

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
DOMINION NUCLEAR CONNECTICUT, INC.)	
)	
(Millstone Nuclear Power Station,)	Docket No. 50-423-LA-3
Unit No. 3))	
)	

NRC STAFF'S OBJECTIONS AND RESPONSES TO INTERVENORS'
 FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION
 IN THE REOPENED PROCEEDINGS

INTRODUCTION

On December 5, 2001, the Connecticut Coalition Against Millstone ("CCAM") and Long Island Coalition Against Millstone ("CAM") (collectively, "Intervenors") filed the "Intervenors' First Set of Interrogatories and Request for Production in the Reopened Proceedings Directed to NRC Staff" ("First Request"), concerning the adequacy and implementation of administrative controls for the spent fuel pool (SFP) at Millstone Nuclear Power Station, Unit No. 3. In their Request, the Intervenors filed (a) 10 interrogatories (with subparts) and (b) 14 requests for documents purportedly concerning reopened Contention 4.¹ The NRC Staff ("Staff") hereby files its objections and responses to the Intervenors' First Request, as follows.²

¹ As the Board stated in its May 10, 2001 Memorandum and Order granting the Intervenors' motion for reconsideration of the Board's January 17, 2001 Memorandum and Order (Denying Motion to Reopen Record on Contention 4), LBP-01-1, 53 NRC 75 (2001), "[t]he scope of this reconsideration [of Contention 4] is limited to the procedures or controls for management of the SFPs and their modes of execution that may be common to Millstone-1 and Millstone-3." *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit 3), LBP-01-17, 53 NRC 398, 408 (2001).

² The Staff notes that it has received only an electronic copy of the Intervenors' First Request; it has not received a conforming hard copy by mail. Consequently, page citations to the
 (continued...)

GENERAL OBJECTIONS

Objection 1. The Staff objects to each of the Intervenors' discovery requests, in that the Intervenors have not complied with the Commission's regulations that govern discovery from the Staff. In this regard, it is well established that discovery against the Staff rests on a different footing than discovery in general. *Consumers Power Co.* (Midland Plant, Units 1 and 2), ALAB-634, 13 NRC 96, 97-98 (1981). While discovery from parties in an NRC adjudicatory proceeding is generally governed by the provisions of 10 C.F.R. § 2.740 *et seq.*, interrogatory and document discovery against the Staff is governed by the provisions of 10 C.F.R. §§ 2.720(h)(2)(ii)-(iii), 2.744 and 2.790.³ These regulations establish certain limits to the Staff's obligation to respond to discovery requests.

In particular, with respect to interrogatories, the Commission's rules provide:

[A] party may file with the presiding officer written interrogatories to be answered by NRC personnel with knowledge of the facts designated by the Executive Director for Operations. Upon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer may require that the staff answer the interrogatories.

10 C.F.R. §§ 2.720(h)(2)(ii). With regard to requests for the production of documents, the Commission's rules provide:

(a) A request for the production of an NRC record or document not available pursuant to 10 C.F.R. § 2.790 . . . shall set forth the records or documents requested, either by individual item or by category, and shall describe each item or category with reasonable particularity and shall state why that record or document is relevant to the proceeding.

²(...continued)

Intervenors' First Request reflect the pagination of the electronic version received by the Staff. This caveat also applies to any related Dominion Nuclear Connecticut, Inc. ("DNC" or "licensee") discovery responses cited herein.

³ See also 10 C.F.R. §§ 2.740(f)(3), 2.740a(j), 2.740b(a), and 2.741(e) (excluding discovery from the Staff from the general provisions of those regulations).

(b) If the Executive Director for Operations objects to producing a requested record or document on the ground that (1) it is not relevant or (2) it is exempted from disclosure under § 2.790 and the disclosure is not necessary to a proper decision in the proceeding or the document or the information therein is reasonably obtainable from another source, he shall so advise the requesting party.

10 C.F.R. § 2.744(b).⁴

Moreover, it is an adequate response to *any* discovery request for a party to state that the information or document requested is available in the public domain and to provide information to locate the material requested. 10 C.F.R. § 2.740(b)(1); *accord*, *Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit No. 1), CLI-79-8, 10 NRC 141, 147-148 (1979).

