



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20548

Docket No. 50-443

July 14, 1989

MEMORANDUM FOR: Steven A. Varga, Director
Division of Reactor Projects I/II

THRU: *W.H.* Richard H. Wessman, Director
Project Directorate I-3
Division of Reactor Projects I/II

FROM: Victor Nerses, Project Manager
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SUBJECT: SEABROOK STATUS

I. Facility Status

On May 26, 1989 a 5% license restricted to .75EFPW was issued. On June 13, 1989, initial criticality was achieved and low power physics testing commenced. Low power physics testing was concluded on June 21, 1989.

On June 22, 1989, with the reactor at about 3% power, the reactor was manually tripped due to difficulties encountered during the startup of a natural circulation test. As a result of the circumstances associated with this trip, Region I issued a Confirmatory Action Letter (89-11). In addition, an Augmented Inspection Team was sent to review this incident. The review was completed and the team is writing its report.

On July 12, 1989, NHY submitted their report in response to the NRC's Confirmatory Action Letter (89-11) of June 23, 1989. The report they submitted includes a detailed chronology of the incident, an analysis of NHY management actions and communications and a corrective action plan to ensure an incident such as this will not recur again at Seabrook Station. The licensee's report will undergo a review by the staff.

The plant is currently in Mode 5 and the licensee does not contemplate performing any low power operations until a satisfactory resolution of the circumstances surrounding this incident has been reached. The licensee used about 20 minutes of the 45 effective full power minutes allowed by the license restriction. With the exception of the natural circulation tests, the low power test program objectives were met. The licensee expects to be ready for a full power license in October 1989.

On July 14, 1989, the licensee identified the following top level management changes. Ted Feigenbaum, VP-Engineering, Licensing and Quality Programs, will be promoted to Senior VP and Chief Operating Officer of New Hampshire Yankee (NHY). This position will eventually be the top level position in NHY because Mr. E. Brown, President and CEO of

NHY, will be leaving (likely after full power license) to his new post as Chairman and CEO of YAEC. The VP-Engineering, Licensing and Quality Programs position vacated by Mr. Feigenbaum will be split into Director of Engineering and Licensing (DEL) and Director of Quality Programs (DQP). The DEL position will be filled by Mr. J. DeLoach from YAEC. The DQP will be filled by Mr. N. Pillsbury, present NHY manager of the Independent Review Team. The VP-Nuclear Production position previously held by Mr. G. Thomas is now the Executive Director of Nuclear Production (EDNP). This position will be filled on an interim (3-8 months) basis by Mr. B. L. Drawbridge, who is presently VP at the Yankee Rowe Plant. The EDNP, DQP and DEL will report to Mr. Feigenbaum, who in turn will continue to report to Mr. E. Brown. These changes are scheduled to be effective July 19, 1989.

II. Litigation Status

A. NH RADIOLOGICAL EMERGENCY RESPONSE PLAN (NHRERP)

The ASLB in December, 1988 issued its Partial Initial Decision (LBP-88-32), concerning the NHRERP. Subject to the satisfaction of several conditions set forth in the decision, and except as to a narrow ETS issue over which the ASLB retained jurisdiction, the ASLB found that the NHRERP provides reasonable assurance that adequate protective actions can and will be taken within the NH portion of the Seabrook EPZ. Intervenor (the MASS AG, Town of Hampton, NECNP and SAPL) have appealed the ASLB's decision. The appeal briefs of the intervenors, licensee and staff have been filed. The staff's brief took the position that the ASLB's findings regarding the NHRERP should be affirmed by the ASLB. An oral argument before the ASLB has been scheduled for July 27, 1989.

B. SEABROOK PLAN FOR MASSACHUSETTS COMMUNITIES (SPMC)/GRADED EXERCISE LITIGATION

Although the submission of the SPMC (September, 1967) and the graded exercise (June, 1988) were separated in time, as a result of other intervening events (e.g., ongoing NHRERP hearing), litigation of the SPMC and the Graded Exercise was combined into a single evidentiary hearing. Therefore, the following is a summary of the licensing and litigation status of both the SPMC and the Graded Exercise.

1. FEMA Review

The SPMC has been reviewed by FEMA, and FEMA has observed and evaluated the offsite elements during the June 1988 Graded Exercise. FEMA issued its draft exercise report in August 1988 and its final exercise report in September 1988. Subsequently, in December 1988, FEMA issued its findings and determinations on the offsite emergency plans for Seabrook Station. With regard to the NHRERP and the SPMC (the two plans which cover the plume EPZ in NH & MA, respectively), FEMA found that these plans will provide reasonable assurance that adequate protective measures can and will be taken when the siren systems in NH and MA are

installed and operational (NH - system enhancements to the existing sirens have been recently completed; MA - VANS).

2. ASLB Litigation

Approximately 85 contentions involving both the SPMC and the Graded Exercise were admitted by the ASLB. A number of these contentions (3) challenged the plan's basis that Massachusetts could delegate the power to act during an emergency. These contentions were referred to as the legal authority contentions. The ASLB in December 1988 issued a decision in favor of the licensee regarding the legal authority contentions.

Another group of contentions (approximately 15) were completely withdrawn because the intervenors decided not to pursue them or because a stipulation was reached between the licensee and the intervenors. In a few cases, the ASLB dismissed a contention because the intervenors failed to meet their evidentiary burden established by the ASLB when the ASLB admitted the contention (e.g. intervenors failed to file testimony). Therefore, approximately 67 contentions were subject to the hearing process.

