

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

IN RE: :  
 :  
APPLICATION OF DOMINION NUCLEAR : DOCKET NO. 265A  
CONNECTICUT, INC. TO MODIFY SITING :  
COUNCIL CERTIFICATE (DOCKET NO. 265) :  
FOR THE EXISTING INDEPENDENT SPENT :  
FUEL STORAGE INSTALLATION (DRY :  
STORAGE SYSTEM) AT MILLSTONE :  
POWER STATION, ROPE FERRY ROAD, :  
WATERFORD, CONNECTICUT : MARCH 25, 2013

**COMMENTS FROM DOMINION NUCLEAR CONNECTICUT, INC.  
ON MOTIONS FILED BY THE CONNECTICUT COALITION  
AGAINST MILLSTONE (CCAM) AND NANCY BURTON**

**Introduction**

On March 8 and March 9, 2013, the Connecticut Coalition Against Millstone and Nancy Burton (collectively "CCAM") filed four separate motions with the Siting Council ("Council"), seeking (1) the recusal of Dr. Edward Wilds; (2) permission to reply to the applicant's Post-Hearing Brief; (3) the disclosure of certain information and permission to introduce new evidence the Docket No. 265A record; and (4) permission to amend its Post-Hearing Brief. Each of these motions was filed more than a week after the filing of Post-Hearing Briefs and Proposed Findings of Fact by all parties and intervenors, including CCAM, and the close of the post hearing 30-day comment period and the Docket No. 265A record.

**General Objections**

Dominion Nuclear Connecticut, Inc. ("DNC"), the applicant in Docket No. 265A, objects to CCAM's motions because they are untimely, seek only to delay the Council's decision and continue to raise numerous issues that are outside the scope of this proceeding. As discussed at

length throughout the course of this proceeding, including its two public hearings, the Docket No. 265A application is very limited in scope. Through Docket No. 265A, DNC seeks Council approval to make minor modifications to certain physical features of the existing Independent Spent Fuel Storage Installation (“ISFSI”) at Millstone Power Station (“MPS”) and complete the installation of the concrete pads large enough to accommodate 135 Horizontal Storage Modules (“HSMs”). The Council approved the construction of the ISFSI in Docket No. 265 on May 27, 2004.

DNC operates MPS and the ISFSI pursuant to federal licenses issued by the U. S. Nuclear Regulatory Commission (“NRC”). The operation of MPS, the storage of spent fuel, the movement of spent fuel to the ISFSI, MPS security and radiological health and safety issues at MPS are under the exclusive jurisdiction of the NRC. The Council’s jurisdiction in this matter is limited to non-nuclear environmental effects associated with the development of the ISFSI. (See Connecticut Coalition Against Millstone, et al. vs. Connecticut Siting Council, 286 Conn. 57 (2008)). To the extent that CCAM attempts, through the filing of its motions, to raise new issues, re-argue old issues and/or introduce new evidence that is outside the limited scope of this proceeding and beyond the jurisdiction of the Council, DNC objects.

Subject to and without waiving its general objection, DNC offers the following additional comments and objections on CCAM’s motions.

### **Motion for Recusal of Dr. Edwards Wilds**

On March 8, 2013, CCAM filed a Motion for Recusal of Dr. Edward Wilds. In the Docket No. 265A proceeding, Dr. Wilds served on the Council as the designee for the Commissioner of the Department of Energy and Environmental Protection (“DEEP”).<sup>1</sup> Dr. Wilds otherwise serves as the Director of DEEP’s Division of Radiation and brings to the Council significant experience and expertise in technical and regulatory aspects of radiation sciences and management. (See *Connecticut Coalition Against Millstone, et al vs. Connecticut Siting Council, et al*, 2006 Conn. Super. CV-04-4000312S (Conn. Super. Ct., June 14, 2006) at 8).

In its Motion for Recusal, CCAM claims Dr. Wilds “engages in off-the-record communications” with DNC; visits MPS; receives NRC documents pertaining to MPS; is empowered to communicate with the NRC and MPS; and is privy to information concerning MPS not otherwise available to CCAM. For these reasons, CCAM claims that Dr. Wilds “suffers from an unavoidable and inevitable conflict of interest”<sup>2</sup>. (Motion for Recusal at p. 1). The Docket No. 265A record is, however, void of any credible evidence or testimony to support

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<sup>1</sup> Dr. Wilds also served as the DEP Commissioner’s designee in the Docket No. 265 matter, the original ISFSI application, filed by DNC in August of 2003. As mentioned in paragraph no. 20 of CCAM’s Motion for Recusal, similar claims of bias and conflicts of interest were raised by CCAM during its appeal of the Council’s Docket No. 265 approval. The Superior Court in its June 14, 2006 ruling found that CCAM presented no credible evidence to support its claim of bias and found CCAM’s claims to be without substantiation. *Connecticut Coalition Against Millstone, et al vs. Connecticut Siting Council, et al*, 2006 Conn. Super. CV-04-4000312S (Conn. Super. Ct., June 14, 2006) at 7-10.