Here, the Intervenor has not complied with the Commission's requirements governing discovery against the Staff. First, the Intervenor has not indicated that the requested documents and information are not available in the public domain. Indeed, some of the documents requested by the Intervenor are available to the public in the Commission's Public Document Room (PDR), or have previously been provided to the Intervenor. Further, the Intervenor has not indicated that the requested information and documents are exempt from disclosure under 10 C.F.R. § 2.790 or that it can not obtain the documents from public sources.

Objection 2. The Staff objects to each of the Intervenor's discovery requests, insofar as they request information that is not relevant to the issues in this proceeding and/or that exceeds the scope of reopened Contention 4 in this proceeding.

⁴ The rule further provides for application by the requesting party to the presiding officer to compel production of the documents, where the movant shows that the document is relevant to the issues in the proceeding; and the document is not exempt from disclosure under 10 C.F.R. § 2.790 -- or, if exempt, that the document or information is necessary to a proper decision in the proceeding and is not reasonably obtainable from another source. 10 C.F.R. §§ 2.744(c)-(d). Additionally, 10 C.F.R. § 2.744(e) provides a framework for limited disclosure (under a protective order) of documents exempt from disclosure under 10 C.F.R. § 2.790, upon a finding by the presiding officer that such disclosure is necessary to a proper decision in the proceeding. *Cf.* 10 C.F.R. § 2.740(c).

Objection 3. The Staff objects to each of the Intervenor's' discovery requests, insofar as they seek to impose an obligation to respond that is different from or greater than the obligations imposed by Commission requirements in 10 C.F.R. Part 2.

Objection 4. The Staff objects to each of the Intervenor's' discovery requests, insofar as they may request information or documents from the "Nuclear Regulatory Commission," "NRC," or other persons or entities that are not NRC Staff members or consultants in this proceeding. See, e.g., Interrogatory 6 (First Request at 4). The NRC and persons other than Staff members (e.g., Commissioners, Commissioners' Assistants, Licensing Board members, ACRS members, etc.) are not parties to this proceeding and are not properly subject to the Intervenor's' requests for discovery.

Objection 5. The Staff objects to each of the Intervenor's' discovery requests, insofar as they request personal information such as the home address and telephone numbers of persons employed by or affiliated with the Staff and/or the licensee, and which may be protected from disclosure under 10 C.F.R. § 2.790(a) . See, e.g., Interrogatory 3.b. (First Request at 3); Interrogatory 2.a. (First Request at 3).

Objection 6. The Staff objects to each of the Intervenor's' discovery requests, insofar as they may request information pertaining to or copies of intra-agency memoranda, notes and other pre-decisional materials; or information or documents protected under the attorney-client privilege, the doctrines governing the disclosure of attorney work product and trial preparation materials, and/or any other privilege or exemption that warrants or permits the non-disclosure of documents under the Freedom of Information Act, as set forth in 10 C.F.R. § 2.790(a). Notwithstanding this objection, to the extent, if any, that documents are requested in the Intervenor's' First Request, the Staff will prepare a privilege log to identify any documents that are sought to be withheld from

discovery as privileged or exempt from disclosure, if any, and will produce that log to the Intervenor.

Objection 7. The Staff objects to each of the Intervenor's discovery requests, insofar as they request information concerning the "Technical Report," which matters are not relevant to the issues in this proceeding and/or exceed the scope of reopened Contention 4; further, the Intervenor has not explained why any such items are necessary to a proper decision in the proceeding.

RESPONSES TO DISCOVERY REQUESTS

Notwithstanding the above objections to the Intervenor's First Request, and without waiving these objections or its right to interpose these or other objections in the future, the Staff hereby states the following additional objections and responses to the Intervenor's First Request.

REOPENED CONTENTION 4

A. Interrogatories

INTERROGATORY 1. Please identify each person who supplied information for responding to these Interrogatories and Request for Production. Specifically note the Interrogatories for which each such person supplied information.

STAFF RESPONSE. The objections and responses stated herein are by Staff Counsel.

INTERROGATORY 2. Re: NRC Office of Investigations Report entitled "Millstone Nuclear Power Station, Unit 1: Failure to Report Missing or Lost Radioactive Fuel Rods in a Timely Manner" ("OI Report"), dated September 28, 2001

a. Please identify the names, addresses, telephone numbers and business affiliations of all individuals interviewed for the OI report, their position, and their status as employee or contract worker and, if a contract worker, the name and address of the contractor.

