

RELATED CORRESPONDENCE

November 21, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:)
)
 Dominion Nuclear Connecticut, Inc.)
)
 (Millstone Nuclear Power Station,)
 Unit No. 3))

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF
Docket No. 50-423-LA-3
ASLBP No. 00-771-01-LA-R

DOMINION NUCLEAR CONNECTICUT, INC.'S RESPONSE TO
INTERVENORS' FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION IN THE REOPENED PROCEEDINGS

I. Introduction

In accordance with the directives of the Atomic Safety and Licensing Board ("Licensing Board") during the teleconference among the parties on October 31, 2001, and the rules and procedures of 10 C.F.R. Part 2, Dominion Nuclear Connecticut, Inc. ("DNC") hereby responds to the First Set of Interrogatories and Request for Production in the Reopened Proceeding filed by the Connecticut Coalition Against Millstone ("CCAM") and Long Island Coalition Against Millstone ("CAM") (collectively, "Intervenors").

II. General Objections

These general objections apply throughout DNC's responses to Intervenors' First Set of Interrogatories and Request for Production of Documents.

A. DNC objects to Intervenors' interrogatories to the extent that they request discovery of information or documents protected under the attorney-client privilege, the attorney

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work product doctrine, and limitations on discovery of trial preparation materials and experts' knowledge or opinions as set forth in 10 C.F.R. § 2.740 or as otherwise provided by law. See *Hickman v. Taylor*, 329 U.S. 495 (1947), and *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), LBP-82-82, 16 NRC 1144, 1162 (1982). Many of the interrogatories and document requests are overbroad and could encompass privileged material prepared or being prepared in anticipation of litigation in this proceeding.

B. DNC objects to Intervenors' interrogatories to the extent they seek discovery beyond the scope of the issue before the Licensing Board in the reopened proceeding.

C. DNC objects to Intervenors' discovery requests to the extent that Intervenors seek production of documents prepared by the NRC and therefore more properly sought from that party, which alone can and should determine whether the production is objectionable. See generally 10 C.F.R. §§ 2.740 and 2.790(a). Further, such documents may be obtained from the originating party with less burden and expense, particularly insofar as such documents are already available in the public docket of the Millstone proceeding. In this regard, the Licensing Board has already ordered the NRC Staff to produce all exhibits to OI Report 1-2001-007, subject to the NRC Staff's pending Motion for reconsideration of that order. See *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit No. 3), "Memorandum and Order (Appendices to OI Report Case 1-2000-077)" (November 15, 2001).

D. DNC objects to requests for addresses of its current employees and similar personal information.

III. Request for Interrogatories

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.

Response: These interrogatories were principally answered by counsel's collection and review of pertinent records. Other individuals assisting were Dave Dodson (throughout), Carl Whittaker (Interrogatory 6(a)), Michael Hills and Michael Jensen (Interrogatory No. 13), all DNC employees, except Mr. Hills, who is a Nucon contractor to DNC.

2. 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.

Response: 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.

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

Response: These documents will be produced, subject to redaction of personal and confidential information.

3. 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.

Response: Licensee will produce the Memorandum of January 22, 2001 from Robert Borchert, Reactor Engineering *re* Review of SNM Inventory and Control Practices for Fuel Rod Movement at Millstone Units 2 and 3, NE-01-013 and Rev. 1 thereto (January 29, 2001); the Root Cause Investigation: Loss of Accountability of Two Fuel Rods at Millstone Unit 1 (CR # M1-00-0548) (October 25, 2001) ("the Root Cause Report"); and the Millstone Unit 1 - Fuel Rod Accountability Project ("FRAP") - Project Number M10063 - Final Report (October 1, 2001). Additionally, Licensee will produce all references, endnotes and exhibits to these reports. These additional materials will, in part, include "assessments," as requested.

To the extent Intervenors seek further "assessments," this discovery request calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence because: (i) the term "assessment" is vague and overbroad; (ii) such "assessments" exceed the defined 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." *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit No. 3), Memorandum and Order (CCAM/CAM Motion for Reconsideration of LBP-01-1) (May 10, 2001) (slip op. at 15); and (iii) such "assessments" precede the restart of Millstone Unit 3 on July 4, 1998.

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

Response: This discovery request calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. Further, it is not reasonably possible to determine which particular individuals have had "access" to such reports or "assessments."

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

Response: See General Objections B and C. See also response to Interrogatory 5(a).

5. Dominion Resources, Inc. ("DRI") and Dominion Nuclear Connecticut, Inc.

- a. Please state the name and title of all individuals then or subsequently employed by DRI and/or DNC who have been onsite at Millstone in the period of time between January 1, 1995 and December 31, 2000.

