

*RJD received  
3/29/05*

**From:** <NancyBurtonEsq@aol.com>  
**To:** <rle@nrc.gov>  
**Date:** 3/21/05 12:13PM  
**Subject:** Millstone - Notice of Intent to Sue

*12/9/04  
69 FR 71437  
59*

Mr. Emch:  
Please include this message and the attachment in your EIS review.  
Thank you.  
Nancy Burton

CONNECTICUT COALITION AGAINST MILLSTONE  
\_www.mothballmillstone.org\_ (<http://www.mothballmillstone.org>)

**COALITION ANNOUNCES SUIT AGAINST MILLSTONE;  
CHARGES ILLEGAL DISCHARGES ENDANGER HEALTH AND ENVIRONMENT**

For Immediate Release: March 21, 2005  
Contact: Nancy Burton 203-938-3952

Waterford – The Connecticut Coalition Against Millstone announced today it will bring a federal lawsuit to stop alleged illegal discharges of chemical and radioactive waste into the Long Island Sound by the Millstone Nuclear Power Station.

The Coalition served Dominion Nuclear Connecticut, Inc., owner and operator of the nuclear facility, with a formal notice of intent to sue, a legal pre-requisite to bring a federal lawsuit under the provisions of the Federal Clean Water Act.

The Coalition’s notice alleges that permits issued by Connecticut’s Department of Environmental Protection have expired, were issued beyond DEP’s authority and were illegally transferred to Dominion by Northeast Utilities in 2001.

“Dominion and its predecessor, Northeast Utilities, have treated the Long Island Sound as if it were their private nuclear and toxic waste dump,” said Nancy Burton, a Coalition leader.

“With this lawsuit, Dominion’s dumping days will be over,” Burton said.

The Coalition listed 38 radioactive isotopes and 146 metals and chemicals – many of them carcinogens – which are believed to be routinely discharged into the Long Island Sound under permits which have expired or are illegal.

“The Long Island Sound would be spared contamination by these deadly radioactive and toxic agents if the government ordered Millstone to convert to a closed cooling system such as we have advocated since 1999,” Burton said.

“The links between Millstone’s effluent discharges – which are washed by the tides and currents onto the shorelines of Waterford and East Lyme - and human health effects are established,” Burton said.

On March 10, 2005, at a press conference convened by the Coalition, Dr. Helen Caldicott, a world-recognized authority on the health effects of low-level ionizing radiation, publicly linked Millstone effluents with the rare jawbone cancer found in Zachary M. Hartley when he was born on December 16,

*SESP Review Complete  
Template = ADM-013*

*R-RIDS = ADM-03  
Call = R.J. Emch (RLE)*

1997.

Zachary's mother swam daily during critical months of her pregnancy at the Hole-in-the-Wall beach on Niantic Bay 1.5 miles from Millstone's discharge point.

Under the permits which the Coalition says have expired and were illegally issued, Millstone is permitted to discharge radioactive and toxic chemical effluents at heightened concentrations to a "mixing zone" which is defined as the area in Long Island Sound within 8,000 feet – or roughly 1.5 miles – from its discharge point.

One radionuclide – cesium-137, which Dr. Caldicott identified as a possible factor in Zachary's jawbone cancer – was found in a fish caught by NU in Niantic Bay in 1997, the year of Zachary's gestation. NU admitted the contamination originated from its effluent releases.

The Coalition is investigating other instances of cancers which have developed in people who have swum and sunbathed on the Niantic and Waterford shorelines near Millstone.

Note to Editors: The Coalition's Notice of Intent to Sue (10 pages) is attached.

- 30 -

CC: <ajk1@nrc.gov>, <secy@nrc.gov>

**Mail Envelope Properties** (423F00A0.325 : 6 : 29477)

**Subject:** Millstone - Notice of Intent to Sue  
**Creation Date:** 3/21/05 12:12PM  
**From:** <[NancyBurtonEsq@aol.com](mailto:NancyBurtonEsq@aol.com)>

**Created By:** [NancyBurtonEsq@aol.com](mailto:NancyBurtonEsq@aol.com)

**Recipients**

nrc.gov  
 OWGWPO02.HQGWDO01  
 RLE (Richard Emch)

nrc.gov  
 owf4\_po.OWFN\_DO  
 AJK1 CC (Andrew Kugler)

nrc.gov  
 owf5\_po.OWFN\_DO  
 SECY CC (SECY)

