

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Title: AFFIRMATION/DISCUSSION AND VOTE

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

- - - -
AFFIRMATION/DISCUSSION AND VOTE

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PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Thursday, March 1, 1990

The Commission met in open session, pursuant to notice, at 11:30 a.m., Kenneth M. Carr, Chairman, presiding.

COMMISSIONERS PRESENT:

KENNETH M. CARR, Chairman of the Commission
THOMAS M. ROBERTS, Commissioner
KENNETH C. ROGERS, Commissioner
JAMES R. CURTISS, Commissioner
FORREST J. REMICK, Commissioner

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STAFF SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

DOCTOR ANDREW BATES, Office of the Secretary

WILLIAM C. PARLER, General Counsel

P-R-O-C-E-E-D-I-N-G-S

11:30 a.m.

1
2
3 CHAIRMAN CARR: Good afternoon, ladies and
4 gentlemen.

5 This is an affirmation session. We have two
6 items to come before us this morning.

7 AUDIENCE: Excuse me, sir. Does the public
8 have a right to speak, or should the public be
9 silenced as it has been throughout this whole process?

10 There's one thing. You can silence the
11 public, but you cannot silence the truth. And I tell
12 you, sir, you are here to perpetrate an evil.

13 I am just asking if we are -- will we be
14 allowed to speak?

15 CHAIRMAN CARR: Would you please remove the
16 gentleman?

17 AUDIENCE: The motto of our state is, "Live
18 free or die." That is not a call to war. That says
19 if the democratic rights are violated, then people
20 will be killed. And that is what you're doing today.
21 You're sentencing women, children, and men to death.
22 You're trampling on American democracy in the interest
23 of money and power, and it cannot be done in secret.

24 CHAIRMAN CARR: This is an affirmation
25 session. We have two items to come before us this

1 morning.

2 Before I ask the Secretary to lead us
3 through the items for affirmation, I would like to
4 make a statement.

5 We have carefully considered the matters
6 related to full power operation of Seabrook. We
7 believe the license should be issued and the plant can
8 be operated safely.

9 The Commission is issuing two decisions
10 today on matters affecting the Seabrook Nuclear Power
11 Facility. The first of our decisions resolves a
12 question certified to the Commission by the Appeal
13 Board. That question involved an interpretation of
14 our emergency planning regulations. We have concluded
15 that the Licensing Board's actions in this matter were
16 correct, because under our regulations the adequacy of
17 an emergency plan is to be determined by evaluating it
18 against the 16 planning standards of 10 CFR 50.47(b),
19 not by whether the plan would achieve any particular
20 dose savings for the population in the emergency
21 planning zone.

22 By our second decision, we are allowing the
23 Atomic Safety and Licensing Board's authorization for
24 a full-power license for the Seabrook Nuclear Power
25 Station Unit 1 to become effective. The issues

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1 surrounding issuance of the operating license have
2 been heavily litigated. We see nothing at present
3 that persuades us that Seabrook cannot be operated
4 safely. We believe that the emergency plans will
5 provide adequate protection for the public in the
6 event of an accident.

7 In reaching our decision today, we are
8 relying on the findings of the Licensing Board, and on
9 the basis of our reviews so far have judged them
10 reasonable. Our decision does not preclude further
11 appeals to the Appeal Board and the Commission itself,
12 nor does it prejudice those appeals. This is, in
13 essence, the same process that the Commission has
14 followed and the courts have upheld in other licensing
15 cases.

16 The Atomic Safety and Licensing Appeal
17 Board, with the exception of four issues, has, to the
18 extent it has acted, affirmed the Licensing Board's
19 decisions and related rulings regarding letters of
20 agreement, transportation availability and support
21 services, decontamination and reception centers, and
22 sheltering of beach population. In those four areas
23 where the Appeal Board remanded matters to the
24 Licensing Board, we have provided our analysis and
25 reasoning why we believe full-power license issuance

1 can go forward.

2 We rely on the provisions of our regulations
3 at 10 CFR 50.47(c), that an emergency planning
4 deficiency which is not significant need not preclude
5 authorization of a full-power license, provided that
6 the finding required by 10 CFR 50.47(a) is made. That
7 is, that there is reasonable assurance that adequate
8 protective measures can and will be taken in the event
9 of a radiological emergency. The Licensing Board has
10 made the 50.47(a) finding. We arrive at the judgement
11 that the four issues remanded are not significant for
12 the Seabrook emergency plans on the basis of our
13 review of the decisions which have been rendered and
14 the relevant evidentiary record.

15 We have also reviewed various concerns which
16 have recently been raised outside the context of the
17 litigation. These include the allegations prepared by
18 the Quality Technology Corporation for the Employees
19 Legal Project, and the allegations of a private
20 citizen concerning control room conversations. Within
21 the past few days, allegations received in 1984 from a
22 former radiographer at the site have been resurfaced.
23 The staff has examined these allegations again.

24 On the basis of our review of staff
25 inspection reports and evaluations of these concerns

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1 and the various staff reports on the readiness of the
2 Seabrook Plant to receive a full-power license, we
3 have concluded that there are no issues outstanding
4 which represent concerns that are material to the
5 issuance of a full-power license.

6 While we have concluded today that there are
7 no impediments to authorization of a full-power
8 license for the Seabrook plan, should new aspects of
9 these issues or new problems arise which require
10 enforcement action, we will not hesitate to take any
11 necessary steps to assure that the public health and
12 safety are protected.

13 Given the controversy which has surrounded
14 the Seabrook facility, we fully expect judicial review
15 will be sought. As a courtesy to the parties to
16 permit the filing of judicial stay motions, the
17 effective date of this decision will be March 8. If
18 stay motions are filed in the U.S. Court of Appeals,
19 then the decision's effective date will be one week
20 after the motions are filed, but no later than March
21 15th.

22 Do any of my fellow Commissioners have any
23 opening comments they would like to make?

24 COMMISSIONER ROGERS: No.

25 If not, Mr. Secretary, you may proceed.

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1 SECRETARY CHILK: The first matter before
2 the Commission, Mr. Chairman, is SECY-90-014. It's a
3 Commission opinion on Seabrook, on the question
4 certified in ALAB-922.

5 The Commission is being asked to act on an
6 order which responds to a question certified to the
7 Commission by the Appeal Board on October the 11th,
8 1989, in ALAB-922.

9 The question certified was the following:

10 "Whether the Massachusetts Attorney
11 General's testimony, which seeks to address the dose
12 reductions/dose consequences that will arise under the
13 New Hampshire Radiological Emergency Response Plan, is
14 admissible as relevant to the determination whether,
15 in accordance with the Commission's *Shoreham* guidance,
16 the New Hampshire Radiological Emergency Response Plan
17 will achieve 'reasonable and feasible' dose reduction
18 under the circumstances so as to provide 'reasonable
19 assurance that adequate protective measures can and
20 will be taken' in accordance with 10 CFR 50.47."

21 Chairman Carr, Commissioners Rogers and
22 Roberts have approved an order which determines that
23 the testimony proffered by the Massachusetts Attorney
24 General was not admissible for the purpose mentioned
25 by the Appeal Board, nor for any other. Commissioners

1 Curtiss and Remick abstained in this action.

2 Would you please affirm your votes?

3 CHAIRMAN CARR: Aye.

4 COMMISSIONER ROBERTS: Aye.

5 COMMISSIONER ROGERS: Aye.

6 SECRETARY CHILK: The second item is SECY-
7 90-037/037A. It's the Seabrook Immediate
8 Effectiveness Decision and full power license.

9 The Commission is considering in this paper
10 the issuance of an order to allow the Atomic Safety
11 and Licensing Board's authorization of a full power
12 license for the Seabrook Nuclear Power Station Unit 1
13 to become effective under NRC regulations during the
14 pendency of further appeals and other administrative
15 proceedings.

16 In acting on this order, the Commission is
17 also addressing motions to revoke or vacate the
18 Licensing Board's authorization addressing its
19 immediate effectiveness review of the contest issues
20 in this case and deciding motions to stay the
21 effectiveness of the Licensing Board's authorization.

22 As a result of its consideration, the
23 Commission, by a vote of three to nothing, with
24 Chairman Carr, Commissioner Roberts and Rogers
25 approving and Commissioners Curtiss and Remick

1 abstaining, denies a November 17, 1989 motion of the
2 Intervenors, that is the Massachusetts Attorney
3 General, Seacoast Anti-Pollution League, and New
4 England Coalition Against Nuclear Pollution, to vacate
5 those portions of the Licensing Board's decision on
6 the Seabrook plant for Massachusetts communities which
7 authorized the license.

8 The Commission has also conducted its
9 immediate effectiveness review under 10 CFR 2.764 and
10 by the same vote of three to nothing has found the
11 review supports allowing the Licensing Board's
12 authorization of the issuance of a full power license
13 to become effective.

14 The Commission, by same vote, also denies
15 the December 1, 1989 stay motion filed by the
16 Intervenors, the Massachusetts Attorney General,
17 Seacoast Anti-Pollution League, New England Coalition
18 Against Nuclear Pollution, and the Town of Hampton,
19 finding that the moving parties have not demonstrated
20 their entitlement to a stay.

21 However, given the controversy that has
22 surrounded the Seabrook plant since these proceedings
23 commenced, and the Commission's expectation that
24 judicial review of this decision will be sought, the
25 Commission has decided, as a courtesy to the parties

1 to permit the filing of judicial stay motions, that
2 the effective date of the decision will be March 8th,
3 1990. If motions for a stay are filed by plant
4 opponents in the U.S. Court of Appeals within this
5 period, then the decision's effective date will be one
6 week after the relevant motions are filed.

7 Accordingly, consistent with the provisions
8 for a housekeeping stay, the Director of the Nuclear
9 Reactor Regulation may issue the license authorized by
10 the Licensing Board in their proceeding, 89-32.

11 Would you please affirm your vote.

12 CHAIRMAN CARR: Aye.

13 COMMISSIONER ROBERTS: Aye.

14 COMMISSIONER ROGERS: Aye.

15 CHAIRMAN CARR: Is there anything else to
16 come before us today?

17 SECRETARY CHILK: I have nothing further.

18 CHAIRMAN CARR: If not, we stand adjourned.

19 (Whereupon, at 11:40 p.m., the above-
20 entitled matter was adjourned.)
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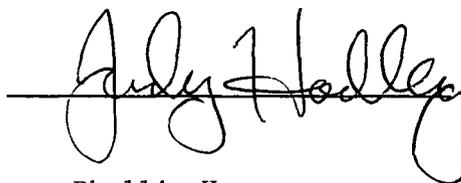
This is to certify that the attached events of a meeting of the United States Nuclear Regulatory Commission entitled:

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Reporter's name: Phyllis Young

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