

STATE OF CONNECTICUT
SITING COUNCIL

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DOMINION NUCLEAR CONNECTICUT, INC. * JANUARY 29, 2013
* (1:00 p.m.)
*

APPLICATION TO AMEND AND MODIFY *
THE CERTIFICATE OF ENVIRONMENTAL *
COMPATIBILITY AND PUBLIC NEED FOR *
THE EXISTING INDEPENDENT SPENT * DOCKET NO. 265A
FUEL STORAGE INSTALLATION AT *
MILLSTONE POWER STATION, *
ROPE FERRY ROAD, *
WATERFORD, CONNECTICUT *
*

* * * * *

BEFORE: ROBIN STEIN, CHAIRMAN

BOARD MEMBERS: Colin Tait, Vice Chairman
Michael Caron, PURA Designee
Dr. Edward Wilds, DEEP Designee
James J. Murphy, Jr.
Barbara Bell
Daniel Lynch
Edward Wilensky

STAFF MEMBERS: Linda Roberts, Executive Director
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1 . . .Continued verbatim proceedings of a
2 hearing before the State of Connecticut Siting Council in
3 the matter of an application by Dominion Nuclear
4 Connecticut, Inc., held at the Connecticut Siting
5 Council, 10 Franklin Square, New Britain, Connecticut, on
6 January 29, 2013 at 1:00 p.m., at which time the parties
7 were represented as hereinbefore set forth . . .

8
9
10 CHAIRMAN ROBIN STEIN: I'd like to call to
11 order a meeting of the Connecticut Siting Council, today
12 Tuesday, January 29th, 2013, at approximately 1:00 p.m.
13 my name is Robin Stein, I'm the Chairman of the
14 Connecticut Siting Council. This hearing is a
15 continuation of a hearing held on December 20th, 2012 at
16 the Waterford Town Hall in Waterford. It is held
17 pursuant to provisions of Title 16 of the Connecticut
18 General Statutes and of the Uniform Administrative
19 Procedure Act upon application from Dominion Nuclear
20 Connecticut, Inc. to amend and modify the certificate of
21 environmental compatibility and public need for the
22 existing independent spent fuel storage installation at
23 Millstone Power Station in Waterford Connecticut.

24 Pursuant to Connecticut General Statutes

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1 4-181a(b) this hearing is held for the limited purpose of
2 determining if changed conditions related to the existing
3 independent spent fuel storage installation justify a
4 modification of condition No. 15 of the Council's Docket
5 No. 265 decision and order issued by the Council on May
6 27th, 2004.

7 This application to modify the final
8 decision for the independent spent fuel storage
9 installation was received by the Council on October 31st,
10 2012. A verbatim transcript will be made of this hearing
11 and deposited with the Town Clerk's Office in Waterford
12 and East Lyme for the convenience of the public.

13 We will proceed in accordance with the
14 prepared agenda, copies of which are available. Are
15 there any public officials that wish to make comments
16 that this time?

17 We have a motion or request by the Black
18 Point Beach Club Association for party status and CEPA
19 intervention status in this proceeding dated January
20 23rd, 2013. The Applicant filed an objection to this
21 request dated January 25th, 2013. And the Black Point
22 Beach Club Association filed a response to the
23 Applicant's objection on January 28th, 2013. And
24 Attorney Bachman may wish to comment.

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1 MS. MELANIE BACHMAN: Thank you Mr.
2 Chairman. On January 23rd, the Black Point Beach
3 Association had filed a request for party status and the
4 request for CEPA intervention status, which the Applicant
5 had filed a timely objection on the basis that the Black
6 Point Beach Association had come in late. I would
7 recommend, however, given that the Black Point Beach
8 Association's request for status, particularly the CEPA
9 intervention status, is identical to the concerns raised
10 and Ms. Burton and the Connecticut Coalition Against
11 Millstone's request that pursuant to Connecticut General
12 Statute Section 16-50n(c) Black Point Beach Club
13 Association be grouped for purposes of jointly cross-
14 examining the Applicant today and maintaining their
15 separate agents for service. So, Mr. Kelly for Black
16 Point and Ms. Burton for Burton and Connecticut Coalition
17 Against Millstone.

18 CHAIRMAN STEIN: All right. Do I have a
19 motion?

20 MR. JAMES MURPHY: I'll move Mr. Chairman
21 that Black Point Beach Association -- Club Association be
22 granted their request to intervene and party status be
23 grouped with Ms. Burton's clients for the purposes of the
24 preceding.

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1 DR. BARBARA BELL: Second.

2 CHAIRMAN STEIN: Okay. I have a motion
3 and we have a second. Any further comments?

4 MR. DANIEL LYNCH: Mr. Chairman?

5 CHAIRMAN STEIN: Yes, Mr. Lynch?

6 MR. LYNCH: Before we take a vote I'd like
7 to just state on the record that I have a number of
8 friends that are down in Black Point and they are members
9 of this Association and I don't know how active or
10 inactive they are within its, but I wanted to just state
11 for the record that I do know people down there. And if
12 the Applicant or any of the Intervenors find that that's
13 a conflict I will step aside, if not, then I will
14 continue throughout the docket.

15 CHAIRMAN STEIN: Okay. Thank you Mr.
16 Lynch. So we have a motion and we have a second. All of
17 those in favor signify by saying aye?

18 VOICES: Aye.

19 CHAIRMAN STEIN: Opposed? Abstention?
20 Motion carried. I wish to call attention to those items
21 shown on the hearing program marked as Roman Numeral I.D.
22 Items 13 and Items 33-34. Does the Applicant or any
23 party or intervenor have an objection to the items that
24 the Council has administratively noticed? Hearing and

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1 seeing none, accordingly, the Council hereby
2 administratively notices these existing documents,
3 statements and comments.

4 We will now continue with the cross-
5 examination of the Applicant by the grouped party Nancy
6 Burton and Connecticut Coalition Against Millstone and
7 the Black Point Beach Club Association. Now, I'll leave
8 it to you two to decide, Ms. Burton, I think we spent
9 several hours of cross-examination by you at the previous
10 meeting. I don't know whether you want to finish and
11 then perhaps allow Black Point Beach Club Association to
12 do their cross-examination? And if you have anything in
13 addition you could do that. But we do have -- so is that
14 -- Mr. Kelly, is that --

15 COURT REPORTER: You have to move your
16 microphone please.

17 CHAIRMAN STEIN: -- so Mr. Kelly, would
18 you care to do your cross-examination first?

19 MR. THOMAS KELLY: I think I'd like to let
20 Ms. Burton carry on. She's a little more involved in the
21 proceedings than I am, so I think it would behoove her to
22 get her concerns done with first.

23 CHAIRMAN STEIN: But you do have cross-
24 examination?

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1 MR. KELLY: I do.

2 CHAIRMAN STEIN: Okay. All right, Ms.
3 Burton?

4 MS. NANCY BURTON: Thank you. Just before
5 we resume, I did this morning e-mail a request that
6 administrative notice be taken of two additional
7 documents. One was the January 16th, 2013 NRC inspection
8 report, and the other is the Amicus brief, filed in the
9 case of New York versus NRC that was decided by the U.S.
10 Court of Appeals. That is the Amicus brief that Attorney
11 General George Jepsen and others filed. And I wonder if
12 you want to rule on it now as a procedural matter?

13 CHAIRMAN STEIN: Mr. Baldwin, do you have
14 any comment on this?

15 MR. KENNETH BALDWIN: I don't think we're
16 at that point in the program Mr. Chairman.

17 CHAIRMAN STEIN: Yeah. I think we'll wait
18 until you present your case and that will be appropriate
19 I think at that point.

20 MR. BALDWIN: Okay.

21 MS. BURTON: Mr. Hennessy, in December,
22 when we were here previously, at page 73 of the
23 transcript, I don't know if you have that available?

24 CHAIRMAN STEIN: You'll have to speak up

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1 if you want the Council also to hear. So if it was a
2 question would you please repeat it?

3 MS. BURTON: Okay. Here's my question. I
4 believe you were asked about the height of the storm
5 surge measured at Millstone, what the highest point was
6 of mean high water and you stated that it was nine feet,
7 correct?

8 MR. KEVIN HENNESSY: Correct.

9 MS. BURTON: Now, I understand that in
10 fact Dominion lacked a gauge at the facility, at the
11 Millstone facility by which to measure flood levels, is
12 that correct?

13 MR. HENNESSY: No. On the seawall we had
14 the ability to measure up to nine feet at the intake
15 structure.

16 MS. BURTON: But were you able to measure
17 above nine feet?

18 MR. HENNESSY: We didn't have a marking
19 above nine feet, but we could measure it above nine feet.
20 The seawall was clearly at nine feet.

21 MS. BURTON: Okay. But isn't it the fact
22 that, in it's January 16th 2013 inspection report the NRC
23 cited Dominion for its failure to maintain adequate
24 measurements to determine flood water levels, as

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1 particularly noted on October 29th, 2012 by NRC
2 inspectors?

3 MR. BALDWIN: Mr. Chairman, I just would
4 note that that document is not in evidence yet. So with
5 that preface I'm concerned about Ms. Burton taking that
6 document, those portions of the report out of context.
7 But with that understanding I'll ask Mr. Hennessy --

8 MR. COLIN TAIT: Would it be easier to
9 administratively notice it now and get it into the record
10 as an official document?

11 MR. BALDWIN: Perhaps procedurally, that's
12 not a bad idea.

13 MR. TAIT: Yes. Then I can do it now and
14 get it over with. So the record should reflect that this
15 is administratively noticed. Could you identify the
16 document again?

17 MS. BURTON: Yes. This is the U.S.
18 Nuclear Regulatory Commission integrated inspection
19 report, dated January 16th, 2013.

20 MR. TAIT: Any objection that it be
21 administratively noticed?

22 MR. BALDWIN: Well, objection generally to
23 its relevance, but we'll take it for what it's worth.

24 MR. TAIT: Well, it is what it is.

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1 MR. BALDWIN: Correct. Thank you.

2 MR. TAIT: We have no doubt about that.

3 MR. HENNESSY: Proceed to answer the
4 question?

5 CHAIRMAN STEIN: Yes, sure.

6 MR. HENNESSY: I am familiar with the
7 report and the NRC, the on-site inspectors routinely
8 examine us and have these reports. What they put in this
9 report is at the intake structure we have to declare an
10 unusual event if unit two is at 19 feet or if unit three
11 is at 19 feet seven inches and they noticed that it was
12 not delineated, so we made a four foot wide paint
13 application, a mark, at the intake structure to measure
14 that. So that was noticed, it's their standard operating
15 procedure to inspect us and we have remedied what they
16 found.

17 MS. BURTON: The NRC found this to be a
18 violation of NRC requirements, did it not?

19 MR. HENNESSY: They found it to be -- they
20 identified it as a very low safety significance
21 violation.

22 MS. BURTON: But in fact, in paragraph
23 four it is stated that these findings were determined to
24 involve violations of NRC requirements, correct?

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1 MR. HENNESSY: Correct. They're very low
2 safety significance.

3 MR. BALDWIN: Mr. Chairman, the document
4 speaks for itself.

5 MS. BURTON: And didn't the NRC determine
6 that the finding is more than minor because it is
7 associated with the facilities and equipment attribute of
8 the EP cornerstone and effected the cornerstone objective
9 to ensure that the licensee is capable of implementing
10 adequate measures to protect the health and safety of the
11 public in the event of a radiological emergency?

12 MR. BALDWIN: Could you identify what
13 portion of the report you're referring to?

14 MS. BURTON: I'm reading from page three,
15 summary of findings, at the bottom, continuing to page
16 four.

17 MR. BALDWIN: I just want to get that in
18 front of Mr. Hennessy so that he knows where you are.

19 MR. HENNESSY: I'm sorry, would you mind
20 repeating the question? I'm on page three.

21 MS. BURTON: Isn't it correct -- okay.
22 Isn't it correct that the NRC found that this license
23 violation is more than minor because it is associated
24 with the facilities and equipment attribute of the EP

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1 cornerstone and effected the cornerstone objective to
2 ensure that the licensee is capable of implementing
3 adequate measures to protect the health and safety of the
4 public in the event of a radiological emergency?

5 MR. BALDWIN: Mr. Chair, I'll object in
6 that it goes beyond the scope -- the question goes beyond
7 the scope of this proceeding as it deals with
8 radiological health and safety issues as just stated.
9 But I think Mr. Hennessy has already responded to the
10 question that the issue raised by the NRC in the report
11 has been remedied.

12 MR. HENNESSY: Yeah, it was a non-cited
13 violation of very low safety significance and it's been
14 remedied. That's my answer.

15 CHAIRMAN STEIN: That's your answer?
16 Okay.

17 MS. BURTON: Excuse me one second.

18 MR. LYNCH: Mr. Chairman?

19 CHAIRMAN STEIN: Mr. Lynch?

20 MR. LYNCH: Mr. Chairman, while she's
21 looking here, Mr. Hennessy, could you just for a layman
22 like myself define low safety significance?

23 MR. HENNESSY: It's their lowest threshold
24 that they could find. We have three resident inspectors

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1 on-site that are, you know, fully badged and have access
2 to the plant and they continuously monitor operations
3 there under our license and this is one of the non-cited
4 violations that they found that needed to be remedied
5 that's of the lowest safety significance. So we then,
6 you know, they give us their findings in these quarterly
7 meetings and we address them. So there were no
8 repercussions as part of that.

9 MR. EDWARD WILENSKY: Mr. Chairman

10 CHAIRMAN STEIN: Yes Mr. Wilensky?

11 MR. WILENSKY: What is this document that
12 this is coming from? Do we have copies of this document
13 Ms. Burton?

14 MS. BURTON: When I filed my request this
15 morning I cited to the Internet link to find the report.

16 CHAIRMAN STEIN: So the answer is, we
17 don't have --

18 MR. WILENSKY: We don't have documents --
19 we'll have copies of that?

20 MS. BURTON: I didn't copy it.

21 CHAIRMAN STEIN: -- unfortunately, we're
22 getting all that, but that's typical of apparently the
23 way people view us is give us everything at the last
24 minute. So the answer is we don't have it. But let's

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1 continue --

2 MR. WILENSKY: Where is it coming -- where
3 is the document coming from?

4 MS. BURTON: The U.S. Nuclear Regulatory
5 Commission.

6 MR. WILENSKY: Okay. Thank you Mr.
7 Chairman, thank you Ms. Burton.

8 MS. BURTON: Thank you.

9 CHAIRMAN STEIN: Please continue?

10 MS. BURTON: Mr. Hennessy, or for anyone
11 else, I'm referring to a document that the Siting Council
12 has taken administrative notice of in these proceedings
13 and that is its final report dated September 8th, 2011,
14 the ten-year forecast. And I'd like to ask if you agree
15 with the statement at page 22 of that report, if
16 Millstone units two and three provides approximately 25.8
17 percent of the state's generating capacity --

18 MR. BALDWIN: Mr. Chairman, the report
19 speaks for itself. But I'm not sure what that has to do
20 with the dry storage facility, which is the subject of
21 this application.

22 CHAIRMAN STEIN: What's the relevance of
23 this to what's before us?

24 MS. BURTON: -- well, ultimately the

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1 Siting Council has to make a determination of the public
2 need, the public benefit of this application, but also
3 take into consideration the environmental consequences.

4 CHAIRMAN STEIN: The second part of I
5 think your statement is correct. I don't believe the
6 first part is, but I'll ask Attorney Bachman to address
7 that?

8 MR. TAIT: You asked if they agreed with
9 the figure?

10 MS. BURTON: Yes.

11 MR. TAIT: Yes or no?

12 MR. HENNESSY: Yes. I mean, that's the
13 Siting Council's figure, we agree with that, yes.

14 MR. TAIT: Next question.

15 MS. BURTON: Thank you. And also, do you
16 agree that there's sufficient reserve capacity through
17 the next 10 years, according to this forecast, such that
18 if units two and three at Millstone were shut down there
19 would be sufficient generation capacity from other
20 generators to make up the difference?

21 MR. TAIT: Are you asking if they agree
22 with this statement too?

23 MS. BURTON: Yes.

24 MR. BALDWIN: Same objection.

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1 MR. TAIT: Yes or no?

2 MR. HENNESSY: Yes.

3 MS. BURTON: Thank you.

4 MR. TAIT: They don't read our own report.

5 MS. BURTON: I'd like to for a moment
6 address security at the Millstone Nuclear Power Station.

7 MR. BALDWIN: Mr. Chairman, we'll object
8 to all questions related to security as they are outside
9 the scope of this proceeding. Under the exclusive
10 jurisdiction of the NRC.

11 MS. BURTON: I beg to differ because I'm
12 referring at this moment to the Siting Council's own
13 white paper on the security of citing energy facilities,
14 this is one of the documents that the Agency has taken
15 administrative notice of. This is something that was
16 prepared by the Siting Council in October 8, 2009 and
17 then extensively documents the statutory basis for the
18 Siting Council's appropriate concerns about security.

19 CHAIRMAN STEIN: Absolutely. Except, it
20 only refers to facilities that the Siting Council has
21 sole jurisdiction over and this I believe is not one of
22 them. So please, if you're going to refer to that, only
23 refer to it if the Siting Council has jurisdiction and
24 not the NRC. So unless you can tell us how we have sole

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1 jurisdiction, as opposed to the NRC I'm going to sustain
2 the objection.

3 MS. BURTON: I may be mistaken and if I am
4 I sincerely apologize. But the way I read the document
5 is that when there is an application, a proper
6 application before the Siting Council on the -- on an
7 issue of siting energy facilities that it is the Siting
8 Council's prerogative to take up the issue of site
9 security review. And in light of that, in my reading of
10 this document, I'm understanding that the Siting Council
11 has taken it upon itself pursuant to its interpretation
12 of the statutes that this is one of its purposes.

13 CHAIRMAN STEIN: If you have a question
14 relating to security, specifically to the storage
15 portion, you may proceed. But if it's a general question
16 then I will not allow it.

