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November 11, 1992

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSIONOFFICE OF SECRETARY  
DOCKETING & SERVICE  
THANXBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
NORTHEAST NUCLEAR ENERGY CO.	)	Docket No. 50-336-OLA
	)	(Spent Fuel Pool Design)
(Millstone Nuclear Power Station,	)	
Unit No. 2)	)	

NORTHEAST NUCLEAR ENERGY COMPANY'S  
PROPOSED DISCOVERY SCHEDULE

In accordance with discussions at the November 5, 1992 Prehearing Conference,<sup>1/</sup> Northeast Nuclear Energy Company ("NNECO") proposes the following approach and schedule for discovery in this proceeding. This approach diverges from the regulations of 10 C.F.R. §§ 2.740-2.744 in order to achieve greater efficiency in the discovery process. This would be accomplished by involving the Licensing Board in the discovery process at an early stage so that disputes regarding permissible discovery are resolved promptly.<sup>2/</sup>

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1 Tr. 59-60.

2 The scope of the proceeding is limited in the first instance, by the original Federal Register notice, to Amendment 158, granted to NNECO by the NRC Staff on June 4, 1992. See 57 Fed. Reg. 17,934 (1992). The scope of the proceeding is further limited by the Licensing Board's "Memorandum and Order (Ruling in Petitions for Leave to Intervene)," dated September 30, 1992 (see particularly pages 26-32). As discussed at the Prehearing Conference, the issues extant in this proceeding concern the criticality analysis supporting Amendment 158; they do not include the

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This proposal is premised upon a forthcoming clarification by the intervenor, Cooperative Citizen's Monitoring Network ("CCMN"), regarding the concerns of its technical expert, Dr. Kaku. Specifically, at the Prehearing Conference, CCMN committed to inform the Licensing Board expeditiously as to whether CCMN agrees that the Licensing Board's September 30, 1992 Memorandum and Order, at pages 29-30, adequately characterizes Dr. Kaku's concerns regarding the NNECO criticality analysis supporting Amendment 158. Tr. 53-54. For purposes of this proposal, it is assumed that CCMN's issues will be clearly defined by the end of the week (November 13, 1992), and that the issues will not be significantly different from those previously framed by the Licensing Board.<sup>3/</sup>

NNECO proposes that discovery proceed on the following path:

- On or before December 4, 1992 -- All parties file with the Licensing Board and parties any requests for discovery. These requests can include, as each party sees fit, any type of discovery contemplated by the Commission's regulations. Each discovery request should be specific, incorporating or appending, for example, lists of document requests, interrogatories to be answered, and names of witnesses to be deposed.

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accident analyses, postulated beyond design basis events, or broad issues of "cleaning up nuclear waste." Tr. 49; 16-17; 6-7; 71-72.

- 3 To the degree responses of NNECO and/or the NRC Staff are necessary with respect to CCMN's position on issues, those responses will be filed within seven days of receipt. NNECO hopes that this will be accomplished by November 20, 1992.

- January 11, 1993 -- With respect to discovery requests to which there is no objection, responses are due. With respect to discovery requests to which a party objects, the following schedule will apply.
- On or before December 18, 1992 -- Following attempts by the parties to reconcile differences, parties file with the Licensing Board any objections to the discovery requests.
- The Licensing Board will then schedule a conference call with all parties (shortly after receipt of objections). Parties may respond to objections orally on this conference call. To the extent feasible, the Licensing Board will rule orally on any objections to discovery requests. The date of the conference call (and oral Board ruling) will become Date A.
- January 11, 1993, or Date A plus 14 days, whichever is later -- Parties respond to discovery requests that were subject to objections, as directed by the Licensing Board. This discovery completion date will become Date B.
- Date B plus 14 days -- Parties may file any requests for additional discovery with the Licensing Board. Again, the requests must be specific. The party seeking additional discovery must also show good cause why the additional discovery sought was not covered in the first round.
- The Licensing Board will then convene another conference call shortly after receipt of supplemental discovery requests. Parties may object orally to the supplemental requests as they see fit. The Licensing Board will rule, to the extent feasible, on supplemental discovery requests orally on the conference call. The date of the ruling will become Date C.
- Date C plus 14 days -- Parties respond to supplemental discovery requests allowed by the Licensing Board. All discovery completed.

NNECO proposes the following schedule, following completion of discovery, for pre-trial summary disposition motions, pre-filed direct testimony, and an evidentiary hearing.

- Upon close of discovery,<sup>4</sup> plus 14 days -- All parties file any summary disposition motions deemed appropriate.
- Responses to summary disposition motions are to be filed in the manner and on the schedule provided in 10 C.F.R. § 2.749.
- The Licensing Board will then rule on summary disposition motions.
- Written direct testimony would be filed on any issues that survive summary disposition as follows:
  - NNECO: 20 days after Licensing Board ruling on summary disposition.
  - CCMN: 35 days after Licensing Board ruling on summary disposition.
  - NRC Staff and NNECO reply: 55 days after Licensing Board ruling on summary disposition.
- The evidentiary hearing would begin approximately 15 days after final prefiled testimony is filed.

With respect to pre-filed testimony, any motions to strike would be due within 10 days of the filing of the testimony that would be struck.

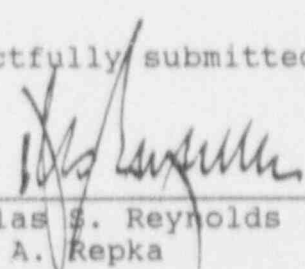
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4 This can occur either upon completion of the first round of discovery responses (Date B), or upon completion of the supplemental discovery period (Date C plus 14 days), depending upon whether any party makes supplemental requests.

Counsel for the NRC Staff has authorized NNECO to state that it has no objections to this proposed schedule.

Finally, as discussed at the Prehearing Conference (Tr. 61-62), NNECO remains interested in pursuing a process to settle this case. NNECO understands that, at the end of the discovery process, the Licensing Board will ask the NRC Staff to take the lead in arranging an effort for settlement of the one admitted contention. See Tr. 74. NNECO encourages this measure and believes that settlement discussions should continue in parallel with the proposed schedule.

Respectfully submitted,



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Dated at Washington, D.C.,  
this 11th day of November, 1992

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of )

NORTHEAST NUCLEAR ENERGY CO. )

(Millstone Nuclear Power Station,  
Unit No. 2) )

) Docket No. 50-336-OLA  
) (Spent Fuel Pool Design)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NORTHEAST NUCLEAR ENERGY COMPANY'S PROPOSED DISCOVERY SCHEDULE" have been served on the following by deposit in the United States Mail, first class, or as indicated by an asterisk (\*), by Federal Express overnight delivery, this 11th day of November, 1992:

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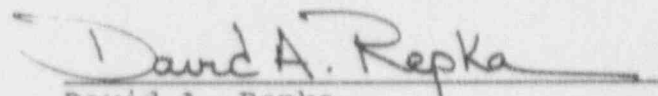
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