

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

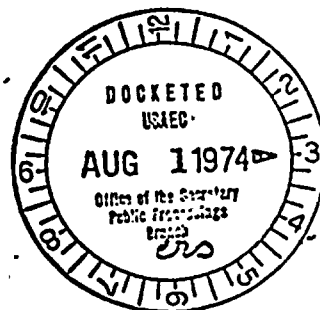
BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of :

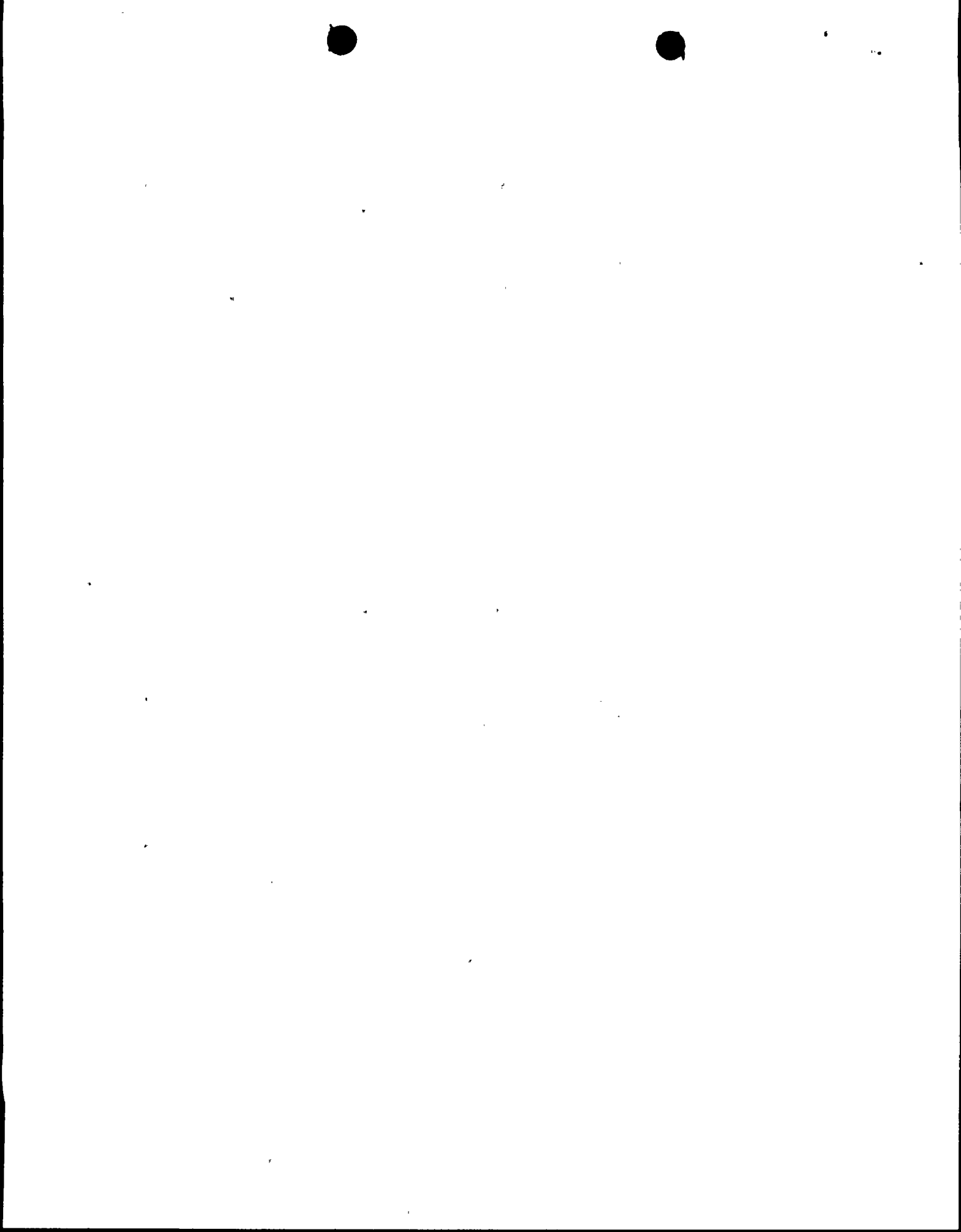
NIAGARA MOHAWK POWER CORPORATION :
(Nine Mile Point, Unit 2) :

Docket No. 50-410

Intervenors' (Suzanne Weber and
Ecology Action) Exceptions to
Initial Decision and Prior Rulings



Richard I. Goldsmith
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1. It was error for the Board to conclude that it could authorize the construction of Nine Mile Point, Unit 2 without first determining when generating capacity from the proposed facility would be needed on the applicant's system in order to meet projected load growth.
 - Initial Decision: paragraphs 89-93, pp. 64-66; p. 87 l. 4-10; p. 94 l. 8-10; p. 109 l. 16 - p. 110 l. 3.
2. It was error for the Board to conclude that the "cost of generation of electricity with nuclear fuel is less than with fossil fuels."
 - Initial Decision, paragraph 90, p. 64.
3. It was error for the Board to conclude that "there is substantial uncertainty concerning the future availability of fossil fuels."
 - Initial Decision, paragraph 91, p. 64.
4. It was error for the Board to conclude that "serious problems involving fossil fuels may occur from escalating prices, insufficiency of supply, or allocation of petroleum for uses other than as fuel for generating plants."
 - Initial Decision, paragraph 91, pp. 64-65.
5. It was error for the Board to conclude that "there is reasonable assurance that there will be an adequate supply of nuclear fuel at favorable prices."
 - Initial Decision, paragraph 91, pp. 65.
6. It was error for the Board to conclude that "there is an advantage to having a nuclear plant in the Applicant's system because it could be substituted for fossil fuel generation, if necessary."
 - Initial Decision, paragraph 91, p. 65.
7. It was error for the Board to conclude that because of "the current energy situation" and the "impact of energy conservation measures" the intervenors' demand analysis does not provide a reliable basis for forecasting load growth on the applicant's system.
 - Initial Decision: paragraph 87, pp. 62-63; p. 106 l. 1-13.



