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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

A.C.

In the Matter of: : Docket No. 50-423-LA-3
:
: ASLBP No. 00-771-01-LA
:
Northeast Nuclear Energy Company :
:
(Millstone Nuclear Power Station, :
Unit No. 3) : July 18, 2000

CONNECTICUT COALITION AGAINST MILLSTONE AND LONG ISLAND COALITION AGAINST MILLSTONE'S OBJECTION TO NRC STAFF'S MOTION TO FILE AFFIDAVIT OF ANTONE CERNE REGARDING REFUELING OUTAGE 6

The Connecticut Coalition Against Millstone ("CCAM") and Long Island Coalition Against Millstone ("CAM") (collectively, "Intervenors") object herewith to the NRC Staff's Motion dated July 17, 2000, entitled "NRC Staff Motion to File Affidavit of Antone Cerne Regarding Refueling Outage 6." The motion is without merit and must be denied.

The NRC Staff's motion, faxed to the undersigned on the evening of July 17, 2000, is objectionable for the following reasons:

- (1) The NRC Staff has provided no legal authority which would empower this Board to grant its motion. The Board is not permitted to accept filings after the deadline set for the Subpart K Summary which go to the merits of the controversy, as the NRC Staff has attempted to do in this case.
- (2) The NRC Staff is simply and transparently seeking to circumvent the need for a full evidentiary hearing on Contention 4 by addressing the issue of a substantial and genuine dispute by the untimely filing of the affidavit.

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- (3) Should the Staff's motion be granted, the other parties should be permitted as well to expand upon the presentation of substantive facts and issues presented in their Subpart K filings.**
- (4) The Staff's motion is disingenuous, at best. The Staff had a full opportunity to join the Intervenors in the discovery process at the Millstone Station conducted on June 22, 2000, at which the licensee released its reactor engineering logs and other information pertinent to RFO 6. Indeed, NRC Staff particularly requested to be considered in the scheduling of such visit so that it could make arrangements to attend. However, although the NRC Staff was provided with such courtesies, it simply chose not to participate in that round of discovery. It was not present. Hence, it did not review the materials which the Board ordered NNECO to release. NRC Staff conceded in its Subpart K Summary dated June 30, 2000, "As of this writing, the Staff has not yet received and has, therefore, not reviewed, the reactor engineering logs for Millstone Unit 3 RFO-1 through RFO6 or the 40 procedures that Intervenors requested during the visit to the plant on June 22, 2000. The Staff expects to complete its review of these documents prior to the oral argument scheduled for July 19, 2000." Summary, page 40)¹**

¹ Apparently, NNECO and NRC Staff made arrangements whereby NNECO provided NRC Staff with copies of materials hand-copied by the Intervenors.

Conclusion

For the foregoing reasons, the NRC Staff motion must be denied and the motion and its attachments ordered stricken from the record.

Respectfully submitted,

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Against Millstone and Long Island
Coalition Against Millstone**

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Certificate of Service

I hereby certify that copies of "Connecticut Coalition Against Millstone and Long Island Coalition Against Millstone's Objection to NRC Staff's Motion to Fiule Affidavit of Antone Cerne Regarding Refueling Outage 6" in the above-captioned proceeding have been served on the following by E-Mail as indicated by asterisk and to all by conforming copy via U.S. Mail, postage pre-paid, on July 10, 2000:

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