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Court blocks Yankee

MONTPELIER — Environmental Court Judge Merideth Wright has denied Entergy Nuclear's bid to resume discharging millions of gallons of warm water into the Connecticut River this summer, pending a resolution of a court fight over its state permit to do so.

Entergy Nuclear had planned on the warm water discharge starting last Saturday, and it had gone back to Environmental Court last week for permission to appeal Wright's June 6 decision, which granted a court stay against the discharge, pending the outcome of a legal challenge.

Entergy Nuclear received a state permit last year to increase the temperature of the Connecticut River near its Vernon nuclear plant by one degree, on top of an earlier permit that allowed it to increase the river temperature by five degrees. The increased water temperatures allow Entergy Nuclear to save money and electricity it spends on cooling the water after it is used to cool the reactor.

But several environmental groups, including the Connecticut River Watershed Council, Trout Unlimited and two anti-nuclear groups, Citizens Awareness Network and New England Coalition, have fought the permit granted by the Agency of Natural Resources. They won a stay on June 6 against further increases in discharges. Entergy Nuclear is also appealing the permit, but for different reasons.

A three-week trial on the matter is slated to begin next Tuesday in Windham Superior Court in Newfane, before Judge Wright.

Wright also denied a request by the New England Coalition's bid to have the permit sent back to the Agency of Natural Resources to be rewritten. The coalition alleges the state agency violated the state's clean water rules by granting the permit and not considering alternatives to the increased warm water discharge. The group wanted Wright to hear testimony on alternatives to the discharge.

The environmental groups are worried that the increasing temperatures around the Vernon reactor are a contributing factor to a steep decline in the number of American shad that come to that section of the Connecticut River.

"It does not appear to the court that an immediate appeal may materially advance the termination of the litigation," the judge wrote.

Wright said she felt it was up to the Environmental Court to determine which, if any, Vermont water quality standards applied to the Vermont Yankee case. It would be up to the Vermont Supreme Court to consider any appeal after a decision on the merits of the case, she said.

Wright said she expected to make a decision by mid-September. Entergy Nuclear usually stops using its cooling towers at Vermont Yankee in October, when the natural temperature of the river water drops enough to cool the reactor.

Robert Williams, spokesman for Entergy Nuclear, said the company was considering a direct appeal to the Vermont Supreme Court on the stay of its discharge. The company was able to discharge the warmer temperatures all last summer, until the environmental groups obtained a stay in September.

Williams said that the water discharged on Wednesday into the Connecticut River from the plant was in the neighborhood of 84 to 85 degrees, although it can reach into the mid-90s. The state permit put a cap on discharge if the river temperature reaches 85 degrees, and the company is fighting that limit.

The attorney for the New England Coalition said the group was considering its legal options as well.

"We're reviewing the decision and considering our options. This is a negative decision for the Connecticut River.

"Entergy can increase the thermal pollutant load on the Connecticut River without a showing of need and without a showing of alternatives," said Evan Mulholland, the attorney for the New England Coalition.

"We're still reviewing it and we're not sure where we going to go," he said.

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