<sup>2</sup> Beyond the general, unsupported claims of Dr. Wilds’ conflict of interest and bias in paragraph nos. 2 and 3 in the Motion for Recusal, CCAM uses this motion to rehash issues that the Council had previously decided were outside the limited scope of the Docket No. 265A proceeding, including but not limited to site flooding and its impact on MPS operations and MPS security.

CCAM's claims. For this reason alone, CCAM's Motion for Recusal of Dr. Wilds should be denied.

Further, DNC filed its Docket No. 265A application with the Council on October 31, 2012. CCAM was granted CEPA Intervenor status and Party status in Docket No. 265A. CCAM was involved in all pre-hearing proceedings, issued a series of pre-hearing interrogatories to DNC and participated, extensively, in the Council's two public hearings on December 20, 2012 and January 28, 2013. At no time during the course of this proceeding did CCAM raise any issues or concerns with Dr. Wilds serving as the DEEP Commissioner's designee. If Dr. Wilds' participation in this proceeding was truly a concern, CCAM was obligated to raise these issues during the course of the administrative proceeding so that the applicant, other parties and intervenors, the Council and Dr. Wilds himself could respond to these unsubstantiated claims. CCAM's strategy of waiting until after the close of the public hearing and the close of the 30-day post-hearing comment period is designed to do nothing but delay the Council's deliberations and subsequent decision on Docket No. 265A. For all of these reasons, CCAM's Motion for Recusal should be denied.

#### **Motion For Leave To Reply**

On March 9, 2013, CCAM asked the Council for leave to reply to a "misleading and incorrect assertion" in DNC's Post-Hearing Brief. The specific assertion to which CCAM refers relates to unrefuted testimony, in the form of an interrogatory response to the Council in Docket No. 265, that accurately described the "official stated position of the Department of Energy" regarding the status of Yucca Mountain spent fuel repository, at that time. (*See* Docket No. 265 Record - DNC Exhibit 5, Response to Council Interrogatory No. 2). DNC stands by its Docket

No. 265 testimony. DNC's reference to the change in status of the Yucca Mountain repository is also well documented in the Docket No. 265A record. (*See* Docket No. 265A Record – DNC Exh. 1, pp. 8-9; DNC Exh. 4). CCAM did not present any evidence or exhibit and did not offer any testimony to refute DNC's statements regarding the change in status of the national spent fuel repository. CCAM's Motion for Leave to Reply should be denied.

### **Motion For Disclosure**

On March 9, 2013, CCAM filed a Motion for Disclosure, seeking to introduce new evidence and information about alleged communications between DNC and the NRC regarding the proposed ISFSI pad expansion. CCAM uses as the basis for its Motion for Disclosure, the March 4, 2013 Annual Assessment Letter for Millstone Power Station Unit 2 and Unit 3 and its attachment, the Millstone Inspection/Activity Plan for the period 1/1/13 through 6/30/13 (collectively the "NRC Assessment Letter").<sup>3</sup> A copy of the NRC Assessment Letter is attached to these comments.

At the root of CCAM's Motion for Disclosure is a unsupported theory that because the NRC has already planned for an inspection of the ISFSI pad expansion sometime between June 1, 2013 and December 31, 2013, before the Council has made its final decision on the Docket No. 265A application, that somehow the integrity of the Council's administrative process is called into question. The facts are substantially different than CCAM alleges.

The NRC Assessment Letter is a summary of the results of the NRC's four quarterly inspections and enforcement actions at MPS Unit 2 and Unit 3 for the period from January 1,

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<sup>3</sup> Contrary to the reference in paragraph 6 of the Motion for Disclosure, CCAM did not attach a copy of the NRC Assessment Letter to its electronic filing.

