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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In The Matter of

AMERGEN ENERGY COMPANY, LLC.

(Oyster Creek Nuclear Generating

Station)

Docket No. 50-219-LR

DOCKETED
USNRC

January 18, 2008 (2:43pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of

ENERGY NUCLEAR OPERATIONS, INC.

(Indian Point Nuclear Generating

Units 2 and 3)

Docket Nos.

50-247-LR

50-286-LR

In the Matter of

ENERGY NUCLEAR OPERATIONS, INC.

(Pilgrim Nuclear Power Station)

Docket No. 50-293-LR

In the Matter of

ENERGY NUCLEAR OPERATIONS, INC.

(Vermont Yankee Nuclear Power Station)

Docket No.

50-271-LR

JANUARY 18, 2008

**ANSWER OF CRORIP AND NANCY BURTON TO THE PETITION BY NUCLEAR INFORMATION AND
RESOURCE SERVICE ET AL. TO SUSPEND LICENSE RENEWAL REVIEWS FOR OYSTER CREEK, INDIAN
POINT, PILGRIM AND VERMONT YANKEE NUCLEAR POWER PLANTS PENDING INVESTIGATION OF NRC
STAFF REVIEW PROCESS AND CORRECTION OF DEFICIENCIES**

On January 3, 2008, Nuclear Information and Resource Service; Jersey Shore Nuclear Watch, Inc., Grandmothers, Mothers and More for Energy Safety; New Jersey Public Interest Research Group; New Jersey Sierra Club; New Jersey Environmental Federation; Riverkeeper, Inc.; Pilgrim Watch; and the New England Coalition ("Petitioners") filed a Petition to Suspend License Renewal Reviews for Oyster Creek,

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Indian Point, Pilgrim and Vermont Yankee Nuclear Power Plants Pending Investigation of NRC Staff Deficiencies ("Petition") in the above-entitled dockets. By order dated January 11, 2008, the Commission set January 18, 2008 as the due date for Answers to the Petition. This filing is the Answer of Connecticut Residents Opposed to Relicensing of Indian Point ("CRORIP") and Nancy Burton (collectively "CRORIP"), Petitioners to Intervene in the Indian Point relicensing proceedings.

CRORIP vigorously supports the Petition.

The Petition is self-assertedly premised in large part on the OIG Report, Audit of the NRC's License Renewal Program, OIG-07-A-15, September 6, 2007.

The OIG Report evaluated selected aspects of NRC Staff review of applications by nuclear power plant owners and operators to extend the terms of their operating licenses. One of the subjects of the selective review was the Millstone Nuclear Power Station ("Millstone"). The OIG Report identified the NRC Staff review of the Millstone relicensing application as one illustrating deficiencies in the NRC Staff review process.

The undersigned, Nancy Burton, represented the Connecticut Coalition Against Millstone ("CCAM") as an intervening challenger to Millstone relicensing, and thereby became intimately familiar with aspects of the process whereby NRC Staff purported to review the Millstone relicensing application.

From this vantage point, the undersigned respectfully asserts that the OIG report grossly understates the deficiencies of NRC Staff review of nuclear power plant relicensing, at least as it relates to Millstone.

One example of the deficiencies of NRC Staff review of the Millstone relicensing application is identified in the March 30, 2006 letter of Peter D. Colosi, Jr., Assistant Regional Administrator for Habitat Conservation with the United States Department of Commerce of the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Northeast Region, based in Gloucester, Massachusetts, addressed to Pao-Tsin Kuo, the NRC's Program Director, License Renewal and Environmental Impacts Program, who oversaw NRC Staff review of the Millstone relicensing application with regard to environmental impacts. The letter is available in the NRC's ADAMS system, ML061010155,

Colosi's letter states that his office had apprised NRC Staff of the requirements of the federal Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act which require federal agencies such as the NRC to consult with one another on projects such as nuclear power plant relicensing and that

As this project [Millstone relicensing] involves essential fish habitat (EFH), this process is guided by the requirements of NMFS' EFH regulations at 50 CFR 600.905 et seq. Those regulations mandate the preparation of EFH assessments and generally outline each agency's obligations in this consultation procedure.

Nuclear Regulatory Commission staff and its consultants have been advised by NMFS of fishery issues and consultation obligations associated with the license renewal action. The MSA calls for

characterization and evaluation of actions that might adversely impact the EFH of species managed under the MSA. We have previously advised NRC staff of these regulatory responsibilities pursuant to 50 CFR 600.920. We have also informed you that there are 24 species of fish that have EFH designations at and around Millstone Point Facility (see Attachment "A"). **Supplement 22, NRC's programmatic EIS for licensing this nuclear generating facility, does not provide the required EFH assessment of the consequences of operating the facility, measures to avoid or minimize impacts, or measures to compensate for unavoidable impacts.**

(Emphasis added.)

The Colosi letter concludes that the NRC staff's Supplement 22 -which formed a basis for the NRC's granting of the Millstone relicensing application – **"disregards impacts on aquatic resources [other than winter flounder] without justification. It also disregards the entrainment and impingement data regarding organisms impacted by the operation of Units 2 & 3 open cycle cooling systems."** (Emphasis added.)

Regrettably, although the NRC Staff acknowledged its failure to comply with federal law as set forth by Colosi (See May 16, 2006 letter from NRC Staff to Colosi, ML 061360183), by the time the NRC staff made an effort to carry out the mandatory review, the NRC had already granted Dominion's application to extend the Millstone Units 2 and 3 licenses. As the NRC's May 16, 2006 letter states,

"We apologize for our oversight and thank you for your comments."

On the basis of this admitted failure of the NRC staff to comply with mandatory federal requirements in the Millstone relicensing proceedings, it is only appropriate that the entire scope of NRC Staff review of the Millstone relicensing process be investigated and that appropriate action – including revocation of relicensing – occur.

It should not be thought that the failure of the NRC staff to honor mandatory federal environmental requirements in the Millstone relicensing proceeding as illustrated above is an isolated instance of its disregard for the law and facts during that process.

For example, faced with evidence from Dominion's own laboratory results that goat milk sampled 5.5 miles north of Millstone had excessively high concentrations of strontium-90 after Dominion acquired Millstone in 2001, the NRC Staff echoed Dominion's denial that Millstone releases were responsible for the goat milk contamination. The NRC Staff blindly accepted Dominion's explanation that decades-old fallout from nuclear weapons testing had accumulated in the soil – and that goats eat dirt.

This absurd postulation – goats are selective browsers which nibble the tips of grass – illustrates the lengths to which NRC Staff unblushingly reached in the face of all scientific, factual and legal challenges to justify Millstone relicensing.

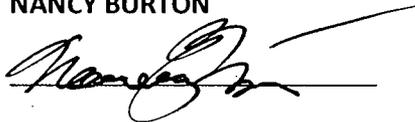
Accordingly, CRORIP stands in full support of the Petition.

CONNECTICUT RESIDENTS OPPOSED

TO RELICENSING OF INDIAN POINT

NANCY BURTON

By:

A handwritten signature in black ink, appearing to read "Nancy Burton", written over a horizontal line.

Nancy Burton

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ENTERGY NUCLEAR OPERATIONS, INC. **50-271-LR**
(Vermont Yankee Nuclear Power Station) **JANUARY 18, 2008**

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "ANSWER OF CRORIP AND NANCY BURTON TO THE PETITION BY NUCLEAR INFORMATION AND RESOURCE SERVICE ET AL. TO SUSPEND LICENSE RENEWAL REVIEWS FOR OYSTER CREEK, INDIAN POINT, PILGRIM AND VERMONT YANKEE NUCLEAR POWER PLANTS PENDING INVESTIGATION OF NRC STAFF REVIEW PROCESS AND CORRECTION OF DEFICIENCIES" dated January 18, 2008, have been served upon the following on January 18, 2008, by deposit in the U.S. Postal Service, with copies by electronic mail, as indicated below:

Signed in original



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