STAFF RESPONSE. See General Objection 5., *supra*. The Staff also objects to this request on the grounds that (1) it is unduly burdensome and broad, insofar as an identical request

has already been made to DNC, to which DNC has responded; and (2) the Intervenor have not demonstrated that the information requested, to the extent it has been released to the public, could not have been obtained from another source, including, without limitation, the OI Report itself and the licensee.⁵ See 10 C.F.R. § 2.720(h)(2)(ii).

b. Please identify all documents requested to be provided to and provided to the Office of Investigations.

STAFF RESPONSE. See Response to Interrogatory 2.a., *supra*. The Staff notes that, in response to a similar interrogatory, DNC stated: "These documents will be produced, subject to redaction of personal and confidential information." See "Dominion Nuclear Connecticut, Inc.'s Response to Intervenor's First Set of Interrogatories and Request for Production in the Reopened Proceedings," dated November 21, 2000, at 3. See *also* "Notice of Dominion Nuclear Connecticut, Inc.'s Production of Documents to Intervenor and Supplemental Responses to Interrogatories in the Reopened Proceedings," dated December 7, 2001, at 3 (producing the requested documents).

INTERROGATORY 3. Re: Assessments of spent fuel pool system issues regarding Millstone Units 1, 2 and 3, either individually or as a group.

a. Please identify by title, date and author all reports prepared by the licensee or its contractors concerning such assessments and all draft versions thereof.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is vague and ambiguous, insofar as it uses the term "assessments" and the phrase "spent fuel pool system issues"; (2) it seeks to discover information (*e.g.*, information concerning Millstone Unit 2) that is

⁵ Indeed, in its response to the "Intervenor's First Set of Interrogatories and Request for Production in the Reopened Proceedings Directed to Dominion Nuclear Connecticut, Inc. and Northeast Nuclear Energy Company," dated November 7, 2001, DNC indicated that: "The names, business affiliations and positions/status of each employee or contract worker for all individuals interviewed for the OI Report, known by the licensee, are identified in the OI Report itself." See "Dominion Nuclear Connecticut, Inc.'s Response to Intervenor's First Set of Interrogatories and Request for Production in the Reopened Proceedings," dated November 21, 2001, at 3.

not relevant to reopened Contention 4 and is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (3) it seeks the discovery of information beyond the permissible scope of the reopened proceeding, which "is limited to the procedures or controls for management of the SFPs and their modes of execution that may be common to Millstone-1 and Millstone-3" (see n.1, *supra*); and (4) the Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, the licensee or its contractors. See 10 C.F.R. § 2.720(h)(2)(ii). Indeed, the Staff notes that the licensee has identified and apparently produced documents in response to an identical request from the Intervenors. See "Dominion Nuclear Connecticut, Inc.'s Response to Intervenors' First Set of Interrogatories and Request for Production in the Reopened Proceedings," dated November 21, 2001, at 3; see also "Notice of Dominion Nuclear Connecticut, Inc.'s Production of Documents to Intervenors and Supplemental Responses to Interrogatories in the Reopened Proceedings," dated December 7, 2001, at 3 (producing the requested documents).

b. Please identify the name, address, title and business affiliation of all NRC Staff who had access to such assessments.

STAFF RESPONSE. See General Objection 5; Response to Interrogatory 3.a., *supra*. In addition to the objections stated therein, which are incorporated by reference in response to this request, the Staff objects to this request on the grounds that it (1) is vague, ambiguous, and unduly broad and burdensome, insofar as it uses the phrase "access to such assessments," and requests information about any NRC staff member who might have had such "access"; and (2) seeks to discover information that is not relevant to reopened Contention 4 and is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

INTERROGATORY 4. Please identify by date and title all reports of NRC finishing inspections of the fuel storage systems at Millstone Unit 1.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is vague and ambiguous, insofar as it uses the phrase “reports of NRC finishing inspections”; (2) it is overly broad and burdensome, in that it lacks any limitation on the time period or other specific parameters; (3) it seeks to discover information that is not relevant to reopened Contention 4 and is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (4) it seeks to discover information beyond the permissible scope of the reopened proceeding; and (5) the Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, files located in the Commission’s PDR. See 10 C.F.R. § 2.720(h)(2)(ii).

INTERROGATORY 5. Re: Spent Fuel Project (“SFP”)

a. Please identify by name and position all NRC staff assigned to participate in any capacity with respect to the SFP, including outside consultants, their business affiliation and the location of their companies, and the nature and extent of their participation.

STAFF RESPONSE. The staff objects to this request on the grounds that it (1) is vague and ambiguous, in that it fails to explain the meaning of “Spent Fuel Project” (“SFP”); (2) constitutes an impermissible compound question, insofar as it assumes that NRC staff and “outside contractors” were involved (*i.e.*, “assigned to participate”) in the so-called “SFP”;⁶ (3) is unduly broad and burdensome, insofar as it seeks information concerning every NRC Staff member or “outside consultant” who may have participated (assuming such participation actually occurred), “in any capacity,” in the so-called “SFP,” and lacks any limitation on the time period or other specific

⁶ If, as DNC suggests in its response to Interrogatory 6.a. of the Intervenors’ November 7, 2001 discovery requests directed to the licensee, Intervenors “may be referring to the ‘Spent Fuel Project’ identified at page 27 of the OI Report in Case No. 1-2001-007,” then it appears that such project was initiated by the licensee and involved a licensee internal working group, to which NRC staff members/contractors would not have been “assigned to participate.”

parameters; and (4) seeks to discover information that is not relevant to reopened Contention 4 and is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

b. Please identify by date, title and author all Adverse Condition Reports (“ACRs”) generated by the SFP.

STAFF RESPONSE. See Response to Interrogatory 5.a., *supra*. The staff also objects to this request on the ground that the Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, the licensee. See 10 C.F.R. § 2.720(h)(2)(ii). Indeed, the Staff notes that in DNC’s response to an identical interrogatory, DNC stated that, “[t]o the extent identifiable as such, all such ACRs will be produced.” See “Dominion Nuclear Connecticut, Inc.’s Response to Intervenors’ First Set of Interrogatories and Request for Production in the Reopened Proceedings,” dated November 21, 2000, at 6; see *also* “Notice of Dominion Nuclear Connecticut, Inc.’s Production of Documents to Intervenors and Supplemental Responses to Interrogatories in the Reopened Proceedings,” dated December 7, 2001, at 3 (producing the requested documents).

INTERROGATORY 6. Re: Information Submitted to NRC Concerning the Inventory of Spent Fuel at Millstone 1

a. Please identify all documents submitted to the U.S. Nuclear Regulatory Commission since September 1, 1972.

STAFF RESPONSE. See General Objection 1., *supra*. The Staff also objects to this request on the grounds that (1) it is vague and ambiguous, as well as unduly broad and burdensome, in that it fails to provide reasonable particularity with respect to the type of information requested and requests “all documents” submitted to the NRC since September 1, 1972; (2) it seeks to discover information that is not relevant to reopened Contention 4 and is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (3) it seeks to discover information beyond the permissible scope of the reopened proceeding; and (4) the

Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, files located in the Commission's PDR or the licensee. See 10 C.F.R. § 2.720(h)(2)(ii).

b. Please identify the names of all NRC Staff involved in reviewing and analyzing the information.

STAFF RESPONSE. See Response to Interrogatory 6.a., *supra*. In addition to the objections stated therein, which are incorporated by reference in response to this request, the staff objects to this request on the grounds that it is vague and ambiguous, as well as unduly broad and burdensome, insofar as it requests the names of any NRC staff member who may have been "involved in reviewing and analyzing the information" during a period of almost 30 years in duration.

c. Please identify the name and department within the NRC to whom such information was submitted.

STAFF RESPONSE. See Response to Interrogatory 6.b., *supra*.

INTERROGATORY 7. Please state whether NNECO or DNC has reported any lost, stolen or missing licensed material to the NRC pursuant to 10 C.F.R. Part 20.2201(a)(1)(ii) and, if so, please identify each such report by title, date and author.