2012 through December 31, 2012. At CCAM's request, the Council took administrative notice of the fourth quarterly inspection and enforcement action report dated January 16, 2012. (See CCAM Admin. Notice Item No. 9). The Millstone Inspection/Activity Plan ("Inspection Plan") for the period between January 1, 2013 and June 30, 2014, is a schedule of the NRC's planned future inspections of numerous operations and activities at MPS, including the "ISFSI Pad Expansion". According to the Inspection Plan, the NRC's inspection of the ISFSI Pad Expansion will occur between June 1, 2013 and December 31, 2013.<sup>4</sup> Even if the Docket No. 265A Application is denied, DNC intends to move forward with plans to expand the first ISFSI pad to a size large enough to accommodate 49 HSMs, as currently authorized by the Council's Decision and Order ("D&O") in Docket No. 265. (See DNC Exh. 1, Attachment 6, D&O Condition No. 15).

As stated in the NRC Assessment Letter, the "NRC provides the inspection plan to allow for the resolution of any scheduling conflicts and personnel availability issues". It does not presuppose the issuance of a Council ruling in Docket No. 265A and in no way implicates the integrity of the Council's proceedings. The Motion for Disclosure should, therefore, be denied.

#### **Motion For Correction To Post-Hearing Brief**

On March 9, 2013, CCAM asked the Council for permission to submit a substitute page no. 14 to its Post-Hearing Brief which includes a citation to the hearing transcript previously omitted. DNC has no comments and no objection to this request.

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<sup>4</sup> Contrary to assertion in paragraph no. 9 in CCAM's Motion for Disclosure, the NRC has not scheduled a "special" inspection of the ISFSI Pad Expansion. The inspection is simply one of many "planned" inspections that the NRC will conduct at MPS between January 1, 2013 and June 30, 2014.

Respectfully submitted,

DOMINION NUCLEAR CONNECTICUT, INC.

By  \_\_\_\_\_

Kenneth C. Baldwin, Esq.

Robinson & Cole LLP

280 Trumbull Street

Hartford, CT 06103-3597

kbaldwin@rc.com

Lillian M. Cuoco, Esq.

Dominion Resources Services, Inc.

120 Tredegar Street, RS-2

Richmond, VA 23219

lillian.cuoco@dom.com

Its Attorneys

**CERTIFICATION**

This is to certify that on the 25<sup>th</sup> day of March, 2013, a copy of the foregoing was sent,  
electronic mail to the following:

Robert A. Avena, Esq.  
Town Attorney  
Kepple, Morgan & Avena, P.C.  
Box 3A Anguilla Park  
20 S. Anguilla Road  
Pawcatuck, CT 06379  
raa@kccaz.com

Daniel M. Steward  
First Selectman  
Waterford Town Hall  
15 Rope Ferry Road  
Waterford, CT 06385-2806  
firstsel@waterfordct.org

Nancy Burton  
147 Cross Highway  
Redding Ridge, CT 06876  
NancyBurtonCT@aol.com

James S. Butler, AICP  
Executive Director  
Southeastern Connecticut Council of Governments  
5 Connecticut Avenue  
Norwich, CT 06360  
jbutler@seccog.org

Robert D. Snook, Esq.  
Assistant Attorney General  
Office of the Attorney General  
P.O. Box 120  
55 Elm Street  
Hartford, CT 06141-0120  
Robert.snook@ct.gov



Thomas Kelly  
21 Billow Road  
Niantic, CT 06357  
tjkelly2009@gmail.com



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Kenneth C. Baldwin



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
2100 RENAISSANCE BOULEVARD, SUITE 100  
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

March 4, 2013

Mr. David Heacock  
Sr. Vice President and Chief Nuclear Officer  
Dominion Resources  
500 Dominion Boulevard  
Glen Allen, VA 23060-6711

SUBJECT: ANNUAL ASSESSMENT LETTER FOR MILLSTONE POWER STATION UNIT 2  
AND UNIT 3 (REPORT 05000336/2012001 AND 05000423/2012001)

Dear Mr. Heacock:

On February 14, 2013, the U.S. Nuclear Regulatory Commission (NRC) completed its end-of-cycle performance review of Millstone Power Station Unit 2 and Unit 3. The NRC reviewed the most recent quarterly performance indicators in addition to inspection results and enforcement actions from January 1, 2012 through December 31, 2012. This letter informs you of the NRC's assessment of your facility during this period and its plans for future inspections at your facility.

The NRC determined that overall, Millstone Power Station Unit 2 and Unit 3 operated in a manner that preserved public health and safety and met all cornerstone objectives. Millstone Unit 2 was in the Regulatory Response Column of the NRC's Reactor Oversight Process Action Matrix until the most recent quarter, due to a white finding in the Initiating Events Cornerstone, related to control room crew performance during a plant transient. This finding was closed in the fourth quarter 2012. The NRC determined the performance at Millstone Unit 2 and Unit 3 during the most recent quarter was within the Licensee Response Column because all inspection findings had very low (i.e., green) safety significance, all performance indicators demonstrated that your performance was within the nominal, expected range (i.e., green), and a supplemental inspection was successfully completed at Millstone Unit 2 for the white finding on November 2, 2012. Therefore, the NRC plans to conduct Reactor Oversight Process baseline inspections at your facility.

The enclosed inspection plan lists the inspections scheduled through June 30, 2014. Routine inspections performed by resident inspectors are not included in the inspection plan. The inspections listed during the last nine months of the inspection plan are tentative and may be revised at the mid-cycle performance review. In addition to baseline inspections, the NRC will perform Inspection Procedure (IP) 71003, "Post-Approval Site Inspection for License Renewal," IP 92709, "Licensee Strike Contingency Plans," IP 60855.1, "Operation of an Independent Spent Fuel Storage Installation at Operating Plants," and Temporary Instruction (TI) 182, "Review of the Implementation of the Industry Initiative to Control Degradation of Underground Piping and Tanks." The NRC provides the inspection plan to allow for the resolution of any scheduling conflicts and personnel availability issues. The NRC will contact you as soon as possible to discuss changes to the inspection plan should circumstances warrant any changes. This inspection plan does not include security related inspections, which will be sent via separate, non-publicly available correspondence.

In accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2.390 of the NRC's Rules of Practice, a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Document Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Please contact Ronald R. Bellamy at (610)337-5200 with any questions you have regarding this letter.

Sincerely,

*/RA/*

Darrell J. Roberts, Director  
Division of Reactor Projects

Docket Nos.: 50-336; 50-423  
License Nos.: DPR-65; NPF-49

Enclosure: Inspection Plan

cc w/encl: Distribution via ListServ

In accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2.390 of the NRC's Rules of Practice, a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Document Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

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Sincerely,

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Docket Nos.: 50-336; 50-423  
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Enclosure: Inspection Plan

cc w/encl: Distribution via ListServ

Distribution w/encl: See Attached

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W. Dean, RA

D. Lew, DRA

D. Roberts, DRP

M. Layton, DRP

C. Miller, DRS

J. Clifford, DRS

R. Bellamy, DRP

T. Setzer, DRP

E. Keighley, DRP

J. DeBoer, DRP

J. Ambrosini, DRP, SRI

B. Haagensen, DRP, RI

J. Krafty, DRP, RI

C. Kowalyshyn, DRP, AA

J. Cassidy, RI OEDO

DRS Branch Chiefs (6)