Under 10 CFR 50.47(a), upon a FEMA finding of adequacy, the licensee is entitled to a rebuttable presumption regarding adequacy and plan implementability. In rather simple terms, this means that the licensee is entitled to a favorable decision unless sufficient evidence is presented to rebut FEMA's finding. FEMA's findings were presented to the ASLB and challenged by the intervenors; testimony was also presented by the licensee and staff. The hearing concluded and the record was closed on June 30, 1989. Proposed findings of fact are due to be filed by all parties on or before August 30, 1989. The ASLB has advised the parties and the Commission that a final initial decision is expected to be issued by November 30, 1989.

C. FINANCIAL QUALIFICATIONS - "LOW POWER"

The MASS AG and other intervenors filed a petition, pursuant to 10 CFR 2.758, to waive the NRC financial qualification regulations to permit a review of the financial qualifications of the licensees. This petition was denied by the Commission in December, 1988 (CLI 88-10 and reaffirmed by the Commission subsequently (e.g., CLI 89-OR). These decisions constituted final agency action. An appeal was taken to the D.C. Circuit Court by the MASS AG, SAPL, NECNP and the Town of Hampton. The appeal requested a stay on the issuance of a 5% license pending the Court's review of the financial qualification issue. The stay was denied, but the Court agreed to the review. The D.C. Circuit Court case is in the early stages of the appellate review process.

D. FINANCIAL QUALIFICATION - FULL POWER

The MASS AG and SAPL, after losing on their motion to waive the financial qualifications regulations for low power license issuance, filed a petition with the ASLB to waive the financial qualification regulations and permit a review before full power operation. The ASLB denied this petition in March, 1989. The MASS AG and SAPL have both appealed this denial to the ASLAP. Briefing by the parties has been completed and oral argument before the ASLAB was held on July 12, 1989.

E. SIRENS FOR MASSACHUSETTS (VANS)

Due to opposition by Massachusetts officials in late 1987 and early 1988, the siren system in Massachusetts for Seabrook Station was dismantled and removed. In ALAB-883, the ASLAB reopened the low power record and admitted a contention regarding the non-existence of this siren system. Subsequently, in June 1988, the ASLB admitted a modified contention that challenged the adequacy of the replacement siren system proposed by the applicant (the Vehicular Alert Notification System or VANS). In October 1988, the Commission in CLI 88-02, overturned that portion of ALAB-883 which had required a siren system before issuance of a low power license. In December 1988, FEMA provided its findings to the NRC regarding the adequacy of the SPMC, including the VANS. In March 1989, the ASLB issued a decision (LBP 89-09) which granted in substantial part the Summary Disposition Motion which had been submitted by the licensee and supported by the staff. Hearings before the ASLB were held May 2-3, 1989 on remaining siren issues during which staff witnesses testified in support of the licensee. On June 23, 1989, the ASLB rendered its final initial decision (LBP-89-17) finding the VANS to be acceptable and in compliance with applicable regulation and guidance. The MASS AG has filed a notice of appeal.

F. ONSITE EXERCISE ISSUE - "LOW POWER"

The MASS AG, based on an NRC Inspection Report of the Graded Exercise (Ref. IR #50-443/88-09) requested that the low power record be reopened and a late filed contention be admitted regarding certain on-site EP weaknesses identified in the Inspection Report. The ASLB denied this request and an appeal was taken to the ASLAB. The ASLAB, in a decision (ALAB-918) issued on June 20, 1989 affirmed the ASLB's earlier decision. The intervenors petitioned for Commission review of ALAB-918.

G. MOTION TO KEEP RECORD OPEN - LOW POWER TESTING/ONSITE EXERCISE

The MASS AG recently filed a motion with the ASLB to keep the full power record open and to schedule the filing of contentions on low power testing and on the onsite exercise currently scheduled for September 1989 (10CFR 50, Appendix E Section IV.F). On June 30, 1989, the ASLB denied the motion.

H. SUMMING UP

At the present time, of all the litigative matters mentioned above, the only one having an impact on issuing the full power license is the ASLB final initial decision on the SPMC and Grand Exercise. The other matters may have an impact if the ASLB, Commission, etc. should rule in favor of the intervenors.

III. REGULATORY STATUS

The following mainline activities, although not necessarily in the order listed, need to be addressed to support issuance of a full power license:

1. Preparation of the full power technical specifications.
2. Preparation of the full power license.
3. Completion of licensee technical issue (emergency planning, control room habitability, sampling and analysis of radioactive effluents, fire protection, radiation data management system).
4. Preparation of the SSER to be issued with full power license.
5. Preparation of Region I 94300 memorandum.
6. Preparation of indemnity agreements.
7. Confirmation that there are no antitrust matters.
8. Confirmation that there are no outstanding Generic Letter and NRC Bulletin actions affecting full power license issuance.
9. ACRS recommendation letter for full power license.
10. Preparation of Federal Register Notice and notify PA, CA, etc.
11. Completion of litigative matters (e. g., ASLB final initial decision on SPMC) pertaining to full power license issuance.
12. Certification letter from licensee.
13. Commission briefing on full power license.
14. Commission decision on effectiveness of ASLB decision.
15. Commission decision on full power license.

Effort has been initiated on items 1, 2, 3, 4, 8, 9 and 11. The actions associated with item 11 have been described under II. "Litigation Status."

Regarding item 9, the ACRS reported favorably on the Seabrook low power operation on April 19, 1983, but had a remaining open item on EP. Recent discussions have taken place with the ACRS representative (A. Igne) and the ACRS Subcommittee Chairman (W. Kerr). As a result a proposed agenda has been agreed upon and a date to meet with the ACRS Subcommittee has been scheduled for August 17, 1989, in Bethesda (Phillips Building). The presentation to the full committee is being scheduled for the September 1989 ACRS meeting.

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