

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
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 :
 PROPOSAL OF DOMINION NUCLEAR : DOCKET NO. 265
 CONNECTICUT, INC. TO MODIFY THE :
 EXISTING MILLSTONE POWER STATION :
 TO ESTABLISH AN INDEPENDENT SPENT :
 FUEL STORAGE INSTALLATION (DRY :
 STORAGE SYSTEM) ON PROPERTY :
 LOCATED OFF ROPE FERRY ROAD IN THE :
 TOWN OF WATERFORD, CONNECTICUT : JANUARY 6, 2004

**OBJECTION TO THE MOTION BY CONNECTICUT COALITION
AGAINST MILLSTONE AND PROPOSED PARTIES TO
INSPECT SITE AND ENGAGE IN FURTHER RELATED DISCOVERY**

Dominion Nuclear Connecticut, Inc. (“DNC”) hereby objects to the Motion of the Connecticut Coalition Against Millstone (“CCAM”) and Geralyn Cote Winslow, Clarence O. Reynolds, William H. Honan and Dr. Milton C. Burton (collectively the “Petitioners”) to Inspect Site and Engage in Further Related Discovery (the “Motion”). For the reasons set forth below, this Motion should be denied.

BACKGROUND

On August 25, 2003, DNC filed an Application with the Connecticut Siting Council (“Council”) to modify the existing Millstone Power Station (“Millstone”) site in the Town of Waterford, Connecticut (“Application”) to permit the establishment of an Independent Spent Fuel Storage Installation (“ISFSI”) in the area currently known as the South Access Point (“SAP”) parking lot. The Council’s Hearing Notice for this docket, issued on or about September 11, 2003, ordered that “[a]ny persons seeking to be named or admitted as a party or

intervenor to the proceeding may file a written request to be so designated . . . on or before October 10, 2003.” On September 17, 2003, CCAM petitioned the Council to be made a party in this docket. On September 23, 2003, the Council denied CCAM’s request for party status but granted CCAM intervenor status.

The public hearing on the Application commenced in the evening on October 16, 2003. In the afternoon of October 16, 2003, the Council conducted a site inspection at Millstone and inspected the area where the ISFSI would be constructed. Nancy Burton, representing CCAM, attended the Council’s site visit.

On November 21, 2003, after setting the date for the first evidentiary hearing on the Application, the Council issued a notice to all parties and intervenors announcing the continuation of the hearing on December 15, 2003, and established December 8, 2003 as the deadline for the completion of all pre-hearing discovery. At the beginning of the December 15, 2003 hearing, Geralyn Cote Winslow, Clarence O. Reynolds, William H. Honan and Dr. Milton C. Burton each filed identical petitions to intervene pursuant to Section 22a-19 of the General Statutes and to be named parties in this docket. On December 22, 2003, the Council denied, without prejudice, the requests for party and intervenor status.

ARGUMENT

Lack of Standing to Seek the Relief Requested.

Geralyn Cote Winslow, Clarence O. Reynolds, William H. Honan and Dr. Milton C. Burton have no status in Docket No. 265. Their requests to be designated parties in this proceeding, pursuant to the Council’s regulations, and to be designated intervenors pursuant to Section 22a-19 of the General Statutes were denied by the Council on December 22, 2003. They therefore, have no standing to seek the relief requested in the Motion.

The Motion by CCAM is Untimely and Unwarranted.

As stated above, CCAM was granted intervenor status in Docket No. 265 by the Council on September 23, 2003. As such, it received copies of all notices and schedules establishing deadlines for pre-hearing discovery. All of the parties in this proceeding have complied with the Council's schedule. Despite the fact that the deadline for discovery passed over three weeks ago and evidentiary hearings have begun, CCAM is now asking the Council for permission to file discovery requests based on CCAM's unfounded allegation that DNC commenced construction of the ISFSI. CCAM's Motion seeks only to delay and prolong this proceeding unnecessarily.

CCAM's request is especially inappropriate in light of the fact that the Town of Waterford has already inspected the Millstone property and determined that construction has not commenced and that there was no inappropriate work being performed at the site. As outlined in a December 17, 2003 memorandum from Thomas V. Wagner, Planning Director for the Town of Waterford, to Paul B. Eccard, First Selectman, the activity occurring in a portion of the SAP parking lot is exploratory work necessary to identify the location of underground utilities so that DNC may develop accurate as-built plans for the site. If the ISFSI is approved by the Council and when all appropriate permits and approvals have been issued, this information, along with other information acquired to date will be used to develop detailed construction plans for the project site. This type of pre-construction exploratory work is common and does not constitute the initiation of construction activity.

As mentioned above, Ms. Burton, representing CCAM, attended the Council's site visit on October 16, 2003. The SAP parking lot looks no different today than it did on October 16, 2003. As such, there is no compelling reason why CCAM or any of its members should be entitled to revisit the site.

As the Council is undoubtedly aware, on December 21, 2003, the U.S. Department of Homeland Security raised the national threat level from “Elevated” to “High” risk. Following that announcement, certain additional security measures were imposed upon the nation’s nuclear power industry, further restricting visitor access to Millstone. If the Council were to determine that recent events, as alleged by CCAM, warranted additional site visits and inspections beyond those inspections conducted by Mr. Wagner (which DNC disputes), special measures could be taken to permit Council members, their staff and other parties and intervenors in this docket to access the site. Mr. Wagner’s inspection report, however, supports DNC’s position that further inspection of the site is unnecessary.

Furthermore, if the Council determines that CCAM is now permitted to engage in further discovery, DNC requests that the Council order that such further discovery be limited to those issues raised in the Motion (i.e., the allegation that construction has commenced). CCAM was well aware of the Council’s deadlines for pre-hearing discovery, and should not be permitted to use their most recent, unfounded allegations to open the door to discovery on other matters.

Lastly, in its Motion, CCAM asks to take photographs of the site. Notwithstanding CCAM’s representations that it would take the necessary steps to protect these photographs, due to the sensitive nature of operations at Millstone and associated security precautions, DNC cannot permit CCAM to take any photographs of the ISFSI site or any other areas at Millstone. This same restriction was in place during the Council’s October 16, 2003 site inspection.

CONCLUSION

For all of these reasons, DNC respectfully requests that the Council deny the Motion to Inspect Site and Engage in Further Related Discovery.

Respectfully submitted,
DOMINION NUCLEAR CONNECTICUT,
INC.

By _____
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CERTIFICATION

This is to certify that on this 6th day of January, 2004, a copy of the foregoing was mailed, postage prepaid, to the following:

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