**Post Office**

OWGWPO02.HQGWDO01  
 owf4\_po.OWFN\_DO  
 owf5\_po.OWFN\_DO

**Route**

nrc.gov  
 nrc.gov  
 nrc.gov

Files	Size	Date & Time
MESSAGE	3591	03/21/05 12:12PM
TEXT.htm	4863	
CCAMNoticeIntentToSueDominion32105.doc		36352
Mime.822	60670	

**Options**

**Expiration Date:** None  
**Priority:** Standard  
**Reply Requested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

## CONNECTICUT COALITION AGAINST MILLSTONE

[www.mothballmillstone.org](http://www.mothballmillstone.org)

March 21, 2005

Dominion Nuclear Connecticut, Inc.  
Millstone Nuclear Power Station  
314 Rope Ferry Road  
Waterford CT 06385

Dominion Generation  
P.O. Box 26666  
Richmond VA 23261

Re: Notice of Intent to Sue

Dear Sirs:

The Connecticut Coalition Against Millstone ("the Coalition") is an organization uniting statewide clean-energy groups, Millstone whistleblowers and families and individuals who reside in Connecticut and elsewhere, including within the emergency evacuation zone of the Millstone Nuclear Power Station ("Millstone").

Section 505(b) of the Clean Water Act ("CWA"), 33 U.S.C. Section 1365(b) requires that sixty days prior to filing a citizen suit in federal court under section 505(a) of the CWA, 33 U.S.C. Section 1365(a), the alleged violators, the U.S. Environmental Protection Agency and the state in which the alleged violations occur be given notice of the alleged violations.

The Coalition hereby places Dominion Nuclear Connecticut, Inc. and Dominion Generation and their related Dominion corporate entities (collectively, "Dominion") on notice pursuant to section 505(b) of the CWA, 33 U.S.C. section 1365(b), that it believes that Dominion has violated and continues to violate "an effluent standard or limitation" under section 505(a)(1)(A) of the CWA, 33 U.S.C. Section 1365(a)(1)(A), by failing to comply with National Pollution Discharge Elimination System ("NPDES") permit number CT0003253, issued

pursuant to section 402(b) of the CWA, 33 U.S.C. Section 1342(b) by the Connecticut Department of Environmental Protection ("DEP") pursuant to authority delegated to it.

Based on records maintained by the DEP, the Coalition believes that Dominion has discharged and will continue to discharge pollutants into the Long Island Sound in violation of effluent standards or limitations of the NPDES permit issued on December 15, 1992 in one or more of the following ways:

1. NPDES permit number CT0003253 expired on December 14, 1999 and has been of no lawful effect since such date; accordingly, all effluent discharges otherwise permitted under the terms of the permit since such date have occurred in violation of the CWA effluent standards and limitations;
2. The DEP, commencing on or about 1998 and consistently thereafter, has issued and renewed "emergency authorizations" for indefinite periods purportedly pursuant to Connecticut General Statutes Section 22a-6(k) for purposes of permitting effluent discharges otherwise disallowed by the 1992 NPDES permit which expired on December 14, 1997 and all in the absence of notice to the public and an opportunity for meaningful public comment; accordingly, all effluent discharges released pursuant to said "emergency authorizations" since 1998 have occurred in violation of CWA effluent standards and limitations. The most recent such "emergency authorization" ("EA"), which is of indefinite duration, was issued by DEP on October 20, 2000 and has been "in effect" since such date;
3. On or about April 1, 2001, DEP purported to authorize the transfer of NPDES permit number CT0003253 and the "EA" from the Northeast Nuclear Energy Company ("NNECO") to Dominion; subsequent thereto, NNECO "transferred" the expired NPDES permit number CT0003253 and the EA to Dominion;
4. Insofar as DEP lacked lawful authority to transfer the expired NPDES permit and to transfer the EA, insofar as such EA had been issued initially in the absence of legal authority, all

effluent discharges released by Dominion since April 1, 2001 into the Long Island Sound have occurred without legal authority and in violation of CWA effluent standards and limitations;

