



The Mass AG was not aware when he filed his appeal brief that the issues in Contention 56 had been resolved.

While the joint stipulation filed with the Licensing Board on January 18, 1991 reflected an acknowledgment by the Mass AG that the issues contained in Mass AG Contention 56, Basis A have been resolved in Amendment 6 to the SPMC, the Mass AG was unaware of that fact until a matter of days prior to the filing of the joint stipulation.<sup>1/</sup> Although Amendment 6 of the SPMC had been in existence for a substantial period of time before the Mass AG filed his appeal on LBP-89-32, the changes in the SPMC contained in Amendment 6 that resolved the issues of Mass AG Contention 56, Basis A, were not brought to the attention of the Mass AG prior to January 10, 1991. On that day a member of the Mass AG's staff attended a meeting at the offices of the Applicant's counsel to discuss the three matters that were scheduled to be addressed at a pre-hearing conference before the Licensing Board on January 23, 1991. After an initial discussion of proposed changes in the SPMC that would resolve the remanded issues concerning the staffing of Holy Cross College, counsel for the Applicants showed the representative of the Mass AG a draft affidavit written by Anthony Callendrello. (Exhibit 1.)

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<sup>1/</sup> Amendment 6 of the SPMC was the version of the SPMC that was introduced in the evidentiary record in the hearings on the SPMC.

counsel for the Applicants stated that the draft affidavit demonstrated that the issues raised in Mass AG Contention 56, Basis A had been addressed and resolved by Amendment 6 to the SPMC. The Mass AG was informed that if the PAR issue contained in Mass AG Contention 56, Basis A could not be resolved by stipulation, it was the intention of the Applicants to file a motion seeking summary disposition of the issue on the basis of Mr. Callendrello's affidavit. The Mass AG staff member reviewed the draft affidavit and agreed to discuss the matter with persons knowledgeable about the contention and its underlying factual basis to ascertain whether the issue contained in the contention could be resolved by a joint stipulation.

After the meeting on January 10, 1991, the Mass AG submitted the draft affidavit of Mr. Callendrello and the relevant portions of the SPMC to an expert in the area of PAR decision making for his opinion as to whether the changes to the SPMC identified and addressed in the draft affidavit resolved the issues raised in Mass AG Contention 56, Basis A. After review and consultation, the expert agreed that the changes to the SPMC identified and discussed in the Callendrello affidavit had resolved the issues raised in the contention. On the basis of that expert's opinion, the Mass AG

agreed to enter the joint stipulation by which he withdrew his Contention 56, Basis A.

Prior to the meeting of January 10, 1991 the Mass AG was unaware that the issues raised in the Mass AG Contention 56, Basis A had been resolved by amendments to the SPMC after the filing of his contention. Before that date no one had directed to the attention of the Mass AG the changes in the SPMC reflected in Amendment 6 that resolved the issues raised in Mass AG Contention 56 , Basis A. At no time during the pendency of the appeal of LBP-89-32 was a suggestion of mootness or a motion to dismiss the issue because of mootness filed. