

9781

DOCKETED 2/1/90
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION 90 FEB -2 A11 :43

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD OFFICE OF SECRETARY
REGULATING & SERVICE
BRANCH

In the Matter of
PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, et al.
(Seabrook Station, Units 1 and 2)

} Docket Nos. 50-443 OL
50-444 OL
} Offsite Emergency Planning

NRC STAFF FURTHER RESPONSE TO JANUARY 11 BOARD ORDER

In an order dated January 11, 1990, the Licensing Board asked the parties to submit their views on how the Board should proceed to address the issues remanded by the Appeal Board in ALAB-924, 30 NRC ___ (Nov. 7, 1989), and how the parties propose to participate in the resolution of those issues. ^{1/}

The Commission by Order of November 16, 1989 (unpublished), noted that before it were the immediate effectiveness review of LBP-89-32 ^{2/} authorizing the issuance of a full power license for Seabrook Station, Unit 1; an issue certified by the Appeal Board in ALAB-922 ^{3/} arising from a review of LBP-88-32 ^{4/}; and a petition for review of the remand in

-
- ^{1/} On January 30, 1990, the Staff submitted comments on how the Board should proceed and asked that the February 1 response deadline be extended. NRC Staff Response January 11 Board Order and Request to Extend the February 1 Deadline. On January 31, 1990, the Board summarily denied the Staff's motion to extend the February 1 filing date.
 - ^{2/} 30 NRC ___ (Nov. 9, 1989).
 - ^{3/} 30 NRC ___ (Oct. 11, 1989).
 - ^{4/} 28 NRC 667 (1988).

9002080098 900201
PDR ADOCK 05000443
G PDR

DS07

ALAB-924 of certain issues considered in LBP-89-32. The Commission in its November 16, 1989 Order stated that, "In the interests of efficiency and effectiveness in resolving matters relating to the Licensing Board's authorization of the issuance of a full power license, the Commission has decided that it rather than the Appeal Board will consider all applications for a stay of the Licensing Board's authorization of full power operation for Seabrook Unit 1." The Commission further indicated that it would consider "Intervenors Motion to Vacate Those Portions of LBP-89-32 Authorizing Issuance of A Seabrook Operating License" which had been filed before the Appeal Board on November 13, 1989. Much of the parties' immediately effectiveness comments and other filings in response to the Commission's November 16, 1989 Order focused on the correctness of ALAB-924 and whether the Licensing Board's treatment of the ALAB-924 remand issues in LBP-89-32 and LBP-89-33 was appropriate. ^{5/}

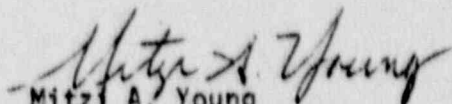
As indicated by the Commission's November 16 Order, the Commission's "immediate effectiveness review" of LBP-89-32 includes consideration of any applications for stay of the authorization of a full power license in

^{5/} The Staff took the position before the Commission that none of the issues remanded to the Board (the need for letters of agreement for school teachers, the adequacy of the special needs survey, the accuracy of evacuation time estimates for advanced life support patients, implementing details for sheltering the beach population) required further Board action since the matters were adequately addressed by the Board in LBP-89-33. NRC Staff Response to Intervenors' Motion to Vacate LBP-89-32 License Authorization and Supplemental Motion and Memorandum, December 12, 1989, at 19-33. Even the sheltering issue, which has been vigorously contested during this proceeding, if upheld, can be left for Staff and/or FEMA verification. Id. at 33 n. 32. Further, the Staff maintained that the Appeal Board had misapplied the Commission's standards for emergency planning in passing on sheltering and the other issues remanded in ALAB-924. Id. at 13-19, 31-33, 39-43.

LBP-89-32 and Intervenors' motion to vacate and revoke the license authorization. November 16 Order at 1-2. In addition, the parties' immediate effectiveness comments and other filings in response to the Commission's November 16 Order focused on ALAB-924, the matters remanded therein, and the Board's treatment of ALAB-924 in both LBP-89-32 and LBP-89-33.

In this posture, the Staff advises the Licensing Board not to proceed with further consideration of the remanded issues until the Commission has completed its immediate effectiveness review and ruled on the motions to vacate and stay LBP-89-32. Commission action would give the Licensing Board Commission guidance regarding how to proceed on the remanded issues. ^{6/}

Respectfully submitted,


Mitzi A. Young
Counsel for NRC Staff

Dated at Rockville, Maryland
this 1st day of February, 1990

^{6/} The Staff intends to participate in any proceeding involving the remanded issues before the Licensing Board. The Staff intends to present testimony by Staff witnesses or through FEMA regarding the review of Applicants' emergency plans and actions pertinent to the remanded issues that may be set for hearing and to submit pleadings and briefs relevant to those issues.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, et al.