8. It was error for the Board to fail to conclude that generating capacity from the proposed facility would not be needed to meet demand on the applicant's system before the mid-1980's.

- Initial Decision, paragraph 87, pp. 62-63.

9. It was error for the Board to conclude that the disadvantages of premature construction are outweighed by the disadvantages of late construction.

- Initial Decision, paragraph 88, pp. 63-64.

10. It was error for the Board to include as a benefit in its balance of the costs and benefits from construction and operation of Nine Mile Point, Unit 2 the availability of the proposed facility as a substitute for fossil fuel generating capacity.

- Initial Decision, paragraph 95(2) and (3), pp. 68-69.

11. It was error for the Board to conclude that the hypothetical substitution of Nine Mile Point, Unit 2 for fossil fuel generating capacity on the applicant's system would necessarily result in an economic benefit to society because of lower generating costs.

- Initial Decision, paragraph 95(2), pp. 68-69.

12. It was error for the Board to conclude that the hypothetical substitution of Nine Mile Point, Unit 2 for fossil fuel generating capacity on the applicant's system would necessarily result in an economic benefit to society because of "savings" of fossil fuels.

- Initial Decision: paragraph 95(2), p. 69; paragraph 92, pp. 65-66; p. 109 l. 4-8.

13. It was error for the Board to include as a benefit in its balance of the costs and benefits from construction and operation of Nine Mile Point, Unit 2, "the employment of about 60 persons for operation of the station, and the resulting flow of about \$840,000 per year into the local economy."

- Initial Decision, paragraph 95(4), p. 65.

14. It was error for the Board to include as a benefit in its balance of the costs and benefits from construction and operation of Nine Mile Point, Unit 2, "the payment of an



estimated \$4 million annually in local taxes."

- Initial Decision, paragraph 95(5), p. 69.

15. It was error for the Board to conclude that "the environmental and economic benefits from the construction and operation of the facility will be greater than the environmental and economic costs incurred."

- Initial Decision, paragraph 96, p. 70.

16. It was error for the Board to conclude that in view of the final balance of costs and benefits "the appropriate action to be taken is to authorize the granting of the construction permit for the facility. . ."

- Initial Decision, paragraph 97, p. 70.

17. It was error for the Board to conclude that the consideration given to energy conservation alternatives to the proposed facility was "as thorough as possible" and in compliance with NEPA §102(2).

- Initial Decision: p. 92, 1. 4-6.

18. It was error for the Board to conclude that the range of energy conservation alternatives to Nine Mile Point, Unit 2 warranting consideration was limited to those which would reduce peak demand by 1100 Mw.

- Initial Decision: p. 92, 1. 16; p. 93, 1. 2.

19. It was error for the Board to conclude that "no substantial reduction on the applicant's system load would be achieved by use of further insulation in commercial buildings. . ."

- Initial Decision, paragraph 63, p. 50.

20. It was error for the Board to conclude that there is a "shortage" of fossil fuels for heating purposes in the Applicant's service area."

- Initial Decision, paragraph 68, p. 53.

21. It was error for the Board to conclude that "the economic and social consequences" of unspecified measures for load staggering and load shedding "could be severe".

- Initial Decision, paragraph 70, pp. 53-54.



22. It was error to conclude "that construction of this nuclear plant at this time is prudent and in the public interest."

- Initial Decision, p. 110, l. 4-6.

23. It was error for the Board to fail to require as a condition of the license to construct the proposed facility that the Applicant develop and implement an energy conservation program approved by the staff, which, inter alia, would require the Applicant to monitor the results of the program and to assess quantitatively the effectiveness of energy conservation measures in its service area.

- Initial Decision, pp. 113-115.

24. It was error for the Board to make the following numbered "determinations of ultimate issues": 2, 4, 5, 10 and 11.

- Initial Decision, pp. 116-119.

25. It was error for the Board to deny intervenors' motion for an order staying the proceedings and requiring the staff to publish, according to lawful procedures, a new FES adequately discussing the need for the proposed facility and energy conservation alternatives to the proposed facility.

- Tr. 3345 l. 15-24, 4077.

26. It was error for the Board to deny intervenors' motion for an award of reasonable attorneys fees and expert witness fees and, in this connection, to conclude that in this proceeding "the basis for intervention is a private interest that is being sought to be protected by the Intervenor."

- Tr. 3354 l. 5-9, 4078-79.

Respectfully submitted,

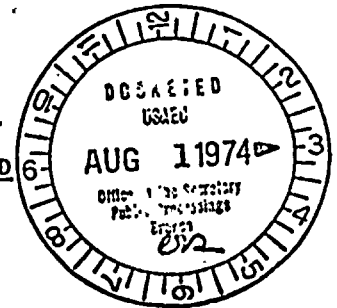

Richard I. Goldsmith

Dated: Syracuse, N.Y.
July 30, 1974



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In the Matter of

Niagara Mohawk Power Corporation
(Nine Mile Point, Unit 2)

Docket No. 50-410

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached document, entitled "Intervenors (Suzanne Weber and Ecology Action) Exceptions to Initial Decision and Prior Rulings" have been served on the following by deposit, first class, in the United States mail, this 30th day of July, 1974.

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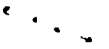
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