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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 06/03/05
SERVED 06/03/05

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

Michael C. Farrar, Chairman
Alan S. Rosenthal
Dr. Peter S. Lam

In the Matter of

DOMINION NUCLEAR CONNECTICUT, INC.

(Millstone Nuclear Power Station,
Units 2 and 3)

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

ASLBP No. 05-837-01-LR

June 3, 2005

STATUS MEMORANDUM

Following on the heels of our May 11, 2005 Memorandum encouraging them to do so, the three participants herein -- the Petitioner County of Suffolk, the licensee/applicant Dominion, and the NRC Staff -- held a settlement meeting on May 18. Each participant subsequently filed a report expressing its view of the meeting; the last such report was received last week, on May 26. The upshot of those reports, it is fair to say, is that, while some progress was achieved in promoting an ongoing relationship, and in sharing information, among the participants, settlement of the matter pending before us is not foreseeable.

The Board wishes to commend the parties for undertaking those settlement efforts, the idea for which emerged from the parties' own comments during an April 12 conference call (see Tr. at 43-44, 51 et seq., 57-58, and 89-91, as memorialized in our April 15 Memorandum of that call). Those settlement efforts were conducted during a time in which two members of the Board were occupied with the resolution of a more pressing matter (see Tr. at 89-90), as previously noted in our Memoranda of April 15 and May 11. With that other matter (along with the settlement process here) having been completed last week -- see Private Fuel Storage (Independent Spent Fuel Storage Installation), LBP-05-12, May 24, 2005 -- this Board will now

be turning its attention to deciding the merits of the County's pending intervention petition and the oppositions thereto.¹

As reflected in the pleadings and discussed during the April 12 conference, our decision on the pending petition will require, inter alia, (1) application of both the rules and the precedents governing belated filings and (2) consideration of the jurisdictional limits set by the Commission regarding proceedings of this nature, and a determination of whether to certify to the Commission the County's request under 10 C.F.R. § 2.335(b) for a waiver of those limits. The Board will also be passing upon the legitimacy of certain other arguments presented by the participants.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

By Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 3, 2005

Copies of this Memorandum were sent this date by Internet e-mail transmission to counsel for Applicant Dominion, Petitioner County, and the NRC Staff.

¹ Given the nature of the reports about the May 18 meeting, the Board has no need for further information from the participants, and thus will not be convening the additional conference call contemplated by our May 11 Memorandum.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB STATUS MEMORANDUM have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket Nos. 50-336/423-LR
LB STATUS MEMORANDUM

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 3RD day of June 2005