

November 12, 2003 (11:25AM)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

COMMISSIONERS:

Nils J. Diaz, Chairman
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

In the Matter of

Docket No. 50-336-OLA-2

DOMINION NUCLEAR CONNECTICUT, INC.

(Millstone Nuclear Power Station,
Unit 2)

November 3, 2003

MOTION FOR RECONSIDERATION

The Connecticut Coalition Against Millstone (CCAM) moves herewith for reconsideration of the decision ("the Decision") of the United States Nuclear Regulatory Commission issued on October 23, 2003 dismissing its appeal from the decision of the Atomic Safety and Licensing Board Panel (Memorandum and Order, Ruling on Petitioner's Supplemented Petition and Contention, LBP-03-12, ___NRC___) issued on August 18, 2003 dismissing the Petitioner's contention and terminating the administrative proceedings. 10 C.F.R. §2.730.

CCAM moves that the Commissioners reverse the Decision, sustain its appeal and order further proceedings in this matter.

In these proceedings, CCAM sought to intervene and invoke the hearing process available pursuant to 10 C.F.R. §2.714a to challenge the licensee's application to eliminate certain Technical Specifications from its Millstone Unit 2 license.

Most particularly, CCAM sought to challenge the licensee's application to eliminate the existing requirement that it maintain capability to close the door to containment during a fuel handling accident involving release of radionuclides.

Common sense dictates that in the event of a fuel handling accident, in order to protect the public health and safety, the licensee should maintain capability to close the door to containment during a fuel handling accident involving release of radionuclides. The act of closing the door to containment obviously serves to maintain a barrier to minimize the release of radionuclides to the environment. In the alternative, radionuclides – at potentially catastrophic levels - will to escape into the environment. Such an event would needlessly imperil the health and safety of the public, including CCAM's membership.

In these proceedings, LBP-03-03, the Atomic Safety and Licensing Board Panel ("ASLB Panel") recognized, from a common-sense perspective, that doors to containment should be operable so that they can be closed during a fuel handling accident involving release of radionuclides.

The ASLB Panel stated that if, after the proposed changes at issue are implemented, in fuel movement operations, "containment penetrations are left open . . . rather than having automatic and other closing functions operable or in effect, it would seem self-evident that in the event of an accident there is a greater likelihood of a release of radioactivity that might have an impact on a person who lives near the plant."

The ASLB Panel also stated that "if a fuel handling accident occurs during refueling, and the containment door is left open, common sense indicates that

more radioactivity is going to escape the containment than if the doors were closed.”

The Decision seeks to discredit CCAM and the ASLB Panel by asserting that the ASLB Panel's statements were made in the context of an evaluation of CCAM's standing to intervene and are irrelevant to the issue of the sufficiency of CCAM's contention.

To the contrary, the assertions of CCAM regarding the operability of the doors to containment – recognized as self-evident by the ASLP Panel - form the gravamen of the contention submitted by CCAM, namely, that eliminating the requirement that the licensee maintain the operability of doors to containment during fuel handling accidents unnecessarily exposes the public to peril and should be disallowed.

In these proceedings, as the Decision notes, CCAM did not present an expert witness to opine that eliminating the requirement that the licensee maintain the operability of doors to containment during fuel handling accidents unnecessarily exposes the public to peril.

However, no expert was required to opine that eliminating the requirement that the licensee maintain the operability of doors to containment during fuel handling accidents unnecessarily exposes the public to peril.

That is because the ASLB Panel recognized, as stated, that “if a fuel handling accident occurs during refueling, and the containment door is left open, common sense indicates that more radioactivity is going to escape the containment than if the doors were closed.”

Thus, CCAM and the ASLB Panel have been demonstrated to be equally knowledgeable about the obvious unnecessary risk inherent in the licensee's application.

In legend, a well-placed finger has held back the floodtides from a leaking dam.

The NRC's existing requirement that the licensee maintain an operative door during fuel handling accidents derives from the same simple principle.

In this case, simplicity has been mistaken by the Commissioners as legal insufficiency.

The Decision is in error and should be reversed.

CONNECTICUT COALITION
AGAINST MILLSTONE
THE PETITIONER

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CERTIFICATION

I hereby certify that a copy of the foregoing "Motion for Reconsideration" of petitioner, Connecticut Coalition Against Millstone, was sent via U.S. Mail, postage pre-paid on November 3, 2003, to the following and emailed to the addresses below indicated:

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