

~~RELATED CORRESPONDENCE~~

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OF
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ADJ. D.

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	
Northeast Nuclear Energy Company)	Docket No. 50-423-LA-3
)	
(Millstone Nuclear Power Station,)	
Unit No. 3))	ASLBP No. 00-771-01-LA

NORTHEAST NUCLEAR ENERGY COMPANY'S FIRST
SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION
OF DOCUMENTS DIRECTED TO CONNECTICUT COALITION
AGAINST MILLSTONE AND LONG ISLAND COALITION AGAINST MILLSTONE

In accordance with the schedule established in the Atomic Safety and Licensing Board ("Licensing Board") Prehearing Conference Order (Granting Request for Hearing) (LBP-00-02), issued on February 9, 2000, Northeast Nuclear Energy Company ("NNECO") hereby requests the Connecticut Coalition Against Millstone ("CCAM") and the Long Island Coalition Against Millstone ("CAM") (collectively, "Intervenors") to: (1) answer this first set of interrogatories fully, in writing, and under oath, within 14 days after service of this request pursuant to 10 C.F.R. § 2.740b; and (2) produce the documents requested below within 30 days after service of this request pursuant to 10 C.F.R. § 2.741(d).

I. DEFINITIONS AND INSTRUCTIONS

A. Scope of Discovery

These interrogatories and document production requests cover all information in the possession, custody, and control of Intervenors, including information in the possession of employees, agents, representatives, investigators, attorneys, consultants, or other persons directly

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or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on Intervenor's behalf or otherwise subject to their control. The discovery sought by this request encompasses material contained in, or that might be derived or ascertained from, the personal files of Intervenor's employees, agents, representatives, investigators, attorneys, consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on Intervenor's behalf or otherwise subject to its control.

B. Lack of Information

If Intervenor currently lack information to answer any interrogatory completely, please state:

1. the responsive information currently available;
2. the responsive information identified but currently unavailable; and
3. when Intervenor anticipate receiving such information currently unavailable.

Each of the following requests is a continuing one requiring supplementation pursuant to 10 C.F.R. §§ 2.740(e)(1) – (2). NNECO requests that, in the event Intervenor obtain or discover any additional information that is responsive to any discovery request, Intervenor promptly supplement their responses to these requests.

C. Objections

In the event that Intervenor object to any interrogatory or document production request under claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, the person on whose behalf the objection is asserted, and describe the factual basis for asserting the objection in sufficient detail so as to permit NNECO to consider, and the Licensing Board to ascertain, the validity of such objection.

D. Privilege Log

For any document covered by this request that is withheld under a claim of privilege, immunity, or for any other reason, please furnish a privilege log identifying each document for which the privilege, immunity, or other reason is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and their affiliation, the subject matter of the document, and the basis for asserting the privilege, immunity, or other reason.

E. Intervenors

Connecticut Coalition Against Millstone, CCAM, Long Island Coalition Against Millstone, CAM, "you," and "your" refer to any branch, department, division, or other organized entity of the Intervenors, including its employees, agents, representatives, investigators, attorneys, consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on Intervenors' behalf or otherwise subject to its control.

F. Documents

"Documents" means the complete original or a true, correct, and complete copy and any non-identical copies, whether different by reason of any notation or otherwise, of any written or graphic matter of any kind, or any data compilation, no matter how produced, recorded, stored, or reproduced (including electronic, mechanical, or electronic records or representation of any kind) including, but not limited to, any writing, letter, telegram, facsimile, meeting minutes, meeting notes, memorandum, statement, computer file, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, database, data processing card, printout, microfilm or microfiche, interoffice and intraoffice communications, instructions, reports, demands, schedules, notices, recordings, analyses,

sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, indices, notebooks, personal notes, diary entries, electronic mail, notes of interview, communication, contracts, any other agreements, data compilations, and all other writings and papers similar to any of the foregoing, however designated by you, including all drafts of all such documents. If the document has been prepared and several copies or additional copies have been made that are not identical (or are no longer identical by reason of the subsequent addition of notations or other modifications), each non-identical copy is to be construed as a separate document.

