

**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 : DECEMBER 19, 2012**

**MOTION BY CONNECTICUT COALITION AGAINST MILLSTONE AND
NANCY BURTON TO DISMISS AND DENY APPLICATION**

The intervenors Connecticut Coalition Against Millstone and Nancy Burton move the Siting Council to dismiss and deny the instant application.

In support of this motion, the intervenors respectfully represent as follows:

1. In the words of the applicant's witness, J. David Dakers (Pre-filed testimony, Exhibit 9, paragraph 4, subparagraph 4), the instant application is a "major project."
2. The intervenors agree that the application proposes a "major project" insofar as it seeks a license to permit the potential long-term siting of high burn-up and other spent nuclear fuel within or adjacent to a flood zone at a site located hardly more than a football field-length from a coastal shoreline subject to severe storm surging and erosion.
3. The application contains no information regarding flooding and severe storm effects in the future and no analysis of the effects of climate change on the site.
4. In response to the intervenors' first set of interrogatories (Question 3: "What risks do flooding and severe storm events pose to the dry cask storage installation at Millstone?"), the applicant responded as follows:

"As discussed at length in the Docket No. 265 proceeding, the ISFSI area lies in Zone X as designated on the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) included as part of the Environmental Site Assessment, behind Tab 9 (Figure 3-1) of the Docket No. 265 Application. Zone X is the area determined to be outside the 50-year flood plain."

5. As participants in the Application 265 proceedings in 2004, the intervenors certify that the issue of potential flooding was not discussed at length, was only cursorily remarked upon by the Siting Council despite the intervenors' efforts to the contrary, nor was it referenced in the Siting's Council's final decision and orders.
6. The FEMA map referenced by the applicant in Application 265 has been superseded by a revised map which substantially alters boundaries of projected flood and surge events on the Millstone site. (The map has not been officially adopted as yet; however, to date, the applicant has not appealed the new delineations, according to the Waterford land-use office.)
7. The instant application omits to mention nor address the superseding FEMA mapping.
8. However, the intervenors first became aware of such major revisions to the FEMA mapping on December 14, 2012, during an inspection visit to the Waterford land-use office. Copies of the new set of maps could not be made at the Town Hall.
9. Further during such inspection visit, the intervenors first became aware that in 2007, a severe storm event, originating in the southeast, caused major loss of trees and erosion in the shoreline immediately downslope of the ISFSI.
10. A representative of the Waterford land-use office stated that the applicant applied to the Connecticut Department of Environmental Protection "to reconstruct the portion of the shoreline that fell in as a result of the storm" and that such application was reviewed by Waterford land-use officials.
11. On December 14, 2012, the intervenors requested to review the file of the Waterford land-use office regarding such permit application, but it was not immediately available.
12. Finally, at 11:49 AM on December 19, 2012, the Waterford land-use office emailed a copy of a letter to the applicant from DEP dated October 10, 2007 in which DEP stated that the applicant's application received on September 25, 2007 had been approved as Emergency Authorization EA200702329-MG pursuant to Connecticut General Statutes §22a-363d.
13. Such events occurred three years following the Siting Council approval of Application 265, yet the applicant makes no reference to such events nor emergency permit in the instant application.

14. The intervenors believe information contained in the applicant's application to DEP to reconstruct the shoreline downslope of the ISFSI on an emergency basis is significant and relevant to these proceedings; yet, the intervenors will be unable to obtain, review and analyze such information in advance of the public hearing scheduled for December 20, 2012.
15. Moreover, by failing to include such information in its application and supporting documents, the applicant has knowingly deprived the Siting Council of vital information needed to address the application in a meaningful and legally sufficient manner.
16. The application contains no information concerning the use of high burn-up fuel, which has not been previously utilized at the site; indeed, the term "high burn-up fuel" does not appear in the application.
17. According to the U.S. Nuclear Regulatory Commission Office of Public Information, the applicant has not yet even applied to the NRC for approval to utilize such high burn-up fuel at Millstone; the applicant has, however, met with the NRC to discuss the plans.
18. Thus, at best, the application is preliminary and speculative at best.
19. The U.S. Nuclear Waste Technical Review Board ("NWTRB", in a detailed report released in December 2012, identifies dry-cask storage of high burn-up, spent nuclear fuel as likely particularly prone to degradation by the elements – most particularly, moist salt air found along the coastal shorelines such as Connecticut's – and, yet, such degradation has not been seriously analyzed. A review of the NWTRB report counsels for sober and thorough consideration of any application to store high burn-up spent nuclear fuel. The instant application treats the topic superficially at best.
20. Furthermore, in its responses to the intervenors' first set of interrogatories, the applicant has not been forthright; has evaded many of the questions and provided incomplete and misleading information.
21. The current Siting Council proceedings schedule does not allow for a full adjudication of this dispute nor the availability of additional discovery prior to commencement of a public hearing to cure such deficiencies and evasions.
22. Although the applicant characterizes the application as a mere "modification" of a previously-approved application, its characterization is disingenuous, assuming a rubber-stamping regulator.

23. Yet, the application is a result of a three-to-five-year plan (Pre-filed testimony of Dakers, supra) which is a major project in the applicant's own characterization.
24. In Application 265, the Siting Council directed lengthy discovery over an ample period of time, and it allowed close examination of the application by all parties and intervenors and itself over a lengthy public hearing process.
25. The instant application calls for nothing less.
26. Circumstances have significantly changed since the 2004 application was considered: the applicant intends to use in the future far more radioactive fuel which has far different needs in terms of dry-cask storage than the fuel considered in Application 265 and yet the applicant avoids addressing this issue; the occurrences at the Fukushima Daiichi nuclear power plant commencing on March 11, 2011 dictate fresh consideration of the elevated Millstone 1 spent fuel and the urgent need for its immediate transfer to dry storage; and the quickening pace of climate change and the increasing frequencies of deadly and horrific storm events cause for serious consideration, a subject which was virtually avoided in the Siting Council consideration of Application 265.
27. Far from positioning itself to seriously address the substantial issues presented by the application, the Siting Council decided early on not to engage qualified experts to assist it as it had done in Application 265.
28. Such decision evidenced a prejudgment and indifference to the realities of the application.
29. In light of the above facts – including the applicant's failure to provide full and forthright information - it is necessary for the Siting Council to dismiss and deny the application without prejudice to submission of a complete application for a new, major project. Such a step will protect the integrity of the proceedings, uphold the public trust in the environment and enable the Siting Council to accomplish its statutory responsibilities.

CONNECTICUT COALITION AGAINST MILLSTONE

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CERTIFICATION

This is to certify that a copy of the foregoing was sent via U.S. Mail, postage pre-paid, to the following on December 19, 2012:

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