N. McNamara, SLO

D. Tift, SLO

D. Screnci, PAO

N. Sheehan, PAO

RidsNrrPMMillstone Resource

RidsNrrDorlLp1-1 Resource

ROPreports Resource

ROAssessment Resource

RidsNrrDirslpabResource

**Millstone**  
**Inspection / Activity Plan**  
**01/01/2013 - 06/30/2014**

Unit Number	Planned Dates Start	Planned Dates End	Inspection Activity	Title	No. of Staff on Site
			<b>MODS</b>	<b>- PERMANENT PLANT MODIFICATIONS</b>	<b>5</b>
2,3	01/28/2013	02/01/2013	IP 7111117T	Evaluations of Changes, Tests, or Experiments and Permanent Plant Modifications	
2,3	02/11/2013	02/15/2013	IP 7111117T	Evaluations of Changes, Tests, or Experiments and Permanent Plant Modifications	
3	04/22/2013	05/03/2013	7111108P IP 7111108P	<b>- U3 INSERVICE INSPECTION</b> Inservice Inspection Activities - PWR	1
2,3	04/29/2013	05/03/2013	71124 IP 71124.01	<b>- OCC RADIATION SAFETY</b> Radiological Hazard Assessment and Exposure Controls	1
2,3	04/29/2013	05/03/2013	IP 71124.02	Occupational ALARA Planning and Controls	
2,3	05/20/2013	05/24/2013	71124 IP 71124.07	<b>- REMP</b> Radiological Environmental Monitoring Program	1
2,3	06/01/2013	12/31/2013	60853 IP 60853	<b>- ISFSI PAD EXPANSION</b> On-Site Fabrication Of Components And Construction On An ISFSI	2
2,3	06/01/2013	12/31/2013	IP 60855	Operation Of An ISFSI	
2,3	06/01/2013	12/31/2013	IP 60855.1	Operation of an Independent Spent Fuel Storage Installation at Operating Plants	
2,3	07/15/2013	07/26/2013	7111107T IP 7111107T	<b>- TRIENNIAL HEAT SINK</b> Heat Sink Performance	1
2,3	07/22/2013	07/26/2013	TRIFI IP 7111105T	<b>- TRIENNIAL FIRE PROTECTION INSPECTION</b> Fire Protection [Triennial]	8
2,3	08/05/2013	08/09/2013	IP 7111105T	Fire Protection [Triennial]	
3	11/04/2013	11/08/2013	10/21EXM U01874	<b>- MILLSTONE 3 INITIAL EXAM</b> FY14-MILLSTONE 3 INITIAL OPERATOR LICENSING EXAM	4
3	12/02/2013	12/11/2013	U01874	FY14-MILLSTONE 3 INITIAL OPERATOR LICENSING EXAM	
2,3	07/29/2013	08/02/2013	71124 IP 71124.05	<b>- RADIATION SAFETY INSPECTION</b> Radiation Monitoring Instrumentation	1
3	10/21/2013	10/25/2013	7111111B IP 7111111B	<b>- MILLSTONE 3 REQUAL INSP WITH P/F RESULTS</b> Licensed Operator Requalification Program	2
2,3	08/26/2013	08/30/2013	71124 IP 71124.06	<b>- RADIO EFFLUENTS</b> Radioactive Gaseous and Liquid Effluent Treatment	1
2,3	08/26/2013	08/30/2013	IP 71151	Performance Indicator Verification	
2,3	09/03/2013	09/06/2013	EP PROGR IP 7111402	<b>- EP PROGRAM INSPECTION</b> Alert and Notification System Testing	2
2,3	09/03/2013	09/06/2013	IP 7111403	Emergency Preparedness Organization Staffing and Augmentation System	
2	09/03/2013	09/06/2013	IP 7111405	Correction of Emergency Preparedness Weaknesses and Deficiencies	

This report does not include INPO and OUTAGE activities.  
 This report shows only on-site and announced inspection procedures.

Millstone  
 Inspection / Activity Plan  
 01/01/2013 - 06/30/2014

Unit Number	Planned Dates Start End	Inspection Activity	Title	No. of Staff on Site
		<b>71124</b>	<b>- ALARA, IN-PLANT AIRBORNE AND DOSE ASSESS</b>	1
2, 3	09/23/2013 09/27/2013	IP 71124.02	Occupational ALARA Planning and Controls	
2, 3	09/23/2013 09/27/2013	IP 71124.03	In-Plant Airborne Radioactivity Control and Mitigation	
2, 3	09/23/2013 09/27/2013	IP 71124.04	Occupational Dose Assessment	
		<b>71124</b>	<b>- RAD HAZARD, IN-PLANT AIRBORNE, DOSE ASSE</b>	1
2, 3	12/16/2013 12/20/2013	IP 71124.01	Radiological Hazard Assessment and Exposure Controls	
2, 3	12/16/2013 12/20/2013	IP 71124.03	In-Plant Airborne Radioactivity Control and Mitigation	
2, 3	12/16/2013 12/20/2013	IP 71124.04	Occupational Dose Assessment	
2, 3	12/16/2013 12/20/2013	IP 71151	Performance Indicator Verification	
		<b>TI-182</b>	<b>- DEGRAD UNDERGROUND PIPING - PHASE 2</b>	1
2, 3	01/13/2014 01/17/2014	IP 2515/182	Review of the Implementation of the Industry Initiative to Control Degradation of Underground Piping	
		<b>7111108P</b>	<b>- U2 INSERVICE INSPECTION</b>	1
2	04/07/2014 04/18/2014	IP 7111108P	Inservice Inspection Activities - PWR	
		<b>71003</b>	<b>- U2 LR COMMITMENTS PHASE 1 INSP</b>	2
2	04/07/2014 04/12/2014	IP 71003	Post-Approval Site Inspection for License Renewal	
		<b>71124</b>	<b>- RADIATION SAFETY</b>	1
2, 3	04/21/2014 04/25/2014	IP 71124.01	Radiological Hazard Assessment and Exposure Controls	
2, 3	04/21/2014 04/25/2014	IP 71124.02	Occupational ALARA Planning and Controls	
2, 3	04/21/2014 04/25/2014	IP 71124.03	In-Plant Airborne Radioactivity Control and Mitigation	
2, 3	04/21/2014 04/25/2014	IP 71124.04	Occupational Dose Assessment	
2, 3	04/21/2014 04/25/2014	IP 71151	Performance Indicator Verification	

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 This report shows only on-site and announced inspection procedures.