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**OFFICIAL TRANSCRIPT OF PROCEEDINGS
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Title: **MILLSTONE 3 LICENSE AMENDMENT
PROCEEDING**

Case No.: **50-423-LA-3**

Work Order No.: **NRC-1396**

LOCATION: **New London, CT**

DATE: **Thursday, July 20, 2000**

PAGES:530 - 540

**ANN RILEY & ASSOCIATES, LTD.
1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034**

Template = SECY-032

SECY-02

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of: :
NORTHEAST NUCLEAR ENERGY : Docket No. 50-423-LA-3
(Millstone Nuclear Power :
Station, Unit No. 3 :

- - - - -X

Richard Martin Center Auditorium
120 Broad Street
New London, CT

Thursday, July 20, 2000

The above-entitled matter came on for oral
argument, pursuant to notice, at 9:30 a.m.

BEFORE:

THE HONORABLE CHARLES BECHHOEFER, Chairman
THE HONORABLE RICHARD F. COLE, Judge
THE HONORABLE CHARLES N. KELBER, Judge

ANN RILEY & ASSOCIATES, LTD.
Court Reporters
1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034

1 APPEARANCES:

2 On Behalf of the Licensee:

3 DAVID A. REPKA, Esquire

4 Counsel for Northeast Nuclear Energy Company

5 Winston and Strawn

6 1400 L Street, N.W.

7 Washington, DC 20005-3502

8
9 On Behalf of the Nuclear Regulatory Commission:

10 ANN P. HODGDON, Esquire

11 BROOKE POOLE, Esquire

12 Office of General Counsel

13 U.S. Nuclear Regulatory Commission

14 Washington, DC 20555

15
16 On Behalf of Connecticut Coalition Against Millstone and the
17 Long Island Coalition Against Millstone:

18 NANCY BURTON

19
20 On Behalf of Union of Concerned Scientists:

21 DAVID LOCHBAUM

22
23
24
25

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1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
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P R O C E E D I N G S

[9:30 a.m.]

CHAIRMAN BECHHOEFER: This is the record of the formal oral argument that concluded last night, and the transcript will follow.

We have had a request on behalf of the Intervenors for the site tour which is going to happen in the start of the next few minutes; that it be recorded, transcribed.

And normally this is not the practice. The Board has invited all parties to be along, and there will be representatives of all parties there to make sure that there are no ex parte contacts and that type of thing.

But normally we do not transcribe the site tour, and I would like -- Ms. Burton, you wish to make a statement concerning that?

MS. BURTON: Yes, I would, thank you very much, Judge Bechhoefer. I'm Nancy Burton, representing the Connecticut Coalition Against Millstone and the Long Island Coalition Against Millstone.

I will not be, myself, attending the site inspection. Mr. Joseph Besade, who is a member of our Connecticut Coalition Against Millstone will be attending.

CHAIRMAN BECHHOEFER: That's fine, as your representative, that's fine.

MS. BURTON: Thank you. And he also previously

1 attended the site inspection that took place during
2 discovery at the plant. Again, I was not present for that.
3 Dr. Thompson was present, Mr. Lochbaum also was present.

4 And I have, myself, personally, declined to go to
5 the plant. I understand that our experts did pick up some
6 radiation when they went there. It's not a safe place and I
7 have, for personal reasons, declined to go along.

8 However, I would make this request to the Board
9 that the site inspection be recorded by your official
10 Reporter, and the reason has nothing whatsoever to do with
11 any concern whatsoever on the part of the Coalitions that
12 there might ex parte contacts or conversations or anything
13 of that nature.

14 The request is simply compelled by my
15 understanding of what happened on the last site tour during
16 discovery, which is that groups splintered up. There were
17 representatives of the licensee who took different groups
18 around, pointed out different things on an informal, ad hoc
19 type basis.

20 There is no record of what was said, but there was
21 confusion generated by that. And therefore, I think it
22 would be very, very important to preserve for the record,
23 the actual statements made.

