

September 30, 2004 (4:38PM)

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of

Docket Nos. 50-336-LR,  
50-423-LR

DOMINION NUCLEAR CONNECTICUT, INC. ASLBP No. 04-824-01-LR

(Millstone Nuclear Power Station,  
Units 2 and 3)

September 30, 2004

MEMORANDUM IN SUPPORT OF NOTICE OF APPEAL

The Connecticut Coalition Against Millstone (CCAM) submits herewith a memorandum in support of its notice of appeal to the United States Nuclear Regulatory Commission from the decisions of the Atomic Safety and Licensing Board Panel, Memorandum and Order, LBP-04-15, 60 NRC \_\_\_\_ (July 28, 2004) and Memorandum and Order (Denying Motion for Reconsideration and Request for Leave to Amend Petition) (September 20, 2004), by which the Licensing Board dismissed CCAM's petition to intervene and request for a hearing in the matter of the application of the licensee, Dominion Nuclear Connecticut, Inc. to extend the operating licenses of Millstone Units 2 and 3 and denied CCAM's leave to amend its petition.

CCAM incorporates by reference hereto its Motion for Reconsideration dated August 9, 2004, and all attachments thereto, in support of this memorandum.

CCAM further asserts as follows:

(1) The Licensing Board exalted form over substance in rejecting all of CCAM's submissions offered in support of its intervention in these proceedings.

Thereby the Licensing Board abused its discretion and acted with caprice to

deprive the public of any meaningful role in the critical proceedings otherwise available to consider whether the Millstone Nuclear Power Station should be permitted to operate for twenty years beyond its 40-year licensing term.

For example, the Licensing Board without proper basis rejected the proffered expert testimony of a renowned medical-faculty physicist, Dr. Ernest Sternglass, and accomplished epidemiologist, Joseph Mangano, linking the routine radiation emissions from the Millstone Nuclear Power Station to the excessive cancer incidence in the Millstone host community.

For example, the Licensing Board rejected the proffered testimony of Cynthia M. Besade on her personal knowledge of the incidence of brain tumors – two fatal - in three Millstone site maintenance workers who were ordered terminated when their medical conditions were diagnosed. The Licensing Board rejected Ms. Besade's proffered testimony of personal knowledge of Millstone pipeworkers succumbing to cancer and associated diseases in middle age. The Licensing Board rejected Ms. Besade's proffered testimony of personal knowledge of dozens of residents in the Millstone host community who have suffered and died from cancers *their own medical doctors* link to Millstone emissions.

(2) The Licensing Board accepted the filings of Dominion Nuclear Connecticut, Inc. regarding environmental and marine effects and validity of necessary permits as truthful and accurate, despite CCAM's proof to the contrary. Thereby, the Licensing Board ruled prejudicially and without basis to deny the petition and avoid a hearing on materially contested issues.

(3) CCAM established that the licensee is currently unable to shut down the

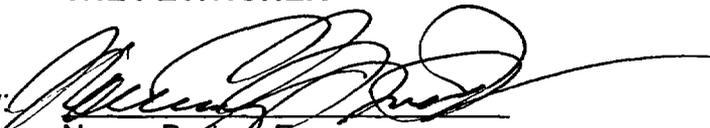
Millstone reactors "safely" with reference to its submissions to the U.S. Nuclear Regulatory Commission because its shutdowns release unsafe levels of radioisotopes into the environment. CCAM demonstrated that the licensee failed to provide one iota of evidence in its application of its will to correct this failure nor its will to do so during a license extension term. On this basis alone, the NRC is legally bound accept CCAM's petition and conduct a hearing, as CCAM set forth in its filings and at the prehearing conference.

(4) The record establishes that the licensee did not establish that it had evaluated the Millstone Unit 2 operational history of unplanned shutdowns as a discrete element in its application and therefore its analysis of metal fatigue and related issues is incomplete.

(5) The Licensing abused its discretion and acted with caprice when it denied CCAM's motion for leave to amend its petition. Such conduct was prejudicial and deprived the public of any meaningful opportunity to participate and provide its input to these proceedings.

For the above reasons, the Commission should vacate and reverse the decisions of the Licensing Board as set forth hereinabove and order these proceedings remanded for a full hearing under the "old" CFR rules.

**THE PETITIONER**

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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CERTIFICATION

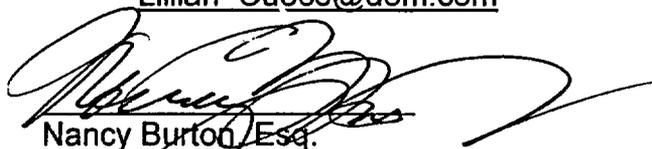
I hereby certify that a copy of the foregoing "Memorandum in Support of Notice of Appeal" was sent via U.S. Mail, postage pre-paid on September 30, 2004 to the following

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