Response: This discovery request calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence because: (i) the request for the names/titles of "all individuals" employed at Millstone since January 1, 1995 is overbroad; (ii) such names and titles exceed the defined scope of the reopened proceeding which "is limited to the procedures or controls from management of the SFPs and their modes of execution that may be common to Milstone-1 and Milstone-3." *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit No. 3), Memorandum and Order (CCAM/CAM Motion for Reconsideration of LBP-0101) (May 10, 2001) (slip op. at 15); and (iii) names and titles that precede the restart of Millstone Unit 3 on July 4, 1998 are irrelevant.

b. Please state with specificity the nature of the tasks performed by such individuals.

Response: See response to Interrogatory 5(a). Additionally, it is not reasonably possible to determine with specificity the tasks performed by such individuals.

c. Please state the name and title of such individuals who had access to Millstone 1 and who participated in, observed or were aware of the fuel inventory identification and reconciliation process.

Response: See response to Interrogatory 5(a). Additionally, it is not reasonably possible to determine which individuals observed or were aware of what Intervenor have termed "the fuel inventory identification and reconciliation process."

6. Spent Fuel Project ("SFP")

a. Please identify by name and position all individuals assigned to the SFP, including outside consultants, their business affiliation and the location of their companies.

Response: This Interrogatory seeks identification of individuals assigned to what Intervenor call the Spent Fuel Project ("SFP"). This SFP is nowhere defined in Intervenor's discovery requests and this interrogatory is too vague to answer. Insofar as Intervenor may be referring to the "Spent Fuel Project" identified at page 27 of the OI Report in Case No. 1-2001-007, however, the individuals assigned to the project are as follows:

Michael P. McNamara, then employed by NNECO as Project Manager for the Spent Fuel Project, last known to be employed by Holtec, a manufacturer of spent fuel storage racks.

Carl Whitaker, then employed by Stone & Webster Engineering Corp. and now by DNC.

Dennis Hallahan, then employed by Protopower Corp. and assigned to Millstone at the time as Project Engineer for the Unit 1 fuel pool clean-up. Present employment unknown.

Forrest Kocon, then employed by NNECO and now by DNC.

Ralph Russo, then employed by Ebasco Services Company, and now believed to be employed by Florida Power & Light Company.

George Bettencourt, then employed by NNECO. Present employment unknown.

George Gallatis, then employed by NNECO. Present employment unknown.

Robert Parulo, then employed by NNECO. Licensee believes that Mr. Parulo is currently employed by Yankee Gas, an affiliate of Northeast Utilities.

Donald Johnson, then employed with Yankee Atomic Energy. Present employment unknown.

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

Response: To the extent identifiable as such, all such ACRs will be produced. However, Licensee does not concede that any such ACRs are relevant and material to this reopened proceeding.

- c. Please identify by name, date and position all management individuals made aware of the ACRs.

Response: All management individuals known to be aware of ACRs are identified within the ACR itself. To the extent other management individuals may have subsequently become aware of the ACR, such information is not readily ascertainable and otherwise irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

7. Information Submitted to NRC Concerning the Inventory of Spent Fuel at Millstone Unit 1.

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

Response: This interrogatory seeks the identification of "all documents" submitted to the NRC since September 1, 1972. This discovery request therefore calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence because: (i) the term "all documents" is vague and overbroad; (ii) a request for "all documents" exceeds the defined scope of the reopened proceeding which "is limited to the procedures or controls from 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 No. 3), Memorandum and Order (CCAM/CAM Motion for Reconsideration of LBP-01-1) (May 10, 2001) (slip op. at 15); and (iii) documents submitted before the restart of Millstone Unit 3 on July 4, 1998, are irrelevant. Notwithstanding these objections, DNC will produce the documents referenced in its responses to Interrogatories 3(a) and 8.

- b. Please identify the names of all individuals involved in preparing and submitting the information to the NRC.

Response: See response to Interrogatory 7(a). In addition, the collection of such information would be unduly burdensome.

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

Response: See response to Interrogatory 7(b).

8. 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.

Response: Licensee will produce Licensee Event Reports responsive to this request.

9. Please identify the names and addresses of the members of the Board of Directors of DRI and its predecessor corporate entity during the period of time 1990 to the present time.

Response: In seeking identification of the DRI Board of Directors, this discovery request calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence because: (i) such identification exceeds the defined 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." *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit No. 3), Memorandum and Order (CCAM/CAM Motion for Reconsideration of LBP-01-1) (May 10, 2001) (slip op. at 15); and (ii) such identification precedes the restart of Millstone Unit 3.

10. Information Shared by NNECO with DRI and DNC

- a. Please identify what information NNECO shared with DRI and DNC concerning the Millstone Unit 1 spent fuel pool inventory prior to November 16, 2000.