24 And I think it has been suggested here that unlike
25 the previous visit in which the group was splintered up,

1 this visit will be a confined group going about the areas
2 altogether, listening to one person speaking at one time.

3 So, we're simply requesting, for purposes of
4 preservation of this tour on the record -- I understand that
5 our representative, Mr. Besade, asked Mr. Repka if the
6 licensee would please permit Mr. Besade to videotape this
7 site visit, and Mr. Repka has declined to grant that
8 permission, and although I guess the plant has previously
9 permitted newscasters to video in the spent fuel pool, he
10 has declined this request for Mr. Besade, so there will
11 otherwise be no record of what is said.

12 And what is in the pool, how things are
13 identified, all that information is coming from the
14 licensee, and it may be subject to some question, some
15 dispute, and to avoid more confusion than is necessary, I
16 think it would be of great aid to the Board, as well as the
17 parties, to have the Court Reporter.

18 For one thing, I think that it would help to
19 promote a more orderly site inspection than occurred the
20 last time, which was much more informal, not that we're
21 taking any exception to how it occurred before, but this is
22 a formal proceeding. It is pursuant to an order of this
23 Board, and I think that for all those reasons, it is an
24 appropriate request. I appreciate your consideration.

25 [Discussion off the record.]

1 JUDGE COLE: I would just like to make a comment
2 that I have been with the Licensing Board for 27 years and I
3 have made a large number of site visits and I have yet to
4 have a court reporter travel along on the site visit, and I
5 have been to most of the plants in the county.

6 CHAIRMAN BECHHOEFER: And while I haven't been
7 around quite as long as Dick has, Judge Cole has, I haven't
8 seen -- I have undertaken many site tours myself and have
9 never seen a reporter come along.

10 I question whether even the equipment would be
11 transportable to all the areas -- to the major area that we
12 wish to see, which is the spent fuel pool.

13 Does the Licensee or Staff or either one have a
14 statement to make?

15 MS. BURTON: Excuse me. Before we get to that,
16 may I just respond briefly to those remarks?

17 CHAIRMAN BECHHOEFER: Yes.

18 MS. BURTON: I don't know if there may have been
19 other requests in times past for court reporters to go along
20 on these visits. I don't know if this is a very good
21 parallel but certainly in local zoning law where site visits
22 are often conducted, it is not uncommon for court reporters
23 to go along to record what is said. It helps to preserve
24 the record because it is very important to have a record of
25 what happens and if it is a formal meeting and the full

1 Board is present, it is subject to -- in Connecticut we have
2 a Freedom of Information Act, and that is why really they
3 are very frequently, the meetings are recorded.

4 Whether that is again a good parallel or not I
5 don't know, but there's some kind of a precedent for that.

6 As far as the equipment getting in, I don't see
7 how that could be a real problem if in fact, as Mr. Repka
8 has indicated, a television crew apparently was able to
9 obtain access to videotape, a tour of the spent fuel pool.

10 I have spoken with the court reporter. I may
11 stand to be corrected, but he didn't indicate to me that he
12 thought that there would be a technical problem. He may
13 wish to be heard on that. Perhaps somebody could assist him
14 to make it easier, but it doesn't seem to be an
15 insurmountable technical problem on the face of it.

16 JUDGE KELBER: I'd like to comment.

17 Not as a member of the Board but in my previous
18 careers and also on one or two occasions I, too, have made
19 site tours.

20 I was for 25 years a member of the Reactor Safety
21 Review Committee at Argonne Laboratories, where we examined
22 every facet of the reactors in our domain. I don't want to
23 have my access limited by the mobility of the court
24 reporter.

25 There are limitations. We have limited this to

1 the pool, and that's fine, but I don't want to have any
2 further limitations. That's my own view, and I think that
3 this would be an unnecessary limitation.

4 This is strictly to look at the object we have
5 been talking about.

6 Personally from my experience I don't think that I
7 really need to have that look. It helps the understanding.
8 It doesn't add or subtract from the merits of anybody's
9 arguments. It helps our personal understanding what objects
10 stand behind the nouns, that's all.

11 CHAIRMAN BECHHOEFER: Does either Mr. Repka or Ms.
12 Hodgdon have a comment, because this amounts to a motion, I
13 guess, and you have a right to respond.

14 MR. REPKA: Yes. I really have nothing to add
15 beyond what the Board has already said.

16 I don't think the request is necessary. I think
17 it does present logistical issues. They are perhaps not
18 insurmountable but they are real, and I frankly don't see
19 the need for it, but if the Board wishes to have a court
20 reporter we would accommodate it.

21 CHAIRMAN BECHHOEFER: Ms. Hodgdon?

22 MS. HODGDON: I really cannot understand why Ms.
23 Burton thinks that they need a transcript of a tour. I have
24 never heard of such a request. It's never been done.

25 It is totally unprecedented.

1 What it would be good for is hard for me to
2 imagine. If Mr. Besade is going to represent the
3 Intervenors on this tour, remember he has been there before
4 and he is -- I don't know. There's no use that could be
5 made of this transcript that I am aware of, certainly not
6 with regard to this proceeding.

7 I think that people would not want to ask a
8 question if they know it is going to be preserved, and in
9 any event, the last tour, which took place on May 10th I
10 believe, I was there and I don't have the same impression of
11 it as Ms. Burton does.

12 She wasn't there, and so anything that -- her
13 views about it are certainly -- she got them from Mr.
14 Besade, I presume, or certainly from deposing the witnesses
15 but nevertheless it was exactly like every other tour I have
16 ever been on. It was, well, less extensive -- all we saw
17 was the pool -- but in any event my point is that I think it
18 would be setting a terrible precedent. I cannot imagine why
19 anybody would want a court reporter -- excuse me, sir, not
20 personal --

21 [Laughter.]

22 MS. HODGDON: I can't imagine why anybody would
23 want to report a tour. It just is beyond my ability to
24 imagine.

25 CHAIRMAN BECHHOEFER: Well, I would reiterate that

1 we will -- we don't want to have any ex parte information
2 passed on to us and that is the major purpose of having,
3 inviting all parties to attend, and I would presume Mr.
4 Besade could report what is said and we presumably will be
5 in one group so we will all hear the same thing.

6 [Discussion off the record.]

7 CHAIRMAN BECHHOEFER: The Board I think will deny
8 the motion and again Mr. Besade is invited to come along and
9 he may report whatever is said and he will hear whatever we
10 hear and vice versa, but we are not supposed to be told
11 substantive information concerning the issues that have been
12 raised.

13 It will be for identification purposes of some of
14 the terms that we have heard as part of the record, and that
15 will help me at least understand and perhaps my other Board
16 members as well.

17 I have toured some spent fuel pools but not to the
18 extent that they have.

19 So we will deny the motion but it will be -- this
20 part will be on the official record.

21 MS. BURTON: Well, I appreciate your
22 consideration. I will note an exception for the record and
23 thank you very much.

24 CHAIRMAN BECHHOEFER: Thank you.

25 [Discussion off the record.]

1 CHAIRMAN BECHHOEFER: At this stage we will close
2 the major proceeding, the oral argument proceeding, and
3 reopen the limited appearance statements -- well, I will
4 just put an inquiry.

5 Is there anyone here who wishes to make a limited
6 appearance statement?

7 [No response.]

8 CHAIRMAN BECHHOEFER: I think it now being 9:45
9 and no one seems to be here, we will close that portion of
10 the proceeding as well, so we are adjourned, and we will be
11 off to the site tour.

12 [Whereupon, at 9:45 a.m., the hearing was
13 concluded.]
14
15

REPORTER'S CERTIFICATE


This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission in
the matter of:

NAME OF PROCEEDING: MILLSTONE 3 LICENSE AMENDMENT
 PROCEEDING

CASE NO: 50-423-LA-3

PLACE OF PROCEEDING: New London, CT

were held as herein appears, and that this is the original
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Jon Hundley

Official Reporter

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