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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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Before the Administrative Judges:

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

G. Paul Bollwerk, III, Chairman  
Alan S. Rosenthal  
Howard A. Wilber

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In the Matter of )  
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PUBLIC SERVICE COMPANY )  
OF NEW HAMPSHIRE, et al. )  
 )  
(Seabrook Station, Unit 1) )  
\_\_\_\_\_ )

Docket No. 50-443-OL/444-OC  
(Offsite Emergency  
Planning and Safety  
Issues)

OBJECTION TO PETITION OF EMERGENCY MANAGEMENT  
AGENCY FOR LEAVE TO FILE FEMA'S RESPONSE TO EMERGENCY  
MOTION OF THE INTERVENORS TO REOPEN THE RECORD  
AS TO NEED FOR SHELTERING IN CERTAIN CIRCUMSTANCES

INTRODUCTION

By a pleading dated February 16, the Federal Emergency Management Agency (FEMA), has requested permission to be allowed to file a response to the intervenors' Emergency Motion of February 6, 1990, seeking to reopen the record on the New Hampshire Radiological Emergency Response Plan (NHRERP). The proposed response was attached to FEMA's petition for leave to file a response as to the need for sheltering in certain circumstances.

For the reasons stated below, Seacoast Anti-Pollution League (SAPL) states that the petition of FEMA for leave to file FEMA's response should be denied, and, in the event that the petition is

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granted, the following further response from SAPL should be allowed.

OBJECTION TO FEMA RESPONSE

In its proposed response, FEMA purports to state a "clarification" of its review of the NHRERP. This "clarification" is to the effect that the NHRERP has not been materially changed as to the concept of sheltering since it was offered in testimony, before the ASLB, amended in October of 1988, and currently exists in the form of "Rev. 3, February 1, 1990". According to FEMA, at all times, the concept of sheltering in the NHRERP has been to "shelter in place".

According to FEMA, in its proposed "clarification":

"To emphasize the point, other than the 'shelter-in-place' concept described above, there has never been any provision for shelter in the NHRERP under any circumstances for any segment of the population. When 'shelter-in-place' is the recommended protective action, transients without access to an indoor location (e.g., a private residence, beach cottage, or hotel room) would be directed to evacuate in those vehicles. Those transients without transportation will be directed to predesignated to temporary shelter locations while waiting for buses to evacuate them. There is no provision or instruction in the NHRERP for the transient beach population to attempt to find a nearby building and enter it, nor is there any reliance in the NHRERP in the Stone & Webster Survey to identify potentially-available shelters."

In its conclusion, FEMA goes on to state:

"As noted above, the 'shelter-in-place' concept provides for the transient beach population to evacuate and the people indoors to remain indoors."

FEMA's representation to this Board is flatly contradictory to the evidence before the ASLB, and on which this Appeal Board, quite correctly, found that sheltering was an intended protective action for the transient beach population.<sup>1</sup>

FEMA should be called upon to explain its failure to acknowledge the evidence of record in this proceeding, and its attempt to again reverse its position on the need to "consider" sheltering as a protective action response for the beach population in this case by transforming "evacuation in those vehicles" into the same thing as "sheltering-in-place".

For FEMA to suggest, and state in a pleading to this Board, that because New Hampshire uses the "shelter-in-place" concept, there was never any intent or plan to shelter the transient beach population is unworthy of the integrity expected of a federal agency.

The record of this proceeding, on the day of the admission of Applicants' panel no. 6, dealt with the issue of the sheltering option for the beach population. The panel witnesses supporting Applicants' Direct Testimony no. 6, dealing with sheltering, included the former Director of the New Hampshire Office of Emergency Management, Mr. Strome, John Bonds, Assistant Director

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<sup>1/</sup> It is also an example of the overwhelming distortion of the integrity of the English language that has crept into the Seabrook proceeding. According to FEMA, the sheltering option for the beach-going transients, shelter-in-place, actually means "to evacuate". Thus, black becomes white, love becomes hate, war becomes peace, and FEMA will do anything, and say anything, in order to justify its flip-flop on the adequacy of the NHRERP.

for Planning, Division of Public Health Services of New Hampshire, and Anthony M. Callendrello, Manager, Emergency Planning, New Hampshire Yankee. This panel's direct testimony also included the State's February 11 response to the FEMA interim testimony, as Appendix I. That testimony, at page 5 thereof, indicated that although evacuation was going to be the preferred protective action in most scenarios, "this position does not preclude the State from considering and selecting sheltering as a protective action for the beach population." As set forth at pages 7-8 of Appendix I, the State then laid out scenarios in which sheltering would be the preferred protective action response for the beach population, including, as condition 1, "when it would be the more effective option in achieving maximum dose reductions."

The cross-examination of this panel made it perfectly clear that by including sheltering as an option for the beach population, the State was intending to include within the sheltering option not only that beachgoers without transportation, but the entire beach population.

At Tr. 10061, Mr. Strome was asked the following:

Q "Now, under headings one and two, what portion or is it the whole beach population that is being recommended -- that it is recommended to them that they shelter?"

A (Strome) That would be conceivable, but obviously, as we pointed out before, sheltering is not the preferred option for people -- for the total beach population.

Q Well, I appreciate that point, but as to the specific enumeration of those circumstances under which sheltering would be the recommendation, there are such circumstances, are there not?

A (Strome) I think they're conceivable, but as I pointed out before, they are certainly not the optimum consideration as far as we're concerned. WE made that crystal clear throughout the testimony.

Q No question that you've made that clear. My question is, are there circumstances under which you would recommend sheltering for the beach population?

A (Strome) Certainly conceivable."

Further, at 10069, Mr. Callendrello testified as follows:

"Q Yes. Well, that's fine except the problem is on page 19 of your testimony, you are still indicating: 'There are two sets of circumstances under which you would recommend -- you would still intend to consider recommending shelter to the entire beach population, not just to the transients without transportation.' It's part of a plan to consider a recommendation to the entire beach population to shelter; that's correct, isn't it?

A (Callendrello) That is correct.

Q And you have no messages for that circumstances, although you previously did have a message that covered that circumstance?

A (Callendrello) That is true, there are no prerecorded messages that specifically address that, consideration of that recommendation. But as the statement says: 'The mechanisms are now in place, and the EBS system, the EBS activation procedure and the mechanism for modifying the messages exist."

Mr. Bonds also testified concerning this matter at Tr.

10421:

"Q Well, isn't it true then that even when sheltering was found to be the most effective option in achieving maximum dose reduction, it

would not always be recommended for the beach population?

A (Bonds) Sheltering is found to be the most effective recommendation. That's the most effective recommendation for everybody, not for just some segment of the population in that area. We don't differentiate in the three communities, Hampton, Hampton Falls and Seabrook, between general population and beach population. We make the recommendation on the basis of those communities.

If there are beach people there, the recommendation applies to them as well."

No where did any of the witnesses suggest that this sheltering option for the transient beach population actually meant, under the "sheltering-in-place" concept, that these individuals were to evacuate. Indeed, Mr. Bonds made it clear that he was anticipating that the sheltering option would involve putting the beach transients into some sort of structures, not into their automobiles. At Tr. pages 10694-95:

"MR. BROCK: I'm referring to page 10573, beginning third paragraph, let me just read a sentence into the record. I believe this is a response of you, Mr. Bonds: 'So we haven't done our own assessment yet as to whether or not there is adequate shelter.' I can continue: 'But given that there was an awful lot of shelter there and that there are people there, there's got to be some relationship, we just don't know what that is, but we would certainly expect that at some point in time an independent assessment is going to be made.'

BY MR. BROCK:

Q Can you explain that to me in light of the answer you just gave?

A (Bonds) Yes, certainly. The answer I just gave, and what was intended with what is here is that, it is the state's judgment at

this time that there is adequate shelter. In terms of we haven't done our own assessment, we certainly haven't done our own assessment. AS to whether or not there is adequate shelter, that's what the empirical process, the empirical study, whether it's Stone & Webster style study or somebody else's study of our own, that has not been done yet. But the judgment is there that there is adequate shelter.

Q Well, and is that judgment based upon, essentially, adopting the Stone & Webster study and the view of New Hampshire Yankee rather than doing an independent assessment?

A (Bonds) Absolutely not.

Q What is the basis for the judgment of the state, that there was presently adequate shelter?

A (Bonds) The judgment was there long before Strome & Webster undertook any study. It as there with the original volumes of the plan, Rev. 0 way back. It's based upon an understanding that there is shelter that's there; there are people that are there. And that should the situation arise in which you did have to take sheltering or recommend sheltering, that there would be adequate space available for all of the people at that location, given that sheltering is an extremely limited option in the first place."

Further on, Mr. Bonds also indicated an intent to actually shelter the beach transients by opining in an intuitive way that adequate shelter was available at Tr. pages 10714-15:

"Q What elements, what elements of your experience lead you to believe that there is sufficient, adequate shelter space for that 31,250 people?

(Bonds) The state has accepted the sheltering -- the potential for sheltering of a beach population as being remote. Mr. Strome has pointed out that it's certainly not a 50/50. I've testified as to the factors that would lead one to indicate whether or not -- the factors that would predispose a decisionmaker towards sheltering.

The judgment that I have and the experience that I have is not based upon the number of walks down the board walk back and forth, whatever though there is some of that built into it. I have been to Hampton Beach long before I ever knew Seabrook and far before I ever knew there was a Division of Public Health in this state."

CONCLUSION

For the reasons stated, the Appeal Board should refuse to countenance FEMA's petition to file a response or, or in the alternative, should reject the FEMA "clarification" of its position on the NHRERP as contrary to the record in the case, the ordinary meaning of language and for the reasons stated herein.

Respectfully submitted,

Seacoast Anti-Pollution League  
By its Attorneys,


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Dated: February 23, 1990

I hereby certify that copies of the within objection have been forwarded, first class, postage prepaid, to the parties on the attached service list.

  
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