Response: This discovery request calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence because information "concerning the Millstone Unit 1 spent fuel pool inventory" exceeds the defined scope of the reopened proceeding which is "is limited to the procedures or controls or for management of the FSPs and their modes of execution that may be common to Millstone-1 and Millstone-3." *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit Number 3), Memorandum and Order (CCAM/CAM motion for reconsideration of LBP-01-1) (May 10, 2001) (slip op. at 15).

In further response, the Licensee states that, during the summer of 2000 when various bidders, including DNC, were conducting "due diligence" reviews in preparation for purchase bids for Millstone Station, information was produced to prospective bidders over NNECO's website and at a document room. It is not possible to determine now whether information regarding the Millstone Unit 1 spent fuel inventory was produced either on the website or in the document room. Additionally, particularized requests for information were submitted by prospective bidders individually without identifying the bidder. It is not possible for the Licensee to reconstruct this "blind" process to state what information was produced or to whom.

b. Please identify the dates when such information was shared.

Response: See response to Interrogatory 10(a).

c. Please identify the names of the individuals involved in the information sharing on the part of NNECO, DRI and DNC.

Response: See response to Interrogatory 10(a).

11. Offsite Facilities

a. Please identify all correspondence 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

Response: This interrogatory seeks the identification of "all correspondence" between NNECO and its FRAP consultant/contractors with various offsite facilities. This discovery request therefore calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence because: (i) the request for "all correspondence" is overbroad; (ii) such "correspondence" exceeds the defined scope of the reopened proceeding which "is limited to the procedures or controls from 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 No. 3), Memorandum and Order (CCAM/CAM Motion for Reconsideration of LBP-01-1) (May 10, 2001) (slip op. at 15); and (iii) such "correspondence" preceding restart of Millstone Unit 3 on July 4, 1998, is irrelevant.

- b. Please identify all correspondence with officials of the states of California, South Carolina and Washington.

Response: See response to Interrogatory 11(a).

12. Please state the complete name of "T.G. Piascik," as referenced in the OI Report at 12, and his: (a) dates of employment at Millstone; (b) his present place of employment; and (c) present location.

Response: Thomas G. Piascik, 9 Cable Court, Montville, NJ 07045. Mr. Piascik was employed at Millstone from January 4, 1972, to October 24, 1980. His present employment is unknown.

13. Please produce the name and address of all Unit 1 Reactor Engineers since September 1, 1972.

Response: This discovery request calls for information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence because: (i) the request is overbroad; (ii) the identity of "all Unit 1 Reactor Engineers since September 1, 1972" exceeds the defined scope of the reopened proceeding which "is limited to the procedures or controls from 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 No. 3), Memorandum and Order (CCAM/CAM Motion for Reconsideration of LBP-01-1) (May 10, 2001) (slip op. at 15); and (iii) identification of personnel preceding restart of Millstone Unit 3 on July 4, 1998, is irrelevant.

Notwithstanding this objection, Michael Jensen was the Unit 1 Reactor Engineering Supervisor as of July 4, 1998, until that position was eliminated in mid-1999. During this period, Reactor Engineers under Mr. Jensen's supervision were Michael Bigiarelli and Gary Newburgh. Mr. Newburgh is not currently employed by the Licensee and his current employment is unknown.

IV. Request for Production

Documents noted for production in the Licensee's responses to Interrogatories 1-13 above will be produced in compliance with 10 C.F.R. § 2.6 741(d), within 30 days of the request, subject to Licensee's further responses, if any, at the time of production. Subject to this qualification, Licensee hereby responds as follows to the Intervenors' specific document requests:

1. Please produce a copy of all documents identified in Interrogatory 1a.
Response: See response to Interrogatory 1(a).
2. Please produce a copy of all documents identified in Interrogatory 2a.
Response: See response to Interrogatory 2(a).
3. Please produce all reports and draft versions of reports identified in Interrogatory No. 3.
Response: See response to Interrogatory 3.
4. Please produce a copy of all documents identified in Interrogatory 5b and all attached or referenced records, reports and correspondence.
Response: See response to Interrogatory 5(b).
5. Please produce a copy of all documents identified in Interrogatory 6a.
Response: See response to Interrogatory 6(a).
6. Please produce a copy of all documents identified in Interrogatory 7.
Response: See response to Interrogatory 7.
7. Please produce the documents identified in Interrogatory 10(a) and 10(b).
Response: See response to Interrogatories 10(a) and 10(b).
8. Please produce a copy of the report entitled Northeast Nuclear Energy Company "Independent Assessment of Millstone Unit 1 Spent Fuel Pool System Issues," prepared by Raytheon Engineers and Constructors ("RE&C") dated April 30, 1997.
Response: A copy of this report will be produced.
9. Please produce a copy of Exhibits 1-40 attached to the OI Report ("List of Exhibits").
Response: See General Objection C. As noted, the Licensing Board's Memorandum and Order of November 15, 2001, has already established that documents appended or referred to in NRC reports, in particular, OI Report 1-2001-007, should be sought from and furnished by the NRC Staff, subject to resolution of the Staff's motion for reconsideration.

10. Please produce a copy of the Fuel Index Card, dated with a May 12, 1979 entry, indicating that the tie rod and spacer capture rod in question are in the northwest corner of the Unit 1 spent fuel pool.

Response: Licensee believes that the card requested is FRAP Exhibit 9. See FRAP Report at 10, fn. 12. This document will be produced in response to Interrogatory No. 3(a).
11. Please produce a copy of the subpoena issued by NRC's Office of Investigations to Charles C. Thebaud, Corporate Counsel, Morgan, Lewis and Bockius, LLP.

Response: A copy of the subpoena will be produced.
12. Please produce Carol Mandigo's complete Journal as referenced in OI Report at 10.

Response: A copy of Carol Mandigo's complete Journal will be produced, to the extent retained by her, subject to redaction of personal and confidential information.
13. Please produce Rockwell L. Radasch's complete Calendar/Day Planner as referenced in OI Report at 10.

Response: A copy of Mr. Radasch's personal calendar, to the extent retained by him, will be produced, subject to redaction of personal and confidential information.
14. Please produce Michael P. Hills' complete Notes as referenced in OI Report at 10.

Response: A copy of Mr. Hills' notes will be produced, to the extent retained by him, subject to redaction of personal and confidential information.
15. Please produce the letter written in 1979 by T.G. Piascik, as referenced in the OI Report at 12.

Response: Mr. Piascik's letter is Reference 7 to the FRAP Report and Exhibit 7 to OI Report 1-2001-007.
16. Please produce the Kardex file card referenced in the OI Report at 13, paragraph 2.

Response: The Kardex file card is FRAP Exhibit 9, which will be produced in response to Interrogatory No. 3(a).
17. Please produce the Millstone Unit 1 Material Transfer Forms.

Response: These documents will be produced to the extent retained in compliance with law.

18. Please produce the photographs taken during the raised fuel assembly search, as referenced in the OI Report at 14.

Response: Copies of the photographs will be produced.

19. Please produce the photographs taken in November 2000, as referenced in the OI Report at 15.

Response: No such photographs exist. The camera to which OI Report 1-2001-007 refers was used merely as a visual aid, not for the taking of photographs.

20. Please produce the draft CR as referenced in the OI report at 25.

Response: There is no draft CR. The CR written by Mr. Hills was submitted as written and is Exhibit 4 to OI Report 1-2001-007 and is a reference to the Root Cause Report that will be provided.

21. Please produce the photographs conducted by "Hills and Radasch" as referenced in the OI Report at 28.

Response: See response to Document Request No. 19.

22. Please produce all items identified in the "Endnotes" section of the "Fuel Rod Accountability Project" ("FRAP").

Response: Documents identified in the "Endnotes" section of the FRAP are included in the FRAP Reference List, copies of which will be produced in response to Interrogatory No. 3(a). See response to Document Request No. 23.

23. Please produce all items identified in the "Reference List" section of the FRAP.

Response: A copy of all items identified in the "Reference List" section of the FRAP will be produced in response to Interrogatory No. 3(a).

24. Please produce the "Internal Communications" identified in the FRAP Appendix.

Response: A copy of the "Internal Communications" identified in the FRAP Appendix will be produced.

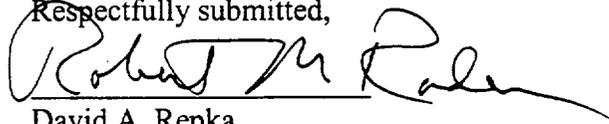
25. Please produce transcripts of the interviews conducted as referenced in the "Root Cause Investigation" Report at 92-93.

Response: The referenced interviews were not recorded and transcribed. Copies of interview summaries will be produced.

26. Please produce the documents referenced in the "Root Cause Investigation" Report at 94-98.

Response: All documents referenced in the Root Cause Report, Appendix A.7.3, will be produced.

Respectfully submitted,



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Dated in Washington, D.C.
this 21st day of November 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,) ASLBP No. 00-771-01-LA-R
 Unit No. 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of "Dominion Nuclear Connecticut, Inc.'s Response to Intervenor's First Set of Interrogatories and Request for Production in the Reopened Proceedings" and "Notice of Appearance of Robert M. Rader" in the captioned proceeding have been served on the following by deposit in the United States mail, first class, this 21st day of November 2001. Additional e-mail service has been made this same day as shown below.

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