5. It appears that DEP issued the EA and its predecessor "emergency authorizations" in knowing violation of the law, Connecticut General Statutes Section 22a-6(k), which limits the issuance of emergency authorizations to address discrete events involving "an imminent threat to human health or the environment" and not for terms of unlimited duration;
6. On or about December 20, 1999, Arthur J. Rocque, Jr., then-DEP Commissioner, authorized renewal of one such "emergency authorization" concerning discharges from the Millstone Unit 3 nuclear reactor after noting as follows:

"I really hate these [NNECO requests for renewal of emergency authorizations]. Statutes are very limited in what the[y] define as 'emergency.' Continuing emergency is **not** even contemplated." (Emphasis in original)

A copy of the internal DEP memorandum on which Rocque wrote such statement in his own handwriting is attached hereto;

7. In September 1999, NNECO pleaded guilty in the U.S. District Court for the District of Connecticut to committing environmental felonies in violation of the terms and conditions of the said NPDES permit number CT0003253;
8. Dominion, through its corporate-related entities, recently settled an environmental lawsuit brought by the U.S. Department of Justice and the U.S. Environmental Protection Agency for violations of the Clean Air Act for \$1.2 billion;
9. On or about March 11, 2005, the Conservation Law Foundation announced its intent to sue Dominion's corporate related entities for alleged illegal discharges of mercury into the

environment;

10. In consideration of these and other illegal activities carried out by NNECO at Millstone and by Dominion's corporate related entities at Millstone and elsewhere, Connecticut DEP lacks legal authority to renew the NPDES permit;
11. Dominion routinely discharges radioactive and toxic chemical and metal discharges into the Long Island Sound through its Millstone operations and it has done so continuously since on or about April 1, 2001 to the present;
12. Dominion routinely discharges some or all of the following radionuclides, chemicals and metals into the Long Island Sound, all in knowing and continuing violation of the CWA:

Ag  
Be-7  
Ce-144  
Co-57  
Co-58  
Co-60  
Cr-51  
Cs-134  
Cs-137  
Fe-55  
Fe-59  
I-131  
I-133  
Kr-85  
Kr-88  
La-140  
Mn-54  
Mo-99  
Na-24  
Nb-95  
Nb-97  
Ru-105

Sb-122  
Sb-124  
Sb-125  
Sn-113  
Sr-89  
Sr-90  
Sr-92  
TC-99M  
TC-101  
TC-104  
Tritium  
Xe-133  
Xe-135  
Zn-69M  
Zr-95  
Zr-97  
Aluminum  
Antimony  
Ammonia  
Ammonium Hydroxide  
Arsenic  
Barium  
Beryllium  
Boric Acid  
Boron  
Bromide  
Bulab 6002  
Cadmium  
Carbohydrazide  
Chlorine  
Chromium  
Cobalt  
Conquor 3585 (methoxypropylamine and diethylhydroxylamine)  
Copper  
Cyanide  
Diethylhydroxylamine  
Epichlorohydrin  
Ethanolamine  
Fluoride  
Freon



Hexavalent Chromium  
Hydrazine  
Hydrogen Peroxide  
Iron  
Methoxypropylamine  
Molybdate  
Molybdenum  
Nalcolyte  
Nickel  
Nitrogen  
Oil & Grease  
Phosphorus  
Selenium  
Silver  
Styrene  
Sulfate  
Sulfide  
Sulfite  
Surfactants  
Thallium  
Tin  
Titanium  
Tolyltriazole  
Xylene  
Zinc  
Zirconium  
Acrolein  
Acrylonitrile  
Benzene  
Bromoform  
Carbon Tetrachloride  
Chlorobenzene  
Chlorodibromomethane  
Chloroethane  
2-Chloroethylvinyl Ether  
Chloroform  
Dichlorobromomethane  
1, 1-Dichloroethane  
1, 2-Dichloroethane  
1, 1-Dichloroethylene