17 DR. EDWARD WILDS: I just had a question.
18 Is Millstone in compliance with federal security
19 requirements?

20 MR. BRIAN WAKEMAN: Yes they are.

21 DR. WILDS: Okay.

22 MS. BURTON: Are you familiar with the
23 case that was brought against Dominion by Sean Maeda
24 (phonetic) a couple of years ago based on his realization

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1 that Dominion was routinely deactivating its perimeter
2 security system and his taking that issue to the company
3 and urging the company to rectify the situation led to
4 his firing --

5 MR. BALDWIN: Objection Mr. Chairman.

6 MS. BURTON: -- in a matter that he
7 subsequently -- he was able to get himself reinstated
8 after --

9 CHAIRMAN STEIN: I don't believe, again,
10 specifically related to the storage facility and
11 security. I'm not interested in personnel issues. So if
12 you have a specific question related to the security of
13 the storage facilities, that's not under the jurisdiction
14 of the NRC, that would be under our jurisdiction, please
15 proceed.

16 MS. BURTON: -- I'm just following up on
17 Dr. Wild's question, which seemed to call for a somewhat
18 self-serving answer on the part of the Dominion that it
19 was in compliance with federal security standards when in
20 fact, it obviously wasn't at that point in history.

21 CHAIRMAN STEIN: The question was, are
22 they, not were they. The question was, I believe was,
23 are they in compliance? The answer was, yes. So please
24 continue. We're not going through past history. The

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1 question was, are they in compliance, that was his
2 question, and the answer was, yes.

3 MS. BURTON: Well, then I'd like to ask,
4 were you in compliance when Mr. Maeda made his
5 allegations that Dominion was routinely disabling its
6 perimeter security system? And this was after 9/11, long
7 after 9/11.

8 MR. BALDWIN: Objection Mr. Chairman.
9 There is security issues --

10 CHAIRMAN STEIN: Yeah, I sustain your
11 objection. We're talking about the present.

12 MR. TAIT: I don't see its relevance.

13 MS. BURTON: In the application Dominion
14 states that it is considering fabricating its own dry
15 storage components on-site, is that correct?

16 MR. J. DAVID DAKERS: No, it's partially
17 correct.

18 MS. BURTON: Okay.

19 MR. DAKERS: Considering fabrication on
20 site, but not by Dominion.

21 MR. LYNCH: Can you speak up please.

22 MR. DAKERS: There is consideration to
23 fabricating components on-site, but not by Dominion.

24 MS. BURTON: I see.

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1 MR. DAKERS: We haven't got the license
2 for those components.

3 MS. BURTON: You're not licensed, what?

4 MR. DAKERS: Trans-nuclear is the license
5 --

6 MS. BURTON: I see. What would be the
7 point of having trans-nuclear fabricate them on-site as
8 opposed to, how is it done now? How are they fabricated?

9 MR. WAKEMAN: The concrete components are
10 fabricated in the trans-nuclear facility in Cape Charles,
11 Virginia and then transported by train to the Millstone
12 site, which we've done twice now. We were presented with
13 an option to make them on-site instead of making them
14 off-site and moving them by train and it seems like the
15 best option to us to make them on-site instead of off-
16 site.

17 MS. BURTON: What is involved in the
18 process of making -- fabricating them on-site?

19 MR. WAKEMAN: Wherever you fabricate them
20 there is, I'll call it a mold that's used, concrete --
21 I'm sorry, reinforcing steel is placed inside that mold
22 and then concrete is poured into it and it's allowed to
23 cure, it's removed from the mold and it's ready for use.

24 MS. BURTON: What is the advantage, if you

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1 perceive an advantage, to fabricating on-site?

2 MR. WAKEMAN: The advantage to fabricating
3 on-site is that we can avoid the rail transport from
4 Virginia through Philadelphia and New York to
5 Connecticut. We've done this twice and had problems with
6 that, it taking much longer than we had planned. And
7 fabricating them on-site gives us control over that.

8 MS. BURTON: What kinds of problems?

9 MR. WAKEMAN: It just takes longer. The
10 rail line takes longer than we think they should.

11 MS. BURTON: Are you suggesting that there
12 was damage to --

13 MR. WAKEMAN: No, no damage. It just took
14 much longer than we thought it should.

15 MS. BURTON: -- Mr. Hennessy, I believe
16 that you testified on June 12th, 2012 before the Siting
17 Council during the proceedings on the 10 year forecast of
18 electric loads and resources?

19 MR. HENNESSY: That's correct.

20 MS. BURTON: According to a document that
21 the Agency has taken administrative notice of. And you
22 were asked by one of the members of the Siting Council at
23 that time if there had been any leaks, radioactive leaks
24 from Millstone, and I believe that you answered -- I'm

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1 referring to page 59 of that document, it was Mr.
2 Wilensky. The last question I have is, have you had any
3 -- have you had a shutdown for any reaction leaks in the
4 past year or so? Mr. Hennessy, no. Mr. Wilensky, has
5 there been any radiation leaks? Mr. Hennessy, no. Mr.
6 Wilensky, thank you. I would just like to ask you if in
7 fact Millstone units two and three are designed to
8 routinely release radiation into the atmosphere?

9 MR. BALDWIN: Mr. Chairman, objection.

10 CHAIRMAN STEIN: Sustained.

11 MR. BALDWIN: I'm not sure what the
12 relevance is.

13 CHAIRMAN STEIN: We're here again, on the
14 storage facilities. We're not here for a general
15 discussion of the entire facility. So please, keep your
16 comments to what's before the Council.

17 MS. BURTON: Have there been leaks from
18 the ISFSI, which had been constructed prior to this
19 hearing?

20 MR. WAKEMAN: No, there have not.

21 MS. BURTON: Isn't the system designed to
22 pass or release radiation into the atmosphere?

23 MR. WAKEMAN: You asked if there had been
24 any leaks.

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1 MS. BURTON: Yes.

2 MR. WAKEMAN: There have not been any
3 leaks from the containers that are at the ISFSI. As a
4 part of the system the concrete provides shielding
5 against radiation which is emitted from the canisters and
6 a small amount of that radiation is emitted from the
7 concrete structures themselves. But not to the point
8 where we even have to post it as a radiation area under
9 NRC regulations.

10 MS. BURTON: So you wouldn't consider that
11 to be a leak, although you acknowledge that it is a
12 release of radioactivity?

13 MR. WAKEMAN: Radiation is emitted -- a
14 small amount of radiation is emitted from the concrete
15 structures as part of their normal operation.

16 DR. WILDS: Can I just --

17 CHAIRMAN STEIN: Dr. Wilds?

18 DR. WILDS: -- I just want to get
19 clarification. When you're talking about a leak and
20 emission of radioactive material, just so I understand
21 what you're -- a leak would be a leak of material that
22 emits radiation?

23 MR. WAKEMAN: A leak in one of the
24 canisters that would allow radioactive material to escape

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1 from the canister. That has never happened.

2 DR. WILDS: Okay. That is never happen.

3 Okay. I just wanted to clarify that.

4 CHAIRMAN STEIN: Thank you.

5 MS. BURTON: I'd like to ask a question
6 about Millstone relicensing, which formed the basis --
7 part of the basis for the Siting Council decision to
8 permit this ISFSI, given it's understanding that
9 Millstone would be operating for 20 more years at units
10 two and three beyond the original 40 year licensing
11 period for a total of 60 years. I'd just like to ask you
12 if the State of Connecticut participated in the Millstone
13 relicensing proceedings?

14 MR. WAKEMAN: We're not -- none of us were
15 involved in that license renewal to the point where we
16 know if Connecticut participated or not.

17 MS. BURTON: I think I have just one more
18 question. In the application you refer, I believe it's
19 about page 24 -- 12, to projected fuel movements. And we
20 touched on this the last time with respect to Millstone
21 unit two, and you are interested in accommodating a new
22 fuel assembly design planned for first use in 2015. Now,
23 is that new fuel assembly design known as Areva
24 CE14514HTP?

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1 MR. BALDWIN: I think I'll object as to
2 relevance. I'm not sure why this particular question is
3 relevant in this proceeding. The name of the fuel, the
4 identification of the fuel being used in Millstone unit
5 two in the future, this is a future use of Millstone two
6 fuel.

7 MS. BURTON: Well, I think the Applicant
8 is requesting approval based on its use of a new
9 technology that it hasn't even applied for and I think it
10 would be important for the Siting Council to have an
11 understanding of the nature of the new fuel assembly
12 design since that is the basis for the application.

13 MR. BALDWIN: Let us respond as best we
14 can Mr. Chairman.

15 MR. WAKEMAN: I'm sorry. I'm not familiar
16 with that exact designation of that new fuel design to
17 know if the HTP designation that you mention is the one.
18 It is ACE 14x14 fuel assembly, but I don't know if that
19 HTP designation that you mentioned is the right one.

20 MS. BURTON: Did any of you participate in
21 the February 15, 2012 conference with the NRC that was
22 available for public members to phone into to participate
23 in that concerned this very issue, Millstone unit two
24 possible use of a new fuel assembly design?

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1 MR. WAKEMAN: No, it looks like none of us
2 participated in that.