(Seabrook Station, Units 1 and 2)

}
Docket Nos. 50-443 OL
50-444 OL
Off-site Emergency Planning
}

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF FURTHER RESPONSE TO JANUARY 11 BOARD ORDER" in the above captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, as indicated by double asterisks, by express mail, this 1st day of February, 1990:

Ivan W. Smith, Chairman (2)*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Philip Ahrens, Esq.
Assistant Attorney General
Office of the Attorney General
State House Station
Augusta, ME 04333

Richard F. Cole*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John Traficonte, Esq.**
Assistant Attorney General
Office of the Attorney General
One Ashburton Place, 19th Floor
Boston, MA 02108

Kenneth A. McCollom**
Administrative Judge
1107 West Knapp Street
Stillwater, OK 74705

Geoffrey Huntington, Esq.**
Assistant Attorney General
Office of the Attorney General
25 Capitol Street
Concord, NH 03301

Thomas G. Dignan, Jr., Esq.**
Robert K. Gad, III, Esq.
Ropes & Gray
One International Place
Boston, MA 02110-2624

Diane Curran, Esq.**
Harmon, Curran & Tousley
2001 S Street, NW
Suite 430
Washington, DC 20009

Robert A. Backus, Esq.**
Backus, Meyer & Solomon
116 Lowell Street
Manchester, NH 03106

H. J. Flynn, Esq.
Assistant General Counsel
Federal Emergency Management Agency
500 C Street, S.W.
Washington, DC 20472

Paul McEachern, Esq.**
Shaines & McEachern
25 Maplewood Avenue
P.O. Box 360
Portsmouth, NH 03801

Sandra Gavutis, Chairman
Board of Selectmen
RFD #1, Box 1154
Kensington, NH 03827

Calvin A. Canney
City Hall
126 Daniel Street
Portsmouth, NH 03801

R. Scott Hill-Whilton, Esq.
Lagoulis, Clark, Hill-Whilton
& McGuire
79 State Street
Newburyport, MA 01950

Allen Lampert
Civil Defense Director
Town of Brentwood
20 Franklin
Exeter, NH 03833

William Armstrong
Civil Defense Director
Town of Exeter
10 Front Street
Exeter, NH 03833

Gary W. Holmes, Esq.
Holmes & Ellis
47 Winnacunnet Road
Hampton, NH 03842

Barbara J. Saint Andre, Esq.
Kopelman and Paige, P.C.
77 Franklin Street
Boston, MA 02110

Judith H. Mizner, Esq.
79 State Street
Newburyport, MA 01950

Robert Carrigg, Chairman
Board of Selectmen
Town Office
Atlantic Avenue
North Hampton, NH 03862

William S. Lord
Board of Selectmen
Town Hall - Friend Street
Amesbury, MA 01913

Mrs. Anne E. Goodman, Chairman
Board of Selectmen
13-15 Newmarket Road
Durham, NH 03824
Kensington, NH 03827

Hon. Gordon J. Humphrey
United States Senate
531 Hart Senate Office Building
Washington, DC 20510

Richard R. Donovan
Federal Emergency Management
Agency
Federal Regional Center
130 228th Street, S.W.
Bothell, Washington 98021-9796

Peter J. Matthews, Mayor
City Hall
Newburyport, MA 01950

Michael Santosuosso, Chairman
Board of Selectmen
South Hampton, NH 03827

Ashod N. Amirian, Esq.
Town Counsel for Merrimac
145 South Main Street
P.O. Box 38
Bradford, MA 01835

Ms. Suzanne Breiseth
Board of Selectmen
Town of Hampton Falls
Drinkwater Road
Hampton Falls, NH 03844

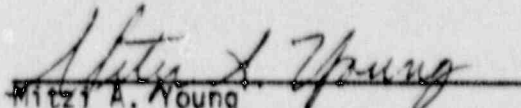
Robert R. Pierce, Esq.*
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing
Appeal Panel (6)*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

J. P. Nadeau
Board of Selectmen
10 Central Street
Rye, NH 03870

Atomic Safety and Licensing
Board Panel (1)*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Office of the Secretary(2)*
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attn: Docketing and Service Section


Mitzy A. Young
Counsel for NRC Staff