1, 2-Dichloropropane  
1, 3-Dichloropropylene  
Ethylbenzene  
Methylbromide  
Methylchloride  
Methylene Chloride  
1, 1, 2, 2, -Tetrachloroethane  
Tetrachloroethylene  
Toluene  
1, 2-Trans-Dichloroethylene  
1, 1, 1-Trichloroethane  
1, 1, 2-Trichloroethane  
Trichloroethylene  
Vinyl Chloride  
2-Chlorophenol  
2, 4-Dichlorophenol  
2, 4-Dimethylphenol  
4, 6-Dinitro-O-Cresol  
2, 4-Dinitrophenol  
2-Nitrophenol  
4-Nitrophenol  
P-Chloro-M-Cresol  
Pentachlorophenol  
Phenol  
2, 4, 6-Trichlorophenol  
Acenaothylene  
Benzidine  
Benzo(a)anthracene  
Benzo(a)pyrene  
Benzo(ghi)perylene  
Benzo(k)fluoranthene  
Bis(2-Chloroethyl) Ether  
Bis(2-Ethylhexyl)phthalate  
Chrysene  
Dibenzo(ah)anthracene  
1,2-Dichlorobenzene  
1,3-Dichlorobenzene  
1,4-Dichlorobenzene  
3,3-Dichlorobenzidines  
Diethyl phthalate

Dimethyl phthalate  
Di-n-butyl phthalate  
2,4-Dinitrotoulene  
1,2-Diphenylhydrazine  
Fluoranthene  
Fluorene  
Hexachlorobenzene  
Hexachlorocyclopentadiene  
Hexachloroethane  
Indenol(1,2,3-ed)pyrene  
Isophorone  
Nurobenzene  
N-Nitrosodimethylamine  
N-Nitrosodiphenylamine  
Phenanthrene  
Pyrene  
Aldrin  
Chlordane  
DDT  
DDE  
Dieldrin  
Endosulfan(alpha)  
Endosulfan (beta)  
Endosulfan Sulfate  
Endrin  
Endrin Aldehyde  
Heptachlor  
Heptachlor epoxide  
Arochlor 1016(PCB)  
Arochlor 1232(PCB)  
Arochlor 1242(PCB)  
Arochlor 1248 (PCB)  
Arochlor 1254 (PCB)  
Arochlor 1260 (PCB)  
Toxaphene  
Ammonia  
Benzo(b)fluoranthene  
Chlorine  
Hexachlorocyclohexane (Alpha)  
Hexachlorocyclohexane (Beta)

Hexachlorocyclohexane (Gamma)  
2,3,7,8-TCDD

13. The conduct described herein may involve knowing and deliberate violation of federal law by Dominion, NNECO and DEP.

The Coalition believes that the Millstone discharges as described above are causing grave and irreparable harm to the marine environment and to human health and that such conduct imperils the health and safety of its membership.

The Coalition further represents that some or all of the discharges to the Long Island Sound as listed hereinabove are unnecessary; if the Millstone Nuclear Power Station were to convert from a "once-through" to a "closed" cooling system, some or all of these harmful discharges to the Long Island Sound would be eliminated.

The Millstone discharges as described above are believed to be directly associated with the rare jawbone cancer found in Zachary M. Hartley at his birth on December 16, 1997. The Millstone discharges as described above are believed to be directly associated with a high and increasing incidence of cancer and related diseases among the human population that resides near the Millstone Nuclear Power Station and utilizes the surrounding beaches at Niantic Bay and Jordan Cove, if not beyond.

The Coalition hereby places Dominion on notice of its grounds for initiation of legal action pursuant to the Clean Water Act. The Coalition reserves its rights to include any additional violations in the forthcoming complaint. If you have any questions or wish to discuss this matter with us, please do not hesitate to contact us.

Very truly yours,

Nancy Burton

Please reply to:  
Nancy Burton  
147 Cross Highway

Redding Ridge CT 06876  
Tel. 203-938-3952

cc:

Northeast Nuclear Energy Company  
Northeast Utilities Service Company  
Connecticut Light & Power Company  
P.O. Box 270  
Hartford CT 06141-0270

Attorney General  
Department of Justice  
10<sup>th</sup> Street and Constitution Avenue NW  
Washington DC 20530

Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington DC 20460

Regional Administrator  
Environmental Protection Agency  
1 Congress Street  
Suite 1100 (RAA)  
Boston MA 02114-2023

Hon. Gina McCarthy  
Commissioner  
Department of Environmental Protection  
79 Elm Street  
Hartford CT 06106