3 MS. BURTON: I have nothing further.
4 Thank you.

5 CHAIRMAN STEIN: Thank you. Mr. Kelly?

6 MR. KELLY: Yeah. You sort of peaked my
7 interest a little bit with manufacturing. I can
8 certainly understand why you'd want to manufacture those
9 on-site rather than trying to transport them. So as I
10 understand these casks, these are lined with some kind of
11 steel or some kind of lining?

12 MR. WAKEMAN: The fuel is placed inside a
13 stainless steel canister and two covers are welded onto
14 that canister. The canister is then transported in a
15 steel container out to the ISFSI and pushed with a ram,
16 hydraulic ram, into the concrete structure. Does that
17 help you?

18 MR. KELLY: Yeah. And then I'm sure it's
19 sealed in some fashion or fastened, the caps are fastened
20 on it?

21 MR. WAKEMAN: There's a door that's put on
22 after the canister is inserted.

23 MR. KELLY: What's the -- is there an
24 internal temperature that these things -- this material,

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1 people call it, hot, I'm just -- you know, are these 800
2 degrees, are they 200 degrees?

3 MR. WAKEMAN: Which part?

4 MR. KELLY: The internal oven portion of
5 this container? I don't think they call it an oven, but
6 --

7 MR. WAKEMAN: Yeah. The temperatures
8 inside the canister are generally in the 500 degrees
9 centigrade range.

10 MR. KELLY: -- okay. Do we know the
11 amount of degradation on a stainless liner over a
12 specified period of time?

13 MR. BALDWIN: Mr. Chairman, I think we're
14 starting to delve into the area that's within the
15 exclusive jurisdiction of the NRC as it relates to the
16 licensing of these canisters. I don't know how far we
17 want to go down that road, but --

18 CHAIRMAN STEIN: Well, let's see if we can
19 -- I'm not sure either, but let's see if we can get an
20 answer to this specific question. And also, I think
21 there was some discussion of this at the last hearing,
22 but I don't know. Mr. Kelly, were you at the hearing?

23 MR. KELLY: I was at the hearing, but we
24 only attended the public comments section of the meeting.

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1 We didn't attend the afternoon session.

2 CHAIRMAN STEIN: Hopefully we won't
3 duplicate everything that was discussed extensively. But
4 if you have a specific answer to the degradation?

5 MR. WAKEMAN: Yeah. The stainless steel
6 material that's chosen for that canister exhibits very
7 low corrosion characteristics. In addition, the canister
8 during the sealing process air is evacuated and we
9 backfill with very high purity helium to prevent the
10 corrosion at all.

11 MR. KELLY: I think at one point Mr.
12 Hennessy told me, how many of those casks do you fill in
13 a year depending on how much material roughly comes out
14 of the -- because I guess now the material is coming out
15 of pools and going into these casks for a more permanent
16 --

17 MR. WAKEMAN: Every 18 months unit two
18 discharges approximately 64 fuel assemblies, which is --
19 which takes us two canisters also holds 64 assemblies.
20 So on average we need to do two canisters every 18
21 months. Now, we don't -- we don't load every year. We
22 don't load, I mean, we don't load canisters and move fuel
23 every year, so we may do three or four and wait a couple
24 of years. It's variable.

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1 MR. KELLY: So I guess maybe my next
2 question will be -- I believe you have approval for 35
3 currently?

4 MR. WAKEMAN: 35 what?

5 MR. KELLY: Or you have 19 containers or
6 casks? You received prior approval for a specified
7 number of casks. How many was that?

8 MR. WAKEMAN: That was -- yeah, approval
9 from the Siting Council?

10 MR. KELLY: Yes.

11 MR. WAKEMAN: The approval from the Siting
12 Council was for 49, up to 49 canisters.

13 MR. KELLY: So this new application is for
14 a total of 135, correct?

15 MR. WAKEMAN: That's correct.

16 MR. KELLY: So I guess really my --

17 MR. WAKEMAN: We're asking to construct
18 the pad, Arista (phonetic) pad one and pad two for the
19 potential to store 135. That's what we're asking for.

20 MR. KELLY: Alright. So my question is,
21 why do you have to be so aggressive, you know, why
22 couldn't you take a less bite of the apple and come back
23 to the Council in another five years to apply for another
24 35 or 40?

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1 MR. DAKERS: As I noted in my prefiled
2 testimony this is all relatively skipping the project
3 monetary wise. It takes us three to five years to plan
4 and implement a project like this. When we looked at
5 this project to build out to 49, if we did take that
6 approach within a few years we would be restarting an
7 additional project to expand beyond 49. This made more
8 sense for us to mobilize, do the construction for all
9 135, than to keep coming back to the Siting Council on
10 five to 10 year increments and building pieces at a time.

11 MR. WAKEMAN: In addition, we're asking
12 for permission to build a concrete pad to put the modules
13 on.

14 MR. KELLY: Right.

15 MR. WAKEMAN: And then we'll put modules
16 out there and load those modules only as we need them.
17 We're not going to build the whole thing out all at once.

18 MR. KELLY: But obviously, if you get
19 approval for the 135 you'll eventually -- you intend to
20 fill them up as the waste is generated and needs to be
21 moved?

22 MR. WAKEMAN: As we need them, yes.

23 CHAIRMAN STEIN: Dr. Bell?

24 DR. BELL: Mr. Chairman, may I just ask a

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1 follow-up question to this line of questioning?

2 CHAIRMAN STEIN: To this line of
3 questioning? Yes you may.

4 DR. BELL: Thank you. Going back to Ms.
5 Burton's question, it took me just a minute to find the
6 page for reference, but on page 12 you describe this
7 matter of changing the fuel assembly design and you say
8 that that's going to change the rate at which you might
9 withdraw material from the unit two pool. I have two
10 questions. One is, it wasn't clear from the description
11 on page 12, it's clear that you want some more empty
12 space, that's clear. But it wasn't clear to me whether
13 that was a first stage move so you could get material out
14 of the way to do your redesign, or as an alternative
15 interpretation whether the extra space was in effect a
16 new design. Do you see what I'm asking?

17 MR. WAKEMAN: I'm not sure. Let me -- let
18 me try to answer your question.

19 DR. BELL: Okay.

20 MR. WAKEMAN: We're not changing the
21 design of the spent fuel storage pool. All we're asking
22 -- all we're trying to do is create additional empty
23 storage spaces in that pool. The pool is basically --
24 the racks for the fuel in the pool are basically an egg

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1 crate kind of thing where you have an individual location
2 for each fuel assembly. And we're not changing the
3 design of the racks in the pool, we just want to create
4 extra empty storage spaces.

5 DR. BELL: Okay. I understand that. So
6 you'll need to take some more material out in order to
7 create those empty storage spaces and once you've done
8 that then that's all you need to do, the unit is going to
9 operate normally, you're not going to change the nature
10 of the racks?

11 MR. WAKEMAN: That's correct.

12 DR. BELL: Okay. Great. That answers my
13 question. There was another place where it was mentioned
14 that there may be canisters that could eventually --
15 apparently they don't exist now, but they might be
16 designed to accommodate more fuel assemblies or rods, is
17 that correct?

18 MR. WAKEMAN: Yes. I believe we talked
19 about that in the December hearing. So you may have read
20 that in the transcript.

21 DR. BELL: Okay. I'm getting that from
22 the transcript then, yes.

23 MR. WAKEMAN: That's correct. That's
24 correct. There are potentially designs licensed by the

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1 NRC for us to use that would hold more than the 32
2 assemblies that we store now. Whether or not we use
3 those is, you know, something we look at on occasion. If
4 that's something we want to do, do we want to change the
5 design of the canister or do we want to stay with what we
6 are using now.

7 DR. BELL: Okay. So that if you were to
8 change that then you could -- then the storage facility
9 overall that we're talking about could accommodate in
10 effect more fuel rods for dry storage?

11 MR. WAKEMAN: Or we would use less
12 canisters.

13 DR. BELL: Or fewer canisters, yes.

14 MR. WAKEMAN: Fewer canisters, same amount
15 of fuel, yes.

16 DR. BELL: Same -- same question. Okay.
17 Thank you very much. Thank you Mr. Chair.

18 CHAIRMAN STEIN: Okay. Mr. Kelly?

19 MR. KELLY: Yeah. Do you have an
20 estimated cost to the project in terms of, you know, the
21 concrete construction and the entire project?

22 MR. DAKERS: Let me just clarify what the
23 project entails. So it involves removing material,
24 pouring reinforced concrete in its place, storm drain

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1 work and some additional excavation, we would relocate a
2 security fence and relocate it back. The project done
3 value is quoted in the application as \$11.3 million.

4 MR. KELLY: I was curious because, you
5 know, Waterford is generally the only beneficiary of any
6 improvements that are done on a site in terms of the tax
7 base. So it just kind of want to get an idea of what --
8 so it's \$11.3 million?

9 MR. DAKERS: That's correct.

10 MR. KELLY: For the project as scoped out
11 on the plans?

12 MR. DAKERS: Correct.

13 MR. KELLY: Thank you. I think I'm done
14 with questions for the moment. Will there be another
15 opportunity?

16 CHAIRMAN STEIN: No. This is it, sir. I
17 mean, you will -- you will get to present, you know, your
18 -- I don't know if you have any documents, but the cross-
19 examination at this level we're going to now go to the
20 appearance of the parties of which you will be one of.
21 So we'll now proceed with the appearance of group party
22 Connecticut Coalition Against Millstone and Nancy Burton.
23 Ms. Burton, do you have any witnesses?

