

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**APPLICATION OF DOMINION NUCLEAR :
CONNECTICUT, INC. TO MODIFY SITING :
COUNCIL CERTIFICATE (DOCKET NO. :
265A) FOR THE EXISTING INDEPENDENT :
SPENT FUEL STORAGE INSTALLATION :
(DRY STORAGE SYSTEM) AT MILLSTONE :
[NUCLEAR] POWER STATION, ROPE :
FERRY ROAD, WATERFORD, :
CONNECTICUT : March 8, 2013**

**CONNECTICUT COALITION AGAINST MILLSTONE AND NANCY BURTON
MOTION FOR RECUSAL OF DR. EDWARD WILDS**

The Connecticut Coalition Against Millstone and Nancy Burton (“the Intervenor”) respectfully move the Siting Council for recusal of Edward Wilds, DEEP designee to the Siting Council, from further participation, influencing of other Council members and voting in these proceedings.

In support of this motion, the Intervenor represent as follows:

1. Edward Wilds has been designated by Daniel C Esty, Commissioner of the Department of Energy and Environmental Protection, to serve as DEEP’s designee in these proceeding. (Transcript, December 20, 2012, page 4)

2. Dr. Wilds otherwise serves as director of DEEP’s office of radiation and in such capacity engages in off-the-record communications with representatives of Dominion Nuclear Connecticut, Inc., the applicant, makes visits to the Millstone Nuclear Power Station (“Millstone”) in circumstances from which the public is excluded, upon information and belief is identified as an NRC “ListServ” recipient whereby he receives NRC documents pertaining to Millstone as the State of Connecticut’s official liaison with the NRC, is empowered to communicate off the record with the NRC concerning Millstone and thus is privy to information concerning Millstone, both positive and negative, which is not available to the Intervenor or members of the public at large or to the other members of the Siting Council, and he is not subject to examination or cross examination in these proceedings.

3. Accordingly, Dr. Wilds suffers from an unavoidable and inevitable conflict of interest in these proceedings that mandates his recusal.

4. More particularly, upon information and belief, Dr. Wilds is the State of

Connecticut's designated recipient of the NRC's Integrated Inspection Report ("NRC Inspection Report") issued by the NRC on January 16, 2013.

5. During the January 29, 2013 hearing in this matter, the Intervenors requested that the Council take administrative notice of the NRC Inspection Report issued on January 16, 2013 and it did so (Transcript, January 29, 213, page 11).

6. The NRC Inspection Report was released 27 days after Dominion's Representative Kevin Hennessy testified in these proceedings on December 20, 2012 regarding the highest level of storm surge measured at Millstone during Superstorm Sandy on October 29, 2012 as follows:

Mr. Ashton: Do you know what the – what the surge elevation was in Storm Sandy? How high was it above mean high water?

Mr. Hennessy: I can take that. At Millstone?

Mr. Ashton: Yes.

Mr. Hennessy: It was nine feet.

Transcript, December 20, 2012, page 46.

Mr. Hennessy elaborated on that point later in the December 20, 2012 proceedings as follows:

Ms. Burton: The comment was made that the recent Super Storm Sandy surged at an elevation above mean high water to nine feet. Is that correct?

Mr. Hennessy: This is Kevin Hennessy. Correct, at Millstone it was nine feet.

Ms. Burton: Where? Where at Millstone?

Mr. Hennessy: I believe it was at the Unit 2 or Unit 3 intake structure was where the measure was taken, and it was nine feet.

Ms. Burton: You took just one measure?

Mr. Hennessy: There were multiple measures taken. The highest was taken at nine feet.

Ms. Burton: And they were all taken at that one location?

Mr. Hennessy: Yes.

Ms. Burton: Why that location?

Mr. Hennessy: There's a measuring apparatus there.

7. The NRC Inspection Report states that on October 29, 2012, NRC inspectors responded to Superstorm Sandy onsite at Millstone. It further states:

During this storm, water level was noted to rise in Long Island Sound to a depth of approximately 8 feet above mean sea level. **The inspectors noted that the water level gauge used by Dominion to measure the flooding level only extended to 9 feet.** EAL TU2 [Emergency Action Level] for Destructive Phenomena required declaration of a NOUE [Notification of Unusual Event] for flooding levels that exceeded 19 feet above mean sea level. There were no readily available measuring devices or indication that would read water levels that were above 9 feet. Interviews with operators during and following the storm indicated that the operators did not have a reliable and repeatable method for determining when water level in Long Island Sound exceeded 9 feet, especially after dark when access to the intake structure and sea wall would be restricted during a major flooding event. . . . The inspectors determined that the failure by Dominion to provide reliable and timely indication for operators to adequately implement the flooding EAL was a performance deficiency that was reasonably within their ability to foresee and prevent. The finding is more than minor because . . . **Dominion's ability to classify a flooding event was adversely affected because flood levels could not be adequately determined. [Emphasis added.]**

NRC Inspection Report at pages 6-7.