STAFF RESPONSE. The Staff objects to this request on the grounds that the Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, files located in the Commission's PDR and the licensee. See 10 C.F.R. § 2.720(h)(2)(ii). The Staff notes that the licensee, in response to an identical request, stated that it "will produce Licensee Event Reports responsive to this request." See "Dominion Nuclear Connecticut, Inc.'s Response to Intervenors' First Set of Interrogatories and Request for Production in the Reopened Proceedings," dated November 21, 2000, at 7; see *also* "Notice of Dominion Nuclear Connecticut, Inc.'s Production of Documents to Intervenors and Supplemental

Responses to Interrogatories in the Reopened Proceedings,” dated December 7, 2001, at 2 (producing the requested documents).

INTERROGATORY 8. Offsite Facilities

a. Please identify all correspondence available to NRC Staff between NNECO and its consultants and contractors in the Fuel Rod Accountability Project with the following facilities:

- (1) GE facilities in Wilmington, NC; Morris, IL; San Jose, CA
- (2) Vallecitos Nuclear Center
- (3) LLRW storage facilities in Barnwell, SC
- (4) LLRW storage facilities in Richland, WA

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is vague, ambiguous, and unduly broad and burdensome, insofar as it requests “all correspondence available to the NRC Staff”; (2) it seeks to discover information that is not relevant to reopened Contention 4 and is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (3) it seeks the discovery of information beyond the permissible scope of the reopened proceeding; and (4) the Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, the licensee and/or its contractors and consultants. See 10 C.F.R. § 2.720(h)(2)(ii).

b. Please identify all correspondence available to the NRC Staff with officials of the states of California, South Carolina, and Washington.

STAFF RESPONSE. See Response to Interrogatory 8.a., *supra*. In addition to the objections stated therein, which are incorporated by reference in response to this request, the Staff objects to this request on the grounds that it is vague, ambiguous, and unduly broad and burdensome, insofar as it fails to define the term “officials” and is altogether unbounded by any time or other specific parameters, and could therefore require the identification of any correspondence between the NRC staff and “officials” of the named states.

INTERROGATORY 9. Please provide the name and positions of all NRC inspectors whose responsibilities have included the spent fuel pool inventory of Millstone Unit 1 since September 1, 1972.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is vague and ambiguous, insofar as it uses the phrase “whose responsibilities have included the spent fuel inventory”; (2) it is unduly broad and burdensome, in that it requests the names of “all NRC inspectors . . . since September 1, 1972”; and (3) the Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, files located in the Commission’s PDR. See 10 C.F.R. § 2.720(h)(2)(ii).

INTERROGATORY 10. Re: United States Nuclear Regulatory Commission, Technical Study of Spent Fuel Accidents at Decommissioning Plants, October 2000.

Please provide the following information regarding attributes identified by the Technical Study as necessary to achieve high levels of human reliability for responding to potential spent nuclear fuel pool accident scenarios at Millstone, whether these attributes have been achieved and the date(s) by which such have been achieved:

- a. Draft and final analyses of cask drop accidents at spent fuel pools;
- b. The installment and deployment of single-failure-proof cranes for handling of heavy loads.
- c.⁷ Written and formalized procedures and training of personnel to ensure that onsite and offsite resources can be brought to bear during a spent fuel accident;
- d. Proof of the availability of diesel driven fire pumps required for offsite replenishment of spent fuel pool water;

⁷ In the electronic version of the Intervenors’ First Request received by the Staff, this subpart of Interrogatory 10. is also identified by the Intervenors as subpart b, instead of subpart c, thus resulting in two subpart b’s within the same interrogatory. The Staff assumes, for purposes of its response, that this is a typographical error, and that the labeling of the affected subparts should be adjusted accordingly, as reflected herein.