G. Date

“Date” means the specific day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

H. Discussion

“Discussion” means communication of any kind, including, but not limited to, any spoken, written, or signed form of communication.

I. Person

“Person” means any individual, association, group, corporation, partnership, joint venture, or any other business or legal entity.

J. Describe or Identify

The words “describe” or “identify” shall have the following meanings:

1. In connection with a person, the words “describe” or “identify” mean to state the name, last known business address, last known business telephone number, and last known place of employment and job title;

2. In connection with a document, the words “describe” or “identify” mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the name of each person or entity signing or approving the document, the date on which the document was prepared, signed, and/or executed, and any other information necessary to adequately identify the document;

3. In connection with an entity other than a natural person (*e.g.*, corporation, partnership, limited partnership, association, institution, etc.), the words “describe” or “identify” mean to state the full name, address, and telephone number of the principal place of business of such entity; and

4. In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identity of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identify of any document recording or documenting such activity, occurrence, or communication.

II. GENERAL INTERROGATORIES

A. Interrogatory G – 1

Identify each person who supplied information for responding to these interrogatories and requests for the production of documents. Specifically note the interrogatories for which each such person supplied information. For requests for production, note the contention for which each such person supplied information.

B. Interrogatory G – 2

For each admitted contention, identify each person whom Intervenors expect to provide sworn affidavits and declarations for the written filing for the Subpart K proceeding, and

each person who would testify in any subsequent evidentiary hearing. For each person identified, describe that person's professional affiliation, address, area of professional expertise, qualifications, and educational and scientific experience. Also, describe the general subject matter on which each person is expected to provide sworn affidavits or testimony in the proceeding.

C. Interrogatory G - 3

For each person identified under Interrogatory G - 2, provide a list of all publications authored by the expert within the proceeding 10 years, and a listing of any other cases in which the expert has testified as an expert at a trial or hearing, or by deposition within the preceding four years.

III. SPECIFIC INTERROGATORIES

A. Contention 4: "Undue and Unnecessary Risk to Worker and Public Health and Safety"

Interrogatory No. 4 - 1: Please identify any and all documents on which Intervenors intend to rely as a basis for Contention 4.

Interrogatory No. 4 - 2: Please identify any and all actual events, at Millstone Station or elsewhere, on which Intervenors intend to rely as a basis for Contention 4.

Interrogatory No. 4 - 3: Please identify any and all hypothetical design basis scenarios on which Intervenors intend to rely as a basis for Contention 4.

Interrogatory No. 4 - 4: Please identify and describe "another kind of rack device" that would allow for less reliance on administrative controls than the racks proposed by NNECO, as suggested by counsel for Intervenors during the December 13, 1999, prehearing conference (Tr. at 87).

Interrogatory No. 4 – 5: Please state the basis for concluding that there is a nexus between the 1999 fuel fabrication facility criticality accident in Japan and the likelihood of a criticality accident in the Millstone Unit 3 SFSP.

Interrogatory No. 4 – 6: Please state the basis for concluding that there is a nexus between the 1999 loss of an unmanned spacecraft and the likelihood of a criticality accident in the Millstone Unit 3 SFSP.

B. Contention 5: “Significant Increase in Probability of Criticality Accident”

Interrogatory No. 5 – 1: Please identify any and all documents on which Intervenor intend to rely as a basis for Contention 5.

Interrogatory No. 5 – 2: Please identify any and all actual events, at Millstone Station or elsewhere, on which Intervenor intend to rely as a basis for Contention 5.

Interrogatory No. 5 – 3: Please identify any and all hypothetical design basis scenarios on which Intervenor intend to rely as a basis for Contention 5.

Interrogatory No. 5 – 4: Please describe any mechanism Intervenor believe could lead to boron dilution in the Millstone Unit 3 spent fuel storage pool, including, but not limited to, the source and quantity of water required to accomplish the dilution.

Interrogatory No. 5 – 5: Please state whether Intervenor have any challenge to the proposed 800 ppm boron concentration with respect to its sufficiency to control criticality, assuming the concentration is verified. If so, please state the nature of the challenge and the basis for it.

Interrogatory No. 5 – 6: Please identify and describe any operational circumstances or conditions where Intervenor believe it would be appropriate to reduce boron concentration in the Millstone Unit 3 SFSP.

Interrogatory No. 5 – 7: Please state the boron surveillance frequency that Intervenors believe would be sufficient to satisfy the concern of this contention.

Interrogatory No. 5 – 8: Please state whether the frequency identified in the response to Interrogatory No. 5 – 7 should, in Intervenors' view, be incorporated into Technical Specifications, or whether inclusion in relevant plant operating procedures would be adequate.

Interrogatory No. 5 – 9: Please state the basis for concluding that there is a nexus between a mispositioning of fresh fuel at Oyster Creek and an increase in the probability of a criticality accident at the Millstone Unit 3 SFSP.

C. Contention 6: "Proposed Criticality Control Measures Would Violate Nuclear Regulatory Commission Regulations"

Interrogatory No. 6 – 1: Please identify any and all documents or citations to documents on which Intervenors intend to rely as a basis for Contention 6.

Interrogatory No. 6 – 2: Please identify any and all actual events, at Millstone Station or elsewhere, on which Intervenors intend to rely as a basis for Contention 6.

Interrogatory No. 6 – 3: Please identify any and all hypothetical design basis scenarios on which Intervenors intend to rely as a basis for Contention 6.

IV. GENERAL DOCUMENT PRODUCTION REQUESTS

A. Request No. G – 1

All documents that are identified, or referred to, in responding to all of the above interrogatories.

B. Request No. G – 2

All documents (including experts' opinions, work papers, affidavits, and other materials used to render such opinion) supporting or otherwise relating to the written filing and

oral argument that Intervenors intend to use in this Subpart K proceeding on each admitted contention.

V. SPECIFIC DOCUMENT PRODUCTION REQUESTS

A. Contention 4: "Undue and Unnecessary Risk to Worker and Public Health and Safety"

Request No. 4 – 1: All documents (including industry event reports, deviation reports, and the like) that Intervenors will rely upon as a basis for the contention that the proposed administrative controls will result in an increased probability of a criticality accident in the Millstone Unit 3 SFSP.

Request No. 4 – 2: All documents that address the increased likelihood that NNECO will violate k_{eff} of 0.95 or 1.00 if the proposed administrative controls are implemented.

Request No. 4 – 3: All documents related to the 1999 fuel fabrication facility criticality accident in Japan and any documents establishing a nexus between that accident and the likelihood of a criticality accident in the Millstone Unit 3 SFSP.

Request No. 4 – 4: All documents related to the 1999 loss of an unmanned spacecraft and any documents establishing a nexus between that event and the likelihood of a criticality accident in the Millstone Unit 3 SFSP.

Request No. 4 – 5: All documents that demonstrate a nexus between the deficiencies in the Millstone Unit 1 SFSP (as cited in the December 1997 NRC Notice of Violation) and the likelihood of a criticality accident in the Millstone Unit 3 SFSP.

Request No. 4 – 6: All documents that evidence "another kind of rack device" that would allow for less reliance on administrative controls than the racks proposed by NNECO.

B. Contention 5: "Significant Increase in Probability of Criticality Accident"

Request No. 5 – 1: All documents that Intervenors will rely upon as support for the contention that changing the Millstone Unit 3 Technical Specification to require 800 parts per million of soluble boron in the SFSP only during fuel movements increases the probability of a criticality accident.

Request No. 5 – 2: All documents that support Intervenors' contention that the mispositioning of fuel in the Millstone SFSP is a "likely event."

Request No. 5 – 3: All documents concerning the potential for boron dilution in the Millstone Unit 3 SFSP, including the:

- (a) mechanism to accomplish boron dilution, including, but not limited to, the source and quantity of water required to accomplish the dilution;
- (b) basis for assumptions that boron dilution could credibly occur, including whether such an event would be noticed and terminated; and
- (c) criticality analyses identifying boron dilution limits required to achieve criticality.

C. Contention 6: "Proposed Criticality Control Measures Would Violate Nuclear Regulatory Commission Regulations"

Request No. 6 – 1: All documents that Intervenors will rely on to support the contention that the use of enrichment and burnup limits for criticality control in spent fuel pools, implemented in part by administrative controls, is not permitted by General Design Criterion ("GDC") 62.

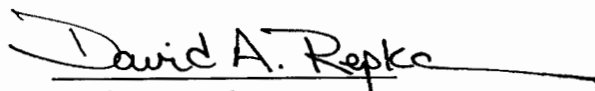
Request No. 6 – 2: All documents relied upon by the Intervenors concerning the interpretation of GDC 62 regarding the use of enrichment and burnup limits for criticality control in spent fuel pools.

Request No. 6 – 3: All documents that state, imply, or infer that the Nuclear Regulatory Commission (“NRC”) agrees or disagrees with the NRC Staff’s position on the use of burnup credit for criticality control in SFSPs, including the NRC Staff’s position on the use of burnup credit in Reg. Guide 1.13.

Request No. 6 – 4: All documents that state, imply, or infer that the NRC might be uninformed or unaware of the NRC Staff’s position on the use of burnup credit for criticality control in SFSPs, including the NRC Staff’s position in Reg. Guide 1.13.

Request No. 6 – 5: All documents that state, imply, or infer that the NRC might be informed or aware of the NRC Staff’s position on the use of burnup credit for criticality control in SFSPs, including the NRC Staff’s position in Reg. Guide 1.13.

Respectfully submitted,



David A. Repka
Donald P. Ferraro
WINSTON & STRAWN
1400 L Street, N.W.
Washington, D.C. 20005-3502

Lillian M. Cuoco
NORTHEAST UTILITIES SERVICE COMPANY
107 Selden Street
Berlin, Connecticut 06037

ATTORNEYS FOR NORTHEAST NUCLEAR
ENERGY COMPANY

Dated in Washington, D.C.
this 6th day of March 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD 00 MAR -8 P3:24

In the Matter of:)
)
Northeast Nuclear Energy Company) Docket No. 50-423-LA-3
)
(Millstone Nuclear Power Station,)
Unit No. 3) ASLBP No. 00-771-01-LA

CERTIFICATE OF SERVICE

I hereby certify that copies of "FIRST SET OF DISCOVERY REQUESTS DIRECTED TO CONNECTICUT COALITION AGAINST MILLSTONE AND LONG ISLAND COALITION AGAINST MILLSTONE" in the above-captioned proceeding, have been served on the following by deposit in the United States mail, first class, this 6th day of March 2000. In addition, for those parties marked by an asterisk (*), a copy has been provided this same day by e-mail.

Nancy Burton, Esq.*
147 Cross Highway
Redding Ridge, CT 06876

Dr. Richard F. Cole*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attn: Rulemakings and Adjudications Staff
(original + two copies)

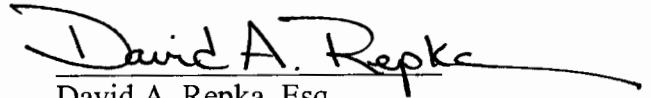
Dr. Charles N. Kelber*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Adjudicatory File
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Charles Bechhoefer*
Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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

Ann P. Hodgdon*
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555



David A. Repka, Esq.
WINSTON & STRAWN
1400 L Street, NW
Washington, DC 20005