8. The NRC Inspection Report further states:

Dominion did not maintain in effect the Millstone Units 2 and 3 emergency action level (EAL) schemes by failing to provide an effective measuring instrument for determining flooding water levels. These deficiencies adversely affected the ability of the licensee to properly classify events involving a major flooding condition.

NRC Inspection Report at page 3.

9. Given the NRC's finding that the water level gauge used by Dominion to measure the flooding level only extended to nine feet, it is possible that the highest flooding level that actually occurred during Superstorm Sandy exceeded the nine feet testified to by Mr. Hennessy but its actual elevation could not be determined.

10. The NRC determined that Dominion had violated Title 10 of the CFR

(Code of Federal Regulations) Section 50.54(q)(2) and 10 CFR 50.47(b)(4). (NRC Inspection Report, page 7)

11. The NRC discussed its inspection results with Dominion's Millstone representatives on January 15, 2013. (NRC Inspection Report, Cover Letter)

12. (On the subject of flooding, the NRC Inspection Report also reveals that since its construction in the late 1960s, Millstone Unit 2 may have been suffering from several unsealed electrical conduits connecting the service water pump room in the intake structure to the turbine building. The NRC Inspection Report states: "During a design basis flood, this condition could have resulted in flooding of the turbine building such that all auxiliary feedwater pumps could be rendered inoperable. Dominion has also identified other unsealed penetrations in the design basis flood zone." NRC Inspection Report at page 32.)

13. Dominion did not bring the NRC Inspection Report nor its findings concerning flooding levels during Superstorm Sandy to the attention of the Siting Council before it resumed proceedings on this application on January 29, 2013, although it had two weeks within which to do so and during the January 29, 2013 proceedings Mr. Hennessy testified that he was familiar with the NRC Inspection Report. (Transcript, January 29, 2013, page 12)

14. Dr. Wilds, to whom a copy of the January 16, 2013 NRC Inspection Report was issued in his capacity as State of Connecticut liaison to the NRC by the NRC, upon information and belief, also did not bring the NRC Inspection Report to the attention of the Siting Council nor the Intervenors nor the public in advance of the January 29, 2013 proceedings nor did he question Mr. Hennessy as to its findings nor did he question Dominion as to the apparent discrepancies between Mr. Hennessy's testimony and the findings of the NRC Inspection Report (e.g., whether the peak surge was at 8 or 9 feet, whether Dominion's measurement understated the elevation of the surge, given that its water level gauge only measured to 9 feet).

15. Neither did DEEP Commissioner Esty nor any other member of DEEP staff bring the January 16, 2013 NRC Inspection Report to the attention of the Intervenors nor the public at large nor the Council.

16. Dr. Wilds' failure to bring the NRC Inspection Report to the attention of the Siting Council - thereby potentially avoiding exposing Dominion's dereliction of its duty to be able to adequately measure flood levels at Millstone, a federal licensing requirement - was consistent with Dr. Wilds' pattern during the proceedings of only asking questions intended to put Dominion in the best light, asking no questions in any way challenging Dominion's application and thereby manifesting a clear and inappropriate bias in favor of Dominion.

17. Dr. Wilds' clear and inappropriate bias in favor of Millstone became

manifest during public proceedings on the application.

18. For example, during the January 29, 2013 session of the adjudicatory proceedings, the following colloquy occurred:

Dr. Edward Wilds: I just had a question. Is Millstone in compliance with federal security requirements?

Mr. Brian Wakeman: Yes, they are.

Dr. Edward Wilds: Okay. . . .

(Page 19 – On the issue of Millstone site security, an issue raised by the Intervenor because of Dominion’s known deliberate deactivation of its perimeter security system to save costs, a gross and egregious violation of federal security requirements)

19. Other examples appear in passages of the December 20, 2012 proceedings: Transcript, page 53 (ISFSI flooding); page 95 (updated FEMA map); page 110 (inspection, maintenance and repair of ISFSI).

20. In Superior Court proceedings in their appeal in Docket No. 265, the Intervenor similarly raised the issue of the appropriateness of Dr. Wilds’ disqualification.

21. In light of the above, it is clearly incumbent upon Dr. Wilds to recuse himself from further participation in these proceedings, from further influencing fellow Siting Council members and their designees and voting on this application.

22. To the extent that Dr. Wilds may have engaged in private communications with other Siting Council members and their designees, the Intervenor further request that such communications be fully revealed on the record forthwith.

CONNECTICUT COALITION AGAINST MILLSTONE

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CERTIFICATION

This is to certify that a copy of the foregoing was transmitted to the following via email on March 8, 2013:

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