

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

NEW ENGLAND POWER COMPANY)
(NEP-1 and NEP-2))

Docket Nos. STN 50-568
STN 50-569

DIRECTOR'S DECISION UNDER 10 CFR 2.206

By petition dated July 13, 1979, Mr. William Jordan on behalf of Concerned Citizens of Rhode Island, the Point Judith Fishermen's Cooperative, and the Thomas L. Arnold Trust^{1/} requested an order to show cause why the application for construction permits of New England Power Company (NEPCO) for NEP Units 1 and 2 should not be dismissed. This petition was filed pursuant to 10 CFR 2.206 of the Commission's regulations.

The asserted basis for the request is that the application is no longer complete and should not continue to be docketed for consideration by the Atomic Safety and Licensing Board (ASLB) or the Staff. The petition is addressed to the Director, Nuclear Reactor Regulation because the determination of the acceptability of an application is a decision to be made only by the Staff. New England Power Company (NEP, Units 1 and 2), LBP-78-9, 7 NRC 271, 281 (1978).

CCRI has stated that the application is incomplete because NEPCO's proposed site, the former Naval Auxiliary Landing Field (NALF) in Charlestown, Rhode Island is no longer available for nuclear reactor construction. On June 20, 1979, the Acting Administrator of the General Services Administration made the decision to transfer the NALF to the Department of Interior, the Environmental Protection

^{1/} Hereinafter referred to collectively as CCRI.

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Agency and the Town of Charlestown for a wildlife refuge. Therefore, CCRI asserts that the application now lacks the minimum information, i.e., site identification required for docketing pursuant to 10 CFR 2.101(a) and 10 CFR 50.34(a).

In support of the petition, CCRI has claimed that the GSA Administrator's decision on disposition of the site proposed for the captioned facility is clear. The position taken by CCRI implies that it has concluded, and wishes the Staff to conclude, that no appeal from the Administrator's decision is possible, or if possible is not likely to produce a different outcome.

Such a conclusion is premature at this time since NEPCO has appealed the decision of the Acting Administrator of GSA concerning disposition of the proposed site for the facility. Counsel for NEPCO in a letter dated July 30, 1979, and addressed to the members of the ASLB with copies to all persons on NEPCO's service list stated that the appeal is in the form of a civil action filed in the United States District Court for the District of Columbia and that action is styled New England Power Company, et al. v Paul Goulding et al., Civil Action No. 79-1889.

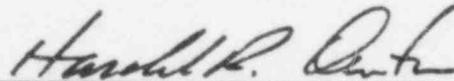
Accordingly, NEPCO may still be able to utilize the NALF site.^{2/} Therefore, at this time, I have determined that there exists no adequate basis for issuing a show cause order on the NEPCO application for construction permits. The request of CCRI is hereby denied.

^{2/} Pending outcome of the Court's decision on the siting question, further review on this matter is being held in abeyance by the Staff.

A copy of this determination will be placed in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D. C. 20555, and the local Public Document Rooms for NEP, Units 1 and 2 located at the Cross Mill Public Library, Old Post Road, Charlestown, Rhode Island 02813, and at the University Library of Rhode Island, Government Publications Office, Kingston, Rhode Island 02881. A copy of this document will also be filed with the Secretary of the Commission for its review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

In accordance with 10 CFR 2.206(c) of the Commission's Rules of Practice, this decision will constitute the final action of the Commission 20 days after the date of issuance, unless the Commission on its own motion institutes the review of this decision within that time.

FOR THE NUCLEAR REGULATORY COMMISSION



Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland
this 24th day of August, 1979.

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