UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 5, 2009

Mr. David A. Christian
President and Chief Nuclear Officer
Dominion Nuclear Connecticut, Inc.
Innsbrook Technical Center
5000 Dominion Boulevard
Glen Allen, VA 23060-6711

SUBJECT: MILLSTONE POWER STATION, UNIT NO 3: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Christian:

By letter to the Nuclear Regulatory Commission (NRC) dated April 20, 2009, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML091170138), Dominion Nuclear Connecticut, Inc. (DNC) submitted an affidavit dated March 23, 2009, executed by Mr. Robert E. Henry, Senior Vice President, Fauske & Associates, LLC (FAI), requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390:

> "Post Test Analysis of the FAI Millstone 3 RWST [refueling water storage tank] ¼ Scale Gas Entrainment Test," designated FAI/09-44, dated March 13, 2009

The procedures set forth in 10 CFR 2.390(b) of the Commission's regulations must be followed by anyone submitting a document to the NRC who seeks to have the document, or a portion of it, withheld from public disclosure because it contains trade secrets, privileged, or confidential commercial or financial information. As required by 10 CFR 2.390(b)(1)(i)(A), the top of the first page of the document and the top of each page containing such information must be marked with language substantially similar to "confidential information submitted under 10 CFR 2.390," "withhold from public disclosure under 10 CFR 2.390," or "proprietary," to indicate it contains information the submitter seeks to have withheld. Also 10 CFR 2.390(b)(1)(i)(B), requires that each document, or page, as appropriate, containing information sought to be withheld from public disclosure must indicate, adjacent to that information, or at the top of the page if the entire page is affected, the basis for proposing that the information be withheld from public disclosure under 10 CFR 2.390(a).

The attachments provided with the DNC letter dated April 20, 2009, have been reviewed in light of the aforementioned regulations and the following deficiencies have been identified:

1. Enclosure 1 was submitted by DNC as the non-proprietary FAI report, and Enclosure 1 has no redaction markings (i.e. brackets and basis for withholding the information). Also, Enclosure 1, Appendix B contains a page marked "FAI Proprietary;" without any other markings or information. Enclosure 1, Appendix C also contains a page marked "FAI Proprietary;" without any other markings or information present.

2. Enclosure 3 is marked as "FAI Proprietary" at the bottom of the first page and at the bottom of all subsequent pages. There are no markings at the top of the first page or the subsequent pages. In addition, there are not markings specifying what information is proprietary and should be withheld from public disclosure under 10 CFR 2.390(a).

3. Enclosure 3, Appendix B, contains calculations generally considered readily available to the public. This information is not provided in Enclosure 1.

Accordingly, DNC should consider supplementing the present record with additional information, as noted below:

- Ensure all markings are consistent with 10 CFR 2.390(b)(1)(i)(A) and are placed at the top of the page.

- Ensure all markings are consistent with 10 CFR 2.390(b)(1)(i)(B) and that the basis for withholding specific portions under 10 CFR 2.390(a) is noted adjacent to the information to be withheld, or at the top of the page if the entire page is affected.

- Ensure all information that is available from public sources is not marked proprietary and is included in the nonproprietary version in accordance with 10 CFR 2.390(b)(3)(iv).

- Review the entire submittal to ensure that no other proprietary information marking discrepancies exist and provide a new affidavit with a revised submittal.

For more information regarding requests for withholding under 10 CFR 2.390, please review NRC Information Notice 2009-07, "Withholding Information from Public Disclosure," dated March 30, 2009. The Discussion section of the Notice provides guidance regarding the use of brackets in the non-proprietary version of documents.

In summary, we have concluded that the document that you seek to withhold from public disclosure is not consistently marked in accordance with 10 CFR 2.390(b)(1)(i), and thus we are unable to determine at this time what information submitted with the associated affidavit is proprietary.

In accordance with 10 CFR 2.390(c), the documents received by the NRC without a proper request for withholding will be placed in the Commission's Public Document Room 30 days after the date of this letter, including inconsistently-identified information, unless you either seek to withdraw the document, or provide the NRC with revised documents that meet the requirements listed in 10 CFR 2.390(b)(1)(i).

Mr. William D. Bartron, from your staff, acknowledged this response time on May 11, 2009. If you request that the information be withdrawn, the NRC staff will proceed as noted in 10 CFR 2.390(c)(3).

If you have any questions regarding this matter, I may be reached at 301-415-1603.

Sincerely,

Carleen J. Sanders, Project Manager
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-423

cc: Mr. Robert E Henry
Senior Vice President
Fauske & Associates, LLC
16W070 83rd Street
Burr Ridge, Illinois 60527

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/RA/

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