- e. Written and formal procedures to establish communication between onsite and offsite organizations during severe weather or seismic events;
- f. A written and formal offsite resource plan that includes access to portable pumps and emergency power to supplement onsite resources and identifies organizations and suppliers where offsite resources could be obtained in a timely manner.
- g. Documentation demonstrating the deployment of spent fuel instrumentation including temperature, radiation levels, water chemistry, water levels, equipment failure diagnostics, readouts and alarms in the control room (or wherever cognizant personnel are stationed);
- h. Proof of the installation of self limiting spent fuel seals or other engineered features so that drainage cannot occur, that could cause leakage and lead to fuel unrecovery;
- i. Written and formal procedures and administrative controls to reduce the likelihood of rapid drain down events such as (1) prohibitions on the use of pumps that lack adequate siphon protection; (2) controls for pump suction and discharge points; and periodic verification of the functionality of anti-siphon devices;
- j. An onsite restoration plan to provide repair of spent fuel cooling and chemistry control systems; to provide access to makeup water to the spent fuel pool; and to provide for remote realignment of the makeup source to the spent fuel pool without requiring entry to the refuel floor;
- k. Written and formal procedures to control spent fuel operations that have the potential to rapidly decrease spent fuel pool inventory, such as necessary additional operations of management reviews, the presence of management for designated operations and administrative limitations (i.e., restrictions on heavy load movements);
- l. Written and formal procedures for the routine testing of the alternative fuel pool makeup system components as well as administrative controls for equipment out of service, and the timely availability of needed components;
- m. Written and formal procedures relative to the frequency and specifics of walk downs of spent fuel pool systems;
- n. Procedures to give fuel handlers guidance on the capability and availability of onsite and offsite inventory makeup sources and on

the time available to utilize these resources for various loss of cooling events;

o. The presence of control room instrumentation that provides alarms calling for offsite resources and for declaring a general emergency.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is vague and ambiguous, insofar as it uses the phrases “attributes identified by the Technical Study” and “necessary to achieve high levels of human reliability”; (2) it is unduly broad and burdensome; (3) it seeks to discover information that is not relevant to reopened Contention 4 and is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, insofar as the document cited by the Intervenors pertains to NRC staff evaluation of the potential accident risk in a spent fuel pool at decommissioning plants in the U.S.; (4) it seeks the discovery of information beyond the permissible scope of the reopened proceeding, which “is limited to the procedures or controls for management of the SFPs and their modes of execution that may be common to Millstone-1 and Millstone-3” (*see* n.1, *supra*); and (5) the Intervenors have not demonstrated that the information requested could not have been obtained from another source, including, without limitation, the licensee. *See* 10 C.F.R. § 2.720(h)(2)(ii).

B. Request for Production

DOCUMENT REQUEST 1. Please produce all reports and draft versions of reports identified in Interrogatory No. 2b.

STAFF RESPONSE. *See* Response to Interrogatory 2.b., *supra*.

DOCUMENT REQUEST 2. Please produce all documents identified in Interrogatory 3.a.

STAFF RESPONSE. *See* Response to Interrogatory 3.a., *supra*.

DOCUMENT REQUEST 3. Please produce all documents identified in Interrogatory 5a and 5b and all attached or referenced records, reports and correspondence.

STAFF RESPONSE. See Response to Interrogatory 5.a. and 5.b., *supra*. The Staff objects to this request, to the extent and for the reasons set forth in response to Interrogatory 5.a. and 5.b., which objections are hereby incorporated by reference in response to this request. Further, the Staff objects to this request on the ground that it is vague and ambiguous and/or unduly broad and burdensome.

DOCUMENT REQUEST 4. Please produce a copy of all documents identified in Interrogatory 4.

STAFF RESPONSE. See Response to Interrogatory 4., *supra*.

DOCUMENT REQUEST 5. Please produce a copy of all documents identified in Interrogatory 5b.

STAFF RESPONSE. See Response to Interrogatory 5.b., *supra*. The Staff objects to this request, to the extent and for the reasons set forth in response to Interrogatory 5.b., which objections are hereby incorporated by reference in response to this request. Further, the Staff objects to this request on the ground that it is repetitive and unduly burdensome, as Document Request 3, *supra*, also requests all documents (including “all attached or referenced records, reports and correspondence”) identified in response to Interrogatory 5.b., *supra*.

DOCUMENT REQUEST 6. Please produce a copy of all documents identified in Interrogatory 6a.

STAFF RESPONSE. See Response to Interrogatory 6.a., *supra*.

DOCUMENT REQUEST 7. Please produce a copy of all documents identified in Interrogatory 7.

STAFF RESPONSE. See Response to Interrogatory 7, *supra*.

DOCUMENT REQUEST 8. Please produce a copy of all documents identified in Interrogatory 8a and 8b.

STAFF RESPONSE. See Response to Interrogatory 8.a. and 8.b., *supra*.

DOCUMENT REQUEST 9. Please produce documents substantiating your response to Interrogatory 9.

