

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DOCKETED
USNRC

May 26, 2005 (4:30 pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

CHRISTINE MALAFI
COUNTY ATTORNEY

DEPARTMENT OF LAW
ADDRESS ALL COMMUNICATIONS
IN THIS MATTER TO:

(631) 853-4049

May 26, 2005

Michael C. Farrar, Chief
Peter S. Lam, Administrative Judge
Alan S. Rosenthal, Administrative Judge
Atomic Safety & Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: In the Matter of Dominion Nuclear Connecticut Inc.
(Millstone Power Station, Units 2 & 3)
Docket Nos. 50-336, 50-423, ASLBP No. 05-837-01-LR

Honorable Sirs:

During an April 12, 2005 conference call, memorialized in an April 15, 2005 memorandum, the Atomic Safety and Licensing Board (hereinafter, the "Board") requested that the parties hold a meeting to discuss and possibly resolve the issues raised by the Petition of the County of Suffolk. As requested by the Board, this letter reports on the meeting.

The meeting, which was held on May 18, 2005, included representatives of Dominion Nuclear Connecticut, Inc., the County of Suffolk, the Nuclear Regulatory

Template = SECY-037

SECY-02

Commission (hereinafter, "NRC") Staff, the Federal Emergency Management Agency and the New York State Emergency Management Office. The meeting was cordial and the County particularly appreciated the time and efforts of the other participants, who traveled to Suffolk County to meet. Dialogue between the parties was open and informative. However, the parties were unable to resolve the issues raised by the County's Petition.

The position of Dominion and the NRC Staff continues to be that the current planning documents and level of emergency planning are adequate to support the relicensing application and that, within the context of the relicensing proceeding, there is no legal or other requirement for emergency planning beyond the 10-mile plume exposure emergency planning zone. This assertion is based on 10 CFR §50.47(a)(1), which assumes that concerns regarding emergency planning were raised in the initial licensing proceeding. It has also been stated that the 10-mile planning zone provides a sufficient basis for planning outside the 10-mile zone, should such planning become necessary.

The County, on the other hand, has no reason believe that the public health and safety issues raised by the County's Petition were ever considered in the Millstone licensing proceeding, or in any of the subsequent regulatory processes. Suffolk County's concerns are particularly strong in light of the determinations made by the State and the County regarding evacuation of Suffolk County and Long Island, at the time when the Shoreham Plant was still being contemplated. The County continues to have unanswered questions about its ability to protect the approximately 1.5 million residents who live in

close proximity to the Millstone Power Station - some within 11 miles of it- and the many seasonal visitors to Suffolk. **There is no plan to protect these persons**, and the unique geographic circumstances, limited access routes and growing population of Fishers Island, Plum Island and the North Fork of the County make "ad hoc planning" an unacceptable basis for such protection. Planning for emergency measures in the State of Connecticut is jurisdictionally and geographically irrelevant to the Town of Southold and to the County of Suffolk.

The County of Suffolk believes that the current evacuation plan, which would be the basis for evacuation planning for the next forty-one (41) years, is inadequate as presented. The County also asks whether there is any satisfactory public health response to a severe radiological emergency other than population evacuation. The answers to the County's questions could potentially affect persons both within and outside of the 10-mile plume emergency planning zone. As part of the emergency planning, data should be produced through computer modeling, showing the possible impacts (or lack thereof) of a severe radiological emergency on Suffolk County. The emergency plans and the data supporting the plan should be open to review by the public and should be updated periodically.

In addition, the County of Suffolk views the re-licensing applications for Millstone II and III as premature at this time. In the years 2035 and 2045, Millstone Units II and III will have been operating for 60 and 49 years respectively. Given the age, wear-and-tear, and checkered history of operation of these facilities, capital improvement, maintenance, and operational plans should be developed and subjected to

public scrutiny. Dominion's capability to operate Millstone safely should also be demonstrated as part of the relicensing proceeding. Moreover, environmental concerns have been raised by the County and should be addressed.

Exclusion of the County's health and safety issues from the scope of the relicensing proceeding allows these issues to be disregarded. Accordingly, the County of Suffolk renews its request that it be permitted to intervene in the licensing proceeding. The County believes that these issues are, or can be brought within the scope of the proceeding by a waiver. Furthermore, the County strongly urges the Board to carry out the important function of protecting public health and safety. An adverse ruling on the County's requests could potentially leave many persons vulnerable and unprotected, in the event of a radiological emergency.

Thank you for your consideration of the County's requests.

Very truly yours,

Christine Malafi
Suffolk County Attorney

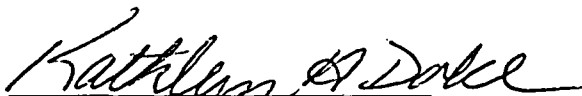


By: Jennifer B. Kohn,
Assistant County Attorney

cc: Office of the Commission Appellate Adjudication, U.S.N.R.C.
Michael C. Farrar, Chief
Alan S. Rosenthal, Administrative Judge
Peter S. Lam, Administrative Judge
Lillian M. Cuoco, Esq.
David R. Lewis, Esq.
Matias F. Travieso-Diaz, Esq.
Timothy J.V. Walsh, Esq.
Brooke D. Poole, Esq.

STATE OF NEW YORK)
)SS:
COUNTY OF SUFFOLK)

The undersigned, being duly sworn, deposes and says: she is over the age of 18 years and associated with the Suffolk County Attorney. That on the 26th day of May, 2005 she served the within LETTER, dated May 26, 2005, upon those set forth herein by depositing a true copy thereof enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.


Kathleen A. Dolce

Sworn to before me this
26th day of May, 2005


Notary Public

Victoria Szydowski
Notary Public State of New York
No 01SZ6102051
Qualified in Suffolk County
My Commission Expires Nov. 24, 2007

Office of the Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of:

DOMINION NUCLEAR CONNECTICUT, INC.
(Millstone Nuclear Power Station, Units 2 and 3)

MOTION TO INTERVENE of the COUNTY OF SUFFOLK
of the STATE OF NEW YORK

Docket Nos. 50-336, 50-423

Index No. 04-21362

**LETTER with
AFFIDAVIT OF SERVICE**

May 26, 2005
Submitted by:

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COUNTY OF SUFFOLK



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CHRISTINE MALAFI
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DEPARTMENT OF LAW

ADDRESS ALL COMMUNICATIONS
IN THIS MATTER TO:

MUNICIPAL LAW BUREAU
(631) 853-4049

May 26, 2005

Office of the Secretary
U.S. Nuclear Regulatory Commission
Sixteenth Floor, One White Flint North
11555 Rockville Pike
Rockville, MD 20852
Attn: Rulemakings and Adjudication Staff

Re: Dominion Nuclear Connecticut, Inc.
(Millstone Nuclear Power Station, Units 2 &3)
Docket Nos.: 50-336 & 50-423

Honorable Sir/Madam:

Please accept for filing the enclosed Letter, dated May 26, 2005, submitted on behalf of the County of Suffolk, State of New York. An original and two copies are enclosed. The Affidavit of Service is attached.

Thank you for your attention to this matter.

Very truly yours,

CHRISTINE MALAFI
Suffolk County Attorney

By: Jennifer B. Kohn,
Assistant County Attorney

cc: Office of the Commission Appellate Adjudication, U.S.N.R.C.
Michael C. Farrar, Chief
Alan S. Rosenthal, Administrative Judge

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May 26, 2005
U.S. Regulatory Commission

cc: continued

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