy Committees, Private Fuel Storage said it could begin taking fuel within three years, at a cost of about $61 million a year. In the letter, which was sent in December but released last week, the company estimated the Energy Department's costs to maintain the fuel at the reactor sites at about $500 million a year.

The fuel is currently kept at 72 sites whose storage costs vary widely. At some sites, the reactors have been retired and torn down, and maintenance and security personnel remain in place simply for the fuel. At others, while construction of the casks was expensive, the cost to maintain them is small.

Of the eight utility partners, three have announced that they have no immediate need for off-site waste storage.

The consortium proposed either that the Energy Department take title to the fuel and pay for storage, or

let the utilities continue to own the fuel but reimburse them for the storage costs. It suggested legislation to reassure Utah that even if the government's proposed repository, at Yucca Mountain in Nevada, never opened, the Goshute site would not become permanent.

Representative David L. Hobson, the Ohio Republican who is chairman of the energy and water subcommittee of the Appropriations Committee, has been pushing for dry-cask storage, possibly as a prelude to chemical processing of the wastes to extract useful material before burial. And last month, the Bush administration endorsed such chemical processing, through a partnership. But the cask idea has not gone far with the Energy Committees.

"The view right now on Capitol Hill is that this is a free-market project, and let's see if the market sends business their way," said Marnie Funk, a spokeswoman for the Senate Energy Committee.

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