STAFF RESPONSE. See Response to Interrogatory 9, *supra*.

DOCUMENT REQUEST 10. Please produce all documents substantiating your response to Interrogatory 14, a through n.

STAFF RESPONSE. The staff notes that the Intervenors's First Request does not contain an interrogatory identified as "Interrogatory 14, a through n." For purposes of this response, the Staff assumes that the Intervenors intended to refer to Interrogatory 10, subparts a. through o. As stated in n.7, *supra*, Interrogatory 10 also appears to contain a typographical error. It appears that the subparts to Interrogatory 10 should be labeled a. through o., instead of "a. through n." Accordingly, the Staff objects to this request, to the extent and for the reasons set forth in response to Interrogatory 10, subparts a. through o., which objections are hereby incorporated by reference in response to this request.

DOCUMENT REQUEST 11. Please produce a copy of Exhibits 1-40 attached to the OI Report ("List of Exhibits").

STAFF RESPONSE. The Staff objects to this request on the ground that it is unnecessary and unduly burdensome, insofar as the Board has already ordered the Staff to furnish copies of the appendices (exhibits) to the OI Report, outside of the discovery process, to the Licensing Board and parties "at its earliest convenience." See Memorandum and Order (Appendices to OI Report, Case 1-2001-007), dated November 15, 2001; see *also* Memorandum and Order (Clarifying Memorandum and Order dated November 15, 2001), dated November 29, 2001. Notwithstanding

this objection, the Staff notes that it will produce copies of the appendices (*i.e.*, Exhibits 1-40) at its earliest convenience, in accordance with the Board's instructions.

DOCUMENT REQUEST 12. Please produce the Millstone Unit 1 Material Transfer Forms.

STAFF RESPONSE. The Staff objects to this request on the ground that the Intervenor have not demonstrated that the documents requested could not have been obtained from another source, including, without limitation, files located in the Commission's PDR, or the licensee. See 10 C.F.R. § 2.740(b)(1). The Staff notes that in response to an identical document request, DNC stated that "[t]hese documents will be produced to the extent retained in compliance with the law." See "Dominion Nuclear Connecticut, Inc.'s Response to Intervenor's First Set of Interrogatories and Request for Production in the Reopened Proceedings," dated November 21, 2001, at 11; *see also* "Notice of Dominion Nuclear Connecticut, Inc.'s Production of Documents to Intervenor and Supplemental Responses to Interrogatories in the Reopened Proceedings," dated December 7, 2001, at 4 (producing the requested documents).

DOCUMENT REQUEST 13. Please provide the last report prepared by the licensee and filed with the NRC in 1980 inventorying the missing spent fuel rods.

STAFF RESPONSE. The Staff objects to this request on the ground that the Intervenor have not demonstrated that the documents requested could not have been obtained from another source, including, without limitation, files located in the Commission's PDR, or the licensee. See 10 C.F.R. § 2.740(b)(1).

DOCUMENT REQUEST 14. Please provide a complete list of low-level radioactive waste contractors and their business addresses used by the Northeast Nuclear Energy Company from 1972 to the present time.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is vague and ambiguous, insofar as it uses the phrase “low-level waste contractors”; (2) it is unduly broad and burdensome, insofar as it seeks the “business addresses” of the *licensee’s* “contractors” from “1972 to the present time”; and (3) the Intervenors have not demonstrated that the document requested could not have been obtained from another source, including, without limitation, the licensee. See 10 C.F.R. § 2.740(b)(1).

Respectfully submitted,

/RA/

Ann P. Hodgdon
Counsel for NRC Staff

/RA/

Martin J. O’Neill
Counsel for NRC Staff

Dated at Rockville, Maryland
this 20th day of December, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
DOMINION NUCLEAR CONNECTICUT, INC.) Docket No. 50-423-LA-3
)
(Millstone Nuclear Power Station,)
Unit No. 3))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S OBJECTIONS AND RESPONSES TO INTERVENORS' FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION IN THE REOPENED PROCEEDINGS" in the above-captioned proceeding have been served on the following through deposit in the NRC's internal mail system, or by deposit in the NRC's internal mail system with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service as indicated by a double asterisk, with copies by electronic mail as indicated, this 20th day of December, 2001:

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