



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

December 12, 1980

REGISTRATION  
DIVISION SERVICES  
BRANCH

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MEMORANDUM FOR: Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

FROM: Howard K. Shapar  
Executive Legal Director

SUBJECT: SEABROOK DECISION, ALAB-623

By a memorandum and order dated December 9, 1980, the Appeal Board ruled that the effectiveness of the Seabrook construction permits should not be suspended pending reconsideration of seismic issues.

On September 25, 1980, the Commission had remanded this proceeding to the Appeal Board to reopen the record and receive additional evidence on seismic issues involving the use of a probabilistic analysis to postulate earthquake frequency advanced by Dr. Chinnery and the Staff's methodology of correlating vibratory motion with the safe shutdown earthquake (SSE). On this basis the Commission stated that the Appeal Board should reconsider its previous conclusions involving seismic issues. The New England Coalition on Nuclear Pollution then moved the Appeal Board to suspend the construction permits pending that reconsideration.

The Appeal Board accepted the Staff's position that the construction permits should not be suspended. It pointed out that the Commission in its remand did not rule that the former seismological conclusions were in error, but only said that there should be further examination of seismic questions. It weighed heavily the fact that the Commission did not suspend the construction permits, as it could easily have done, and an earlier Commission determination in this proceeding which stated that a reconsideration of the seismic issues would not preclude further construction.

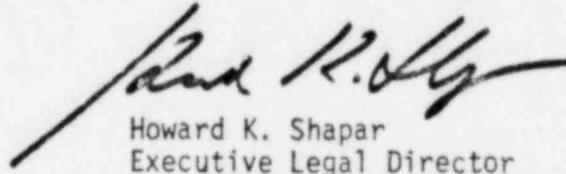
The Appeal Board also weighed the equities of whether the construction permit should be suspended, and the possibility of prejudice stemming from continued construction to any decision that might be made on remand. It ruled that the New England Coalition could not be injured by construction continuing, as the risk of any change to the facility that might be required as result of the remanded hearings rested solely on the applicants. It pointed out that the applicants must meet absolute safety standards, and further investment in the plant during reconsideration could have no effect on the determination of the seismic conditions to which the plant would have to be designed to be safe. In addition, it stated that as a practical matter construction of the plant would advance only a relatively minor amount in the next six months,

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Harold R. Denton

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and that any additional work performed in the interim could have little effect on the amount of work applicant would be required to do should the previous seismic conclusions change as a result of the redetermination.



Howard K. Shapar  
Executive Legal Director

cc: W. Dircks