24 MS. BURTON: I'm the only witness.

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1 CHAIRMAN STEIN: Please stand so our
2 counsel can swear you in?

3 (Whereupon, the Connecticut Coalition
4 Against Millstone witness was duly sworn in.)

5 CHAIRMAN STEIN: Could you begin by just
6 numbering the exhibits of the filings and verifying the
7 exhibits please?

8 MR. KELLY: I just had kind of a point of
9 order. I'm a little unclear on how -- is there a time
10 that, you know, if I want to caucus with a partner, will
11 there be an opportunity to do that at any point?

12 CHAIRMAN STEIN: You know, this is -- no.

13 MR. KELLY: Okay.

14 CHAIRMAN STEIN: I mean, you've had ample
15 -- ample --

16 MR. KELLY: No, I'm not 100 percent
17 familiar with the rules so I just wanted to make sure.

18 CHAIRMAN STEIN: -- well, I just want to
19 repeat though, you know, this is not something that we
20 started the process today. I mean, this has been going
21 on for months.

22 MR. KELLY: Yeah. No, I understand.

23 CHAIRMAN STEIN: I think a member of your
24 group actually spoke at the public hearing as well.

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1 MR. KELLY: That's correct.

2 CHAIRMAN STEIN: We do have a procedure we
3 have to follow.

4 MR. KELLY: Yep. I understand.

5 CHAIRMAN STEIN: Ms. Burton?

6 MS. BURTON: Yes. I did identify a number
7 of documents and requested that you take administrative
8 notice of them and you did so and I thank you very much.
9 But I hadn't previously, I don't think, identify
10 documents in advance and I only have I think five
11 exhibits to offer.

12 CHAIRMAN STEIN: Okay. Can you identify
13 your five?

14 MS. BURTON: Yes.

15 CHAIRMAN STEIN: I have three listed, but
16 if you have five, tell us the five.

17 MS. BURTON: Oh, I'm sorry.

18 MR. TAIT: Do you have a program in front
19 of you?

20 MS. BURTON: Pardon me?

21 MR. TAIT: Do you have a program in front
22 of you?

23 MS. BURTON: I do.

24 MR. TAIT: Do you see the exhibits that

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1 you've listed so far?

2 MS. BURTON: Well, I see three exhibits
3 for identification.

4 MR. TAIT: That's what we're talking
5 about.

6 MS. BURTON: Oh, I see. I'm sorry. And
7 I'm sorry, what was it that you wanted me to do with
8 regard --

9 MR. TAIT: Identify -- you have three and
10 you say you have five?

11 MS. BURTON: -- well, I have --

12 MR. TAIT: I see three here.

13 MS. BURTON: -- five additional exhibits.

14 MR. TAIT: Not administrative notice.

15 MS. BURTON: Correct.

16 MR. TAIT: Well, let us know what they are
17 and let Mr. Baldwin respond to it.

18 MS. BURTON: Yes. Thank you. The first
19 is the FEMA map that I discovered at the Planning
20 Commission office in Waterford that is an update from the
21 one that was referred to in the original application by
22 Dominion.

23 CHAIRMAN STEIN: Now, let me make sure.
24 Because we spent somewhere between a half an hour and an

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1 hour at the last hearing on this map that you couldn't
2 identify the source. Do you have the proper legend of
3 this map?

4 MR. TAIT: And has Mr. Baldwin seen it to
5 see whether he has any questions as to its authenticity?

6 MR. BALDWIN: I have not seen the map that
7 Ms. Burton is referring to now. If we could have a look
8 at that before we --

9 MR. TAIT: Yes. Would you show a copy to
10 Mr. Baldwin?

11 CHAIRMAN STEIN: Is this the same as your
12 administrative notice, unidentified flood hazard map
13 depicting portions of the town of Waterford, date
14 unknown?, Is that the same map, or is this a new map, or
15 do you have --

16 MS. BURTON: Oh, I didn't have -- I think
17 I prepared --

18 CHAIRMAN STEIN: -- you know, we're not
19 going to spend another hour unless you can provide us
20 with --

21 MS. BURTON: -- yes, I have actually two
22 maps and then I have excerpts to distribute to everybody
23 because I couldn't have them reduced to a small enough
24 size.

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1 CHAIRMAN STEIN: -- we need, and I guess
2 Mr. Baldwin or somebody there has to also be able to see
3 it because the question is, you're now telling us that
4 these are FEMA maps?

5 MS. BURTON: Yes.

6 MR. TAIT: The current maps, will you show
7 them to Mr. Baldwin?

8 MS. BURTON: Yes.

9 (Off the record)

10 CHAIRMAN STEIN: Okay. Do we know what
11 map --

12 MR BALDWIN: I believe -- there was a lot
13 of discussion last time I think with Dr. Wilds' comment
14 at the end that there was a preliminary or an unpublished
15 version of the FEMA map that Ms. Burton was referring to.

16 And my recollection based on our and Mr. Baril's review
17 of that map is that's the same map, it is the unpublished
18 version of the FEMA map that is due for adoption at some
19 point in the future. But it's the published version of
20 the map that FEMA has established is still our Exhibit
21 15, but this is a map that, at least as I understand it,
22 may be adopted at some point in the future. So to the
23 extent that we're talking about the same thing, we don't
24 object.

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1 CHAIRMAN STEIN: Okay.

2 MS. BURTON: I don't quite agree with that
3 characterization because this map is just one of a huge
4 sheaf of maps of the same area at the Planning Commission
5 Office, the new revised FEMA map. I selected this one as
6 an exhibit in these proceedings because, unlike the other
7 maps, this one shows changes in different colors
8 according to a legend so that you can see what the
9 changes have been in the area.

10 CHAIRMAN STEIN: Well, you're betting
11 there's no objection, but let me just make sure. You're
12 saying this is a map that FEMA has adopted?

13 MS. BURTON: No. FEMA has distributed it.

14 MR. TAIT: It's a proposed map?

15 MS. BURTON: Yes, as far as I know.

16 MR. TAIT: Do you both agree it's a
17 proposed map and you want to use it for certain purposes
18 of what it shows, what matters is relevance and whether
19 Mr. Baldwin is going to object to it. It's not an
20 evidentiary hearing, that's argument.

21 MS. BURTON: Okay.

22 CHAIRMAN STEIN: Okay. And your next
23 item?

24 MR. TAIT: That's item four. What's item

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1 five?

2 MS. BURTON: And then I have four
3 photographs that I e-mailed to the Council this morning.
4 I apologize for my late --

5 MR. TAIT: Can you identify them and show
6 them to Mr. Baldwin?

7 MS. BURTON: -- yes. What I did was I
8 have large posters and I simply photographed them with my
9 camera and I e-mailed photographs.

10 MR. TAIT: If you have the photographs
11 show them to Mr. Baldwin.

12 MR. BALDWIN: Does the Council have copies
13 of these also?

14 MR. TAIT: No we don't, but would you look
15 at it and see whether you -- you're offering it for what
16 purpose, to show what?

17 MS. BURTON: Yes.

18 MR. TAIT: (Indiscernible, too far from
19 mic.).

20 MS. BURTON: Pardon me?

21 MR. TAIT: (Indiscernible, too far from
22 mic.).

23 MS. BURTON: This is an aerial photograph.

24 MR. TAIT: Taken in?

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1 MS. BURTON: Taken on June 6th, 2006.

2 MR. TAIT: It's a fair and accurate
3 representation of what you took?

4 MS. BURTON: No. I was not in the
5 airplane. But I know the person who was in the airplane,
6 he e-mailed me this photograph.

7 MR. TAIT: My question, who's going to
8 testify that it's a fair and accurate representation of
9 what it is?

10 MS. BURTON: Well --

11 MR. TAIT: Unless Mr. Baldwin doesn't
12 really have an objection to it.

13 MS. BURTON: -- and just the purpose of
14 this is, no offense to Dominion, but the mapping that
15 they submitted --

16 MR. TAIT: No argument please.

17 MS. BURTON: -- pardon me?

18 MR. TAIT: No argument. Just tell us why
19 it's useful to us.

20 MS. BURTON: I believe it's very useful
21 because you can see the location of the ISFSI --

22 MR. TAIT: Okay.

23 MS. BURTON: -- in relation to the
24 shoreline --

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1 MR. TAIT: Okay.

2 MS. BURTON: -- which was the damaged
3 shoreline in the recent storm where they had to get an
4 emergency --

5 MR. TAIT: For the purpose is that
6 adequate Mr. Baldwin?

7 MS. BURTON: -- and also the water here in
8 the pond and then the water over here on the other side -
9 -

10 MR. TAIT: You're showing relationships.

11 MS. BURTON: -- and it helps you
12 understand the FEMA map, which doesn't show buildings
13 very well. And so, you can orient yourself to the site
14 better on the FEMA map with this map.

15 MR. TAIT: And you think it would be
16 useful for the Council?

17 MS. BURTON: I believe so.

18 MR. BALDWIN: Again, as a depiction of
19 conditions on June 6th, 2006 I think the evidence in the
20 record suggests that there have been changes, especially
21 to the ISFSI area, which is the focus of this hearing,
22 since that time.

23 CHAIRMAN STEIN: Okay. The next item?

24 MR. TAIT: Now, you've got five items

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1 there. You have to swear to their accuracy at this point
2 they're marked for identification. You now have five
3 exhibits marked for identification.

4 MS. BURTON: Yes and I have three more.

5 CHAIRMAN STEIN: So you have eight now?

6 MS. BURTON: Yes. No. I have three more
7 photographs.

8 CHAIRMAN STEIN: Oh, a total of eight it sounds
9 like.

10 MS. BURTON: No.

11 MR. TAIT: You have four big photographs?

12 MS. BURTON: Yes.

13 MR. TAIT: Would you show them to Mr.
14 Baldwin and see if he has -- and I understand the purpose
15 is to help the Council understand the relationships of
16 the -- not the exact things, there have been changes, but
17 the relationship of the shore, the pond, and that sort of
18 thing, yes?

19 MS. BURTON: Correct.

20 MR. TAIT: Okay. That's the purpose.

21 MR. BALDWIN: Just for the record, this is
22 a photograph of another area, but a photograph taken from
23 -- could you just so that the record reflects what this
24 is --

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1 MR. TAIT: The first one is 5A, this will
2 be 5B.

3 MS. BURTON: 5B again, is an aerial
4 photograph taken by the same photographer in an airplane
5 of the site, but from a different vantage point so that
6 you are looking, I would say, to the northeast. The
7 other one was looking to the west. And the orientation
8 here shows -- the ISFSI site as of that time and it shows
9 the road that accesses that site in ways that I think
10 helped to -- would help to enhance the Council's
11 understanding of the location and the geography of the
12 site.

13 MR. TAIT: Thank you. The third
14 photograph, 5C?

15 MS. BURTON: There may be objections to
16 this, but this photograph dated July 24th, 2005, again
17 shows a portion of the Millstone site. The orientation
18 is from Niantic Bay looking to the east. And in the
19 center of the photograph, which is the focus of my
20 bringing it here, is that there's a pleasure boat with
21 people sitting in it very close to the sea wall and the
22 purpose of this photograph is to essentially show you the
23 seawall. There have been references here to the seawall
24 --

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1 MR. TAIT: Okay. That's the purpose of
2 this, so you could show us the seawall.

3 MS. BURTON: -- yes.

4 MR. BALDWIN: Did Ms. Burton take this
5 picture?

6 MR. TAIT: Who took the picture?

7 MS. BURTON: This picture was taken by
8 somebody I know who happened to be on the water and
9 noticed the people in the boat that day.

10 MR. TAIT: Were you there at the time?

11 MS. BURTON: I was not there at the time,
12 but I know the people involved.

13 MR. TAIT: That doesn't matter, does it?

14 MR. BALDWIN: I'm going to object to this
15 one.

16 MR. TAIT: Yes. If you can't identify it
17 as a fair and accurate representation of your own
18 knowledge.

19 MS. BURTON: Well, I must say that I have
20 been on Niantic Bay and I've looked closely, because I've
21 also been in this area.

22 MR. TAIT: I don't think that will do.

23 MS. BURTON: Well, if I could just focus
24 on the seawall, not the people sitting in their boat, but

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1 the --

2 MR. TAIT: Can you swear that that's a
3 fair and accurate representation of the sea wall on your
4 own personal knowledge?

5 MS. BURTON: -- yes.

6 MR. BALDWIN: Same objection.

7 MR. TAIT: Well, we won't take 5C, but
8 there's an objection to that one. You've sworn to it
9 that in your own knowledge that's a fair and accurate
10 depiction on July 24th 2005?

11 MS. BURTON: Yes.

12 MR. TAIT: Or don't you want to put a date
13 on it, do you want to say that's it, that's fine.
14 (Indiscernible, too far from mic.).

15 MS. BURTON: I don't believe there's been
16 any modification to the seawall since then other than
17 ordinary wear and tear from the elements.

18 MR. TAIT: Then why don't we ask, you will
19 swear that that's an accurate representation of the
20 seawall for this proceeding?

21 MS. BURTON: Yes.

22 MR. TAIT: Whether it's relevant or not is
23 a different question.

24 MR. BALDWIN: My objection stands as to

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1 relevance and whether it's an accurate depiction of 2005
2 Mr. Chairman. I don't think Ms. Burton can testify to
3 that, can verify it.

4 MS. BURTON: With my own eyes I have seen
5 the seawall.

6 MR. TAIT: But I don't think that's the
7 issue, that she has sworn to it and it is -- it's her
8 sworn testimony that she saw and that's what it looked
9 like when she saw it.

10 MS. BURTON: Right.

11 MR. TAIT: When's the last time you saw
12 it?

13 MS. BURTON: It wasn't very long before or
14 after July 24th, 2005. It was on the occasion of a visit
15 that we sponsored inviting local and state politicians.

16 MR. TAIT: Okay. So I can say it's seven
17 or eight years old? What date can you say that you saw
18 it? This gives it a date for relevancy.

19 MS. BURTON: Not very much before or
20 after, it was around that same period of time.

21 MR. TAIT: Around 2005?

22 MS. BURTON: Yes.

23 MR. TAIT: Okay. So that's what it's --
24 well, for showing what the seawall looked like in 2005?

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1 MS. BURTON: Yes.

2 MR. TAIT: Okay. Mr. Baldwin, do you
3 still object?

4 MR. BALDWIN: I do.

5 MR. TAIT: Okay. We'll note it.

6 MR. BALDWIN: Thank you.

7 MS. BURTON: Thank you.

8 MR. TAIT: The fourth photograph will be
9 marked 5D.

10 MS. BURTON: This one may be more
11 ticklish. This is an aerial photograph --

12 MR. TAIT: Mr. Baldwin is not going to
13 laugh.

14 MS. BURTON: -- I won't spend too much
15 time on this.

16 MR. TAIT: First describe it. What is it?

17 MS. BURTON: This is an aerial photograph
18 of the sub base in Groton on the James River, not very
19 far from Millstone.

20 MR. TAIT: Who took it?

21 MS. BURTON: Taken by the same
22 photographer who overflew Millstone.

23 MR. TAIT: And were you with him?

24 MS. BURTON: No. But he e-mailed me these

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1 pictures when he was finished and specifically the
2 subject of this photograph are these floating barriers
3 outside where nuclear --

4 MR. TAIT: What's its relevance?

5 MS. BURTON: -- materials --

6 MR. TAIT: What's its relevance?

7 MS. BURTON: -- I've made the assertion
8 earlier, I'll continue to make it, that there is an issue
9 here of security. That the Siting Council can and should
10 --

11 MR. TAIT: I think they've been good on
12 security matters and you can't verify this photograph.

13 MS. BURTON: -- correct. I haven't
14 personally seen this.

15 MR. TAIT: I'm sorry.

16 MS. BURTON: Okay.

17 MR. TAIT: You'll now need to verify your
18 five exhibits.

19 MS. BURTON: Yes.

20 MR. TAIT: Could you stand and be sworn in
21 or have you already been sworn in?

22 CHAIRMAN STEIN: She was sworn in. Hold
23 on a minute.

24 MR. TAIT: You've offered the exhibits

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1 listed under the hearing program as Roman Numeral III B,
2 1-5.

3 CHAIRMAN STEIN: III B, 1-5, yeah, as
4 exhibits for identification purposes at this time, is
5 that correct?

6 MS. BURTON: Yes.

7 CHAIRMAN STEIN: Did you prepare or assist
8 in the preparation of any of these exhibits?

9 MS. BURTON: In the preparation, no.

10 MR. TAIT: Well, look at the first three.

11 MS. BURTON: Oh, well, the first three I
12 prepared.

13 MR. TAIT: Okay. So we may need to divide
14 this in pieces. The first thing to do is did you assist
15 in the preparation of those?

16 MS. BURTON: I prepared those, all of
17 those documents.

18 MR. TAIT: Okay. And do you swear
19 (indiscernible, too far from mic.).

20 CHAIRMAN STEIN: And are those exhibits
21 true and accurate to the best of your knowledge?

22 MS. BURTON: Yes.

23 CHAIRMAN STEIN: And do you offer those
24 exhibits as testimony here today?

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1 MS. BURTON: I do.

2 CHAIRMAN STEIN: And do you offer them as
3 full exhibits?

4 MS. BURTON: Yes.

5 CHAIRMAN STEIN: Okay. Is there any
6 objection to the first three?

7 MR. BALDWIN: My general objection Mr.
8 Chairman, a number of the points raised in Ms. Burton's
9 testimony, which is Exhibit 2, and her supplemental
10 testimony, Exhibit 3, reference matters that are outside
11 the scope of this proceeding or are not relevant and in
12 many cases are within the exclusive jurisdiction of the
13 NRC and for those reasons we object.

14 MR. TAIT: We'll let them in for what they
15 are, if they're not relevant they won't be relevant.

16 MR. BALDWIN: Thank you.

17 CHAIRMAN STEIN: Okay. And now we have to
18 do items four and five.

19 MR. TAIT: Four is the map.

20 CHAIRMAN STEIN: Four is the map and five
21 is the A, B, C and D?

22 MR. TAIT: Yes.

23 CHAIRMAN STEIN: Okay. Again, did you
24 prepare or assist in the preparation of these exhibits?

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1 MS. BURTON: Only in copying them.

2 CHAIRMAN STEIN: Do you have any
3 additions, clarifications of these exhibits?

4 MS. BURTON: No.

5 CHAIRMAN STEIN: No? Are these exhibits
6 true and accurate to the best of your knowledge?

7 MS. BURTON: Yes.

8 CHAIRMAN STEIN: Do you offer these
9 exhibits as your testimony today?

10 MS. BURTON: Yes.

11 CHAIRMAN STEIN: Do you offer them as full
12 exhibits?

13 MS. BURTON: Yes.

14 CHAIRMAN STEIN: Any objection to these?

15 MR. BALDWIN: Only to 5C as previously
16 stated Mr. Chairman.

17 CHAIRMAN STEIN: Okay. Thank you. Again,
18 we'll allow those for whatever value that they're worth
19 in relevancy.

20 (Whereupon, Party Exhibit Nos. 1 through 5
21 were received into evidence as full exhibits.)

22 CHAIRMAN STEIN: All right. We'll now go
23 to cross-examination of Ms. Burton. Mr. Mercier, do you
24 have any questions?

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1 MR. ROBERT MERCIER: I have no questions.

2 CHAIRMAN STEIN: Okay. We'll start with
3 Council.

4 MR. TAIT: No questions.

5 CHAIRMAN STEIN: Dr. Wilds? Mr. Caron?

6 MR. MICHAEL CARON: I have no questions.

7 CHAIRMAN STEIN: Senator Murphy?

8 MR. MURPHY: I have no questions.

9 CHAIRMAN STEIN: Dr. Bell?

10 DR. BELL: I have one question Mr. Chair.

11 Ms. Burton, in a portion of your testimony you referred
12 to the number, 19 feet, as the contour where the storage
13 unit is located. In the transcript of the previous
14 hearing that I did not attend, but I read the transcript,
15 Mr. Ashton asked one of the panelists a question, I'm not
16 sure exactly which one responded, but Mr. Ashton asked,
17 what is the level of the storage facility? And the
18 answer was 21 feet. Neither you nor the panelist gave an
19 immediate reference for that. I'm assuming that it was a
20 map of some kind. I'm asking, is it possible for you to
21 reconcile your figure of 19 feet with the panel's figure
22 of 21 feet?

23 MS. BURTON: All I can say is that I did
24 my best with the mapping that was available in the

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1 application and, as I said, the copy that I had received
2 was somewhat difficult to read. So I came to the Siting
3 Council to see the original maps that were filed by
4 Dominion with this application and I found that they were
5 also hard to read. But I'm looking now for the
6 particular map that I used to find the contour.

7 MR. TAIT: It's your opinion in your
8 document it is 19 feet?

9 MS. BURTON: Pardon me?

10 MR. TAIT: In your testimony you say 19
11 feet, that's what you've sworn to.

12 MS. BURTON: Yes.

13 MR. TAIT: You don't need --

14 DR. BELL: I am asking for the reference.

15 MS. BURTON: Okay. I think I found it.

16 It's a very dimly colored map, but it appears in the
17 application at tab seven, and it's the second document.

18 DR. BELL: Okay. We're talking about the
19 original Docket No. 265, yeah, the Docket 265 --

20 MS. BURTON: 265A.

21 DR. BELL: -- we're talking about 265A,
22 okay. And it's tab seven?

23 MS. BURTON: Let me just be very sure
24 about that. I don't think there's any other one. Yes,

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1 that's the only other map I mean, that's the only one
2 with contours.

3 DR. BELL: And it's this very -- it's
4 drawing number two, the existing conditions plan?

5 MS. BURTON: Yes.

6 DR. BELL: Which in my application is
7 almost impossible to read.

8 MS. BURTON: Right.

9 DR. BELL: Okay. Thank you. That's my
10 question.

11 CHAIRMAN STEIN: Okay. Thank you. There
12 is no other on the Council, let's go to the Applicant.
13 Does the Applicant have any questions?

14 MR. BALDWIN: No Mr. Chairman, no
15 questions.

16 CHAIRMAN STEIN: Okay. Does Black Point
17 Beach Club Association have any questions?

18 MR. KELLY: I'm sorry?

19 CHAIRMAN STEIN: Do you have any questions
20 for Ms. Burton?

21 MR. KELLY: I do not.

22 CHAIRMAN STEIN: Okay. Thank you.

23 MR. KELLY: Wait a minute. Excuse me, one
24 question. She provided that FEMA map, has the Council

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1 cited that map panel number for reference in the
2 documentation? Because it may be different than what's
3 on her original application. That has a panel ID number,
4 doesn't it?

5 CHAIRMAN STEIN: You're asking her, you
6 know that?

7 MR. KELLY: Yeah. That map, did you
8 record the panel number so they could identify it and
9 make sure it's a valid map?

10 MS. BURTON: Yes they have it.

11 MR. KELLY: Okay. Thank you.

12 CHAIRMAN STEIN: Thank you. We'll now go
13 to the appearance of Black Point Beach Club Association.
14 Mr. Kelly? I assume -- do you have any witness other
15 than yourself?

16 MR. KELLY: I have no witnesses and we
17 have no exhibits to present.

18 CHAIRMAN STEIN: But you have prefiled
19 testimony?

20 MR. KELLY: Yes, I have prefiled
21 testimony, correct.

22 CHAIRMAN STEIN: Well, we'll start by
23 having you sworn in by Attorney Bachman. Please rise.

24 (Whereupon, the Black Point Beach Club

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1 Association witness was duly sworn in.)

2 CHAIRMAN STEIN: And you have according to
3 this three exhibits for identification, request for party
4 status, prefiled testimony of Thomas Kelly, and
5 resolution of the Black Point Beach Club Association?

6 MR. KELLY: Correct.

7 CHAIRMAN STEIN: Okay. I'll go through
8 that. So those which are labeled one through three, did
9 you prepare or assist in the preparation of these
10 exhibits?

11 MR. KELLY: I did.

12 CHAIRMAN STEIN: Thank you. Do you have
13 any additions, clarifications, deletions or
14 modifications?

15 MR. KELLY: I do not.

16 CHAIRMAN STEIN: Are these exhibits true
17 and accurate to the best of your knowledge?

18 MR. KELLY: Yes.

19 CHAIRMAN STEIN: Do you offer these
20 exhibits as your testimony today?

21 MR. KELLY: Yes.

22 CHAIRMAN STEIN: Do you offer them as full
23 exhibits?

24 MR. KELLY: Yes.

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1 CHAIRMAN STEIN: Okay. Thank you. Is
2 there any objection?

3 MR. BALDWIN: Again, Mr. Chairman, just a
4 general objection. There are some points in the
5 testimony of Mr. Kelly that relate to issues that are
6 outside the scope of this proceeding and under the
7 exclusive jurisdiction of the NRC. We'll just note that
8 for the record. Thank you.

9 CHAIRMAN STEIN: Okay. We'll note those
10 objections and accept these for what value they're worth
11 with those objections noted.

12 MS. BURTON: I'm sorry. I'm out of order,
13 but may I --

14 CHAIRMAN STEIN: No, then wait. You will
15 get a chance if you want to cross-examine him.

16 MS. BURTON: -- no, no, it was a point of
17 order. I'm terribly sorry.

18 CHAIRMAN STEIN: I don't believe it. I
19 don't believe you're terribly sorry, but go ahead.

20 MS. BURTON: I am sincerely very sorry. I
21 had this morning e-mail two exhibits that I intended to
22 ask you to take administrative notice of and with
23 Professor Tait's kind intervention we dispensed with one,
24 but then I neglected to come back --

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1 MR. TAIT: We didn't dispense of one, we
2 accepted it.

3 MS. BURTON: -- pardon me?

4 MR. TAIT: We didn't dispense with it, the
5 exhibit was admitted.

6 MS. BURTON: But I neglected to come back
7 to the other one, which was the Amicus Curia (phonetic)
8 brief that was filed by the State Attorney General of
9 this state and others in the case of New York versus NRC,
10 which is a case that went to the U.S. Court of Appeals
11 and the decision in that case is in this record insofar
12 as you have taken administrative notice of it.

13 MR. TAIT: I don't think we've taken
14 administrative notice of that case and the brief.

15 MS. BURTON: Oh, the decision, yes.

16 MR. TAIT: The decision, but the brief is
17 --

18 MS. BURTON: No, I'm offering the brief.

19 MR. TAIT: -- I know, but I don't think --
20 I don't see where the brief of one side or the other is
21 relevant to this case as an exhibit. If you want to make
22 an argument based upon those cases and what they say and
23 the reason and you think we should follow, fine, do that
24 in your brief.

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1 MS. BURTON: May I just briefly respond?

2 MR. TAIT: They're not (indiscernible, too
3 far from mic.) right?

4 MS. BURTON: I don't know that --

5 MR. TAIT: Any attorney can find them,
6 right? So that they are easily accessible to both sides
7 and the Council and you're going to argue why they're
8 relevant and why a Supreme Court case is relevant. This
9 is an evidentiary hearing, they are not evidence or law,
10 they're argument. We don't want you to not have them, we
11 just don't think this is the place to use them.

12 MS. BURTON: -- thank you.

13 CHAIRMAN STEIN: Okay. So go to the
14 cross-examination of the Black Point Beach Association.
15 Mr. Mercier?

16 MR. MERCIER: No questions.

17 CHAIRMAN STEIN: Professor Tait?

18 MR. TAIT: No questions.

19 CHAIRMAN STEIN: Dr. Wilds? Mr. Caron?
20 Senator Murphy? Dr. Bell?

21 DR. BELL: May I ask one question Mr.
22 Chair? Mr. Kelly, in your testimony, number two, you
23 referred to an environmental impact statement that the
24 Nuclear Regulatory Commission is preparing and you say

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1 that it's a -- it's on spent fuel storage. I'm just
2 trying to understand the relevance to this text. You say
3 it has no relevance in particular to Millstone's spent
4 fuel storage. Okay, I understand that. But it's an
5 environmental impact statement for all spent fuel storage
6 units all over the country that would indirectly or in a
7 subcategory involve Millstone. I'm not sure why you're
8 mentioning it.

9 MR. TAIT: I think we're getting into
10 argument. He has cited this as what he thinks -- you can
11 decide or we can decide whether we think it's relevant or
12 not.

13 MR. KELLY: Yeah, this was I think a
14 ruling that the State of Connecticut wasn't involved with
15 and it doesn't apply to Millstone because they weren't
16 specified in the argument I believe.

17 DR. BELL: Okay. I'm just trying to
18 determine if it is or isn't relevant and I guess Mr.
19 Kelly, he's already said it isn't relevant to Millstone
20 in particular, and I'm just trying to see -- he did
21 mention it then, so I'm just trying to determine if he
22 could give me any relevance and he's saying that it isn't
23 relevant. So I thank him for the answer.

24 CHAIRMAN STEIN: Yeah. I think we have a

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1 number of pieces of material that we'll have to decide
2 whether they're relevant or not and this seems to be
3 clear where this one falls.

4 DR. BELL: Thank you Mr. Chair.

5 MR. TAIT: Mr. Baldwin's getting to an
6 argument today was it's not relevant, that's for briefs.
7 Most of the material is in the record, evidentiary
8 record (indiscernible, too far from mic.).

9 CHAIRMAN STEIN: Mr. Baldwin, do you have
10 any cross-examination?

11 MR. BALDWIN: I have no cross-examination
12 of Mr. Kelly. Thank you.

13 CHAIRMAN STEIN: Ms. Burton?

14 MS. BURTON: No.

15 CHAIRMAN STEIN: No? Okay.

16 MS. BURTON: I'm sorry. Just to Dr.
17 Bell's point if I may? Mr. Kelly, the decision of the
18 U.S. Court of Appeals that you referred to, you
19 apparently are under the impression that it doesn't have
20 direct application to Millstone, correct?

21 MR. KELLY: Correct.

22 MS. BURTON: But in fact, doesn't it
23 require the NRC to for the first time undertake to
24 conduct a complete and comprehensive environmental impact

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1 statement of the entire issue of storage of spent fuel at
2 reactors across the nation? If you know?

3 CHAIRMAN STEIN: I would just say since
4 this is specifically NRC I would say this is not a
5 relevant question. It's not relevant to the Siting
6 Council.

7 MS. BURTON: I'm just getting back to Dr.
8 Bell's --

9 CHAIRMAN STEIN: And I don't -- but if you
10 have an answer, you don't seem to have one. I don't know
11 if you --

12 MR. KELLY: Yeah, I don't really have an
13 answer for that.

14 MR. TAIT: Thank you though.

15 CHAIRMAN STEIN: -- thank you.

16 MR. LYNCH: Mr. Chairman?

17 CHAIRMAN STEIN: Yes?

18 MR. LYNCH: For the record, I don't have
19 any questions of Mr. Kelly or Ms. Burton. Mr. Wilensky
20 may wish to comment.

21 A MALE VOICE: They don't find you over
22 there.

23 MR. LYNCH: They forget this corner.

24 CHAIRMAN STEIN: Oh, I'm sorry. I

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1 apologize. Mr. Wilensky?

2 MR. WILENSKY: No questions.

3 CHAIRMAN STEIN: Okay. Thank you. Sorry,
4 Mr. Lynch. Mr. Baldwin, do you have any closing
5 comments?

6 MR. BALDWIN: Just a couple of quick
7 points on redirect Mr. Chairman if I could? First, at
8 the beginning of the initial session the Chair presented
9 us with an ecological report that Dominion had submitted
10 to the Siting Council and we didn't have an opportunity
11 to respond but it appears there were questions about what
12 that was and we would like to do that at this point. I
13 guess that was our homework assignment from December
14 20th.

15 MR. TAIT: Is it something the Chairman --
16 I wasn't at that hearing, so I'm not sure --

17 CHAIRMAN STEIN: The Chairman
18 unfortunately has to leave --

19 MR. TAIT: -- just five minutes.

20 MR. BALDWIN: While you're packing up why
21 don't we ask Mr. Hennessy to address those issues quickly
22 in a very brief comment?

23 MR. HENNESSY: Mr. Chairman, you asked us
24 about a letter that was submitted to the Siting Council

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1 and what impact or role it played with this Docket in
2 this hearing and the answer is none. This was a
3 notification to the Siting Council under Docket No. 4,
4 which was the authorization to build Millstone unit
5 three. We do ecological monitoring and every September
6 we give you the -- we notify you of the plan ahead and
7 typically in the summer months, June or July, we'll give
8 you the results of the previous year.

9 CHAIRMAN STEIN: I was the one who was
10 confused. Okay. Thank you.

11 MR. BALDWIN: Thank you Mr. Chairman. Mr.
12 Hennessy, you've read Mr. Kelly's testimony submitted as
13 an exhibit in this hearing, is that correct?

14 MR. HENNESSY: Correct.

15 MR. BALDWIN: Is your recollection of the
16 issues discussed at your meeting with the folks at the
17 Black Point Association consistent with Mr. Kelly's
18 testimony?

19 MR. HENNESSY: Not consistent. We did
20 discuss the ISFSI in the application, but we also spent
21 the lion's share of our conversation at the East Lyme
22 Town Hall talking about local property values as well as
23 aesthetics and view sheds. And the request that was made
24 to me by Attorney Massey was to talk to the management

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1 about the aesthetics, the lighting at Millstone, and
2 whether or not we could reduce our lighting, and there
3 was never an ask to request for a meeting regarding our
4 application here in front of the Siting Council with the
5 Association.

6 MR. BALDWIN: Thank you. Last question.
7 I want to direct your attention to the Commissioner's
8 remarks in the DEEP comments dated December 19th, 2012 on
9 page three, paragraphs two and three. Do you have any
10 comments with respect to Commissioner Esty's
11 characterization of the means position regarding natural
12 draft cooling towers?

13 MR. HENNESSY: I do. To clarify the
14 record we submitted a report to DEEP on August 15th of
15 2012 where we specifically did not recommend cooling
16 towers. We specifically said that they were not a viable
17 option for Millstone. So perhaps a little confusion
18 there and he thought we were recommending them, we are
19 not.

20 MR. BALDWIN: And last question. Mr.
21 Baril, with respect to the Connecticut Coalition Against
22 Millstone, Exhibit 4, which is the proposed FEMA map,
23 does the flood designation for the ISFSI area differ from
24 the flood designation for the ISFSI area in the

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1 Applicant's Exhibit 15?

2 MR. PETER H. BARIL: No it does not. The
3 ISFSI is still beyond the 500 year flood zone.

4 MR. BALDWIN: Thank you. I have nothing
5 further Mr. Chairman.

6 CHAIRMAN STEIN: Before -- are we ready to
7 close? Before closing this hearing the Connecticut
8 Siting Council announces that briefs and proposed
9 findings of fact may be filed with the Council by any
10 party or intervenor no later than February 28th, 2013.
11 The submission of briefs or proposed findings of fact are
12 not required by this Council, rather we leave it to the
13 choice of the parties and intervenors.

14 Anyone who has not become a party or
15 intervenor, but who desires to make his views known to
16 the Council, may file written statements with the Council
17 within 30 days of the date hereof. The Council will
18 issue a draft findings of fact and there after parties
19 and intervenor may identify errors or inconsistencies
20 between the Council's findings of fact and the record.
21 However, no new information, no new evidence, no new
22 exhibits and no argument and no reply briefs without our
23 permission will be considered by the Council.

24 Copies of the transcript of this hearing

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1 will be filed at the Waterford and East Line Town Clerk's
2 Office. I hereby declare this hearing adjourned. Thank
3 you for your participation. Please drive safely.

4 (Whereupon, the hearing adjourned at 2:29
5 p.m.)

HEARING RE: DOMINION NUCLEAR CONNECTICUT
 JANUARY 29, 2013 (1:00 PM)

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