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RELATED CORRESPONDENCE

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

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UNIT OF SECRETARY
DOCKETING SYSTEM
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Ms. Mary Ellen Marucci
104 Bronnell Street
New Haven, CT 06511

In the Matter of
NORTHEAST NUCLEAR ENERGY COMPANY
(Millstone Nuclear Power Station, Unit No. 2)
Docket Nos. 50-336-OLA
(ASLBP No. 92-665-02-OLA)
(Spent Fuel Pool Design)

Dear Ms. Marucci:

The Licensing Board in its Order of November 24, 1992, in this proceeding, provided that discovery might proceed on the issues it identified on page 5 of the Order. We have received your discovery requests of December 5 and 16, 1992, and several of the matters on which you seek discovery appear to be beyond the matters set for discovery by the Board and seem beyond the scope of discovery generally.

In an effort to resolve our differences we make the following comments on your requests and indicate what information we intend to provide and that which we believe is beyond the scope of discovery in this proceeding. We hope this will resolve our differences so that no matter involving discovery will have to be taken to the Licensing Board for resolution.

In response to Paragraph 1 of CCMN's December 5, 1992 discovery request, the staff will identify and send you and Dr. Kaku copies of final documents in its possession or control relating to its review of Millstone 2 spent fuel pool criticality calculations, including input, output, and references. However, the staff is unable to tell what "work is not readily accessible in a typical Science & Engineering library," and cannot fashion a reply under that direction.

In response to Paragraph 2 of CCMN's December 5, 1992 discovery request, the staff will identify and send you and Dr. Kaku copies of final documents in its possession or control evaluating the use of Boraflex in spent fuel pools.

We understand your request in Paragraph 3 of the December 5, 1992 filing to involve Department of Energy documents dealing with consolidated fuel. That program is outside the scope of this

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proceeding and is not within the scope of discovery. The first two sentences and the last sentence of Paragraph 3 do not seem to seek information or documents from us, and require no reply.

No documents in our possession have been identified which would be responsive to Paragraph 4 of CCMN's December 5, 1992 discovery request, other than those which contain the technical specifications for boron concentration in the Millstone 2 spent fuel pool.

No documents in our possession have been identified which would be responsive to Paragraph 5 of CCMN's December 5, 1992 discovery request. General information on Boraflex is provided in the documents to be identified in response to Paragraph 2.

Paragraph 6 of CCMN's December 5, 1992 discovery request apparently refers to the November 20, 1992 NRC staff request for information sent to Northeast Nuclear Energy Company (NNECO), to which NNECO responded on November 24, 1992. Copies of these documents have already been distributed to all parties in this proceeding. Should further final documents be generated as a result of the staff's inquiry, they will be produced. However, CCMN should recognize that the NRC staff's analysis of NNECO's April 16, 1992 amendment request considered Regions A and B together.

The information requested in Paragraph 7 of CCMN's December 5, 1992 discovery request forms a subset of the information requested in Paragraph 1. No more than a general reference to the documents identified in responding to Paragraph 1 can be provided because the NRC staff's analysis of NNECO's April 16, 1992 amendment request considered Regions A and B together.

In response to Paragraph 8a of CCMN's December 16, 1992 discovery request, the NRC staff will reference any reports on Boraflex identified in response to Paragraph 2 of the December 5, 1992 request. Any reports that are only "under consideration" are not final reports, and the NRC staff does not necessarily have in its possession or control all EPRI and industry reports that may be relevant. The NRC staff does not agree with CCMN's definition of "high density," and documents cannot be identified on that basis.

Paragraph 8b of CCMN's December 16, 1992 discovery request is based on being able to determine what is "not immediately apparent" and what "may cause an otherwise unexpected variance in the exposure of the neutron absorbing materials." These phrases are not self-defining and are too vague to provide a basis for discovery. However, it is believed that the documents in response to other discovery requests supply this information.

In regard to Paragraph 9 of CCMN's December 16, 1992 discovery request, any documents in the possession of or under the control of the NRC staff containing the requested data will be identified in

response to Paragraph 1 of CCMN's December 5, 1992 discovery request.

Paragraph 11 of CCMN's December 16, 1992 discovery request, concerning criticality accidents, is outside the scope of this proceeding as established by the Licensing Board. Further, the request is overbroad, even if that issue was involved here.

Paragraph 12 of CCMN's December 16, 1992 discovery request, which involves the results of criticality accidents, is beyond the scope of this proceeding as established by the Licensing Board. See Board Order at 4-5.

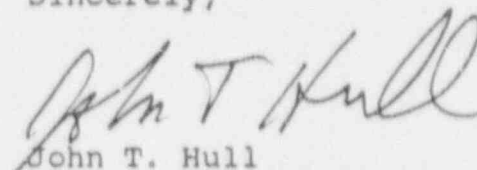
Paragraph 13 of CCMN's December 16, 1992 discovery request, which involves the disposal or storage of spent fuel, is outside the scope of this proceeding.

Paragraphs 14 and 15 of CCMN's December 16, 1992 discovery request, involving off-load capacity of the fuel pools and future refuelings, are outside the scope of this proceeding.

The NRC staff will file timely responses to Paragraphs 10 and 16 of CCMN's December 16, 1992 discovery request.

We believe our response will identify all requested documents which are within the scope of discovery established by the Licensing Board's November 24, 1992 Order, and which are in the possession of the NRC. If you disagree with any of the comments stated above please contact us promptly, so that this matter may be resolved before January 12, 1993, the date by which formal objections to discovery are to be filed with the Licensing Board.

Sincerely,



John T. Hull
Counsel for NRC Staff

cc: Service List