

concrete pad being readied for the task with a splashing on of a sealant to forestall the inevitable rapid degradation.¹ (Transcript, December 20, 2012, page 81)

The Siting Council must deny this application, *inter alia*, for the applicant's gross failure to identify and assess the environmental consequences, as required by law.

I. The Application Is Premature

Dominion's application is premature for the reasons cited below. Wisdom, prudence and fidelity to the interests of the people of the State of Connecticut and adherence to applicable legal constraints dictate that the Council deem this application premature and deny it on that basis.

A. *New York v. NRC*,² "The Waste Confidence Decision"³

On June 8, 2012, the U.S. Court of Appeals for the 2d Circuit ordered the U.S. Nuclear Regulatory Commission ("NRC") to evaluate the environmental impacts of nuclear waste storage, forcing the NRC to develop an Environmental Impact Statement ("EIS") to assess the safety and consequences of allowing nuclear reactors to accumulate radioactive nuclear waste onsite, including the potential environmental effects of the failure to develop a geologic waste repository.

The decision states in pertinent part as follows:

We further hold that the Commission's evaluation of the risks of spent nuclear fuel is deficient in two ways: First, in concluding that permanent storage will be available 'when necessary,' the Commission did not calculate the environmental effects of failing to secure permanent storage – a possibility that cannot be

¹ It is symptomatic of the inadequacy and incompleteness of the application that Dominion cautions that the information it has provided on its stormwater system is classified information and may not reflect the actual state of affairs. See Docket No. 265 application at pages 10-11. ("The actual drainage pipe location, length and diameter installed as part of the full build-out condition at the ISFSI may vary from that shown on the project plans. Details regarding these drainage design improvements are considered "Safeguards Information" by the NRC and protected from public disclosure in accordance with 10 CFR 73.12.")

² 681 F.3d 471 (D.C. Cir. 2012)

³ The State of Connecticut participated in the case in support of the State of New York, acting through the office of State Attorney General George Jepsen and Assistant Attorney General Robert Snook and, with others, filed an *amicus curiae* brief.

ignored. Second, in determining that spent fuel can be safely stored on site at nuclear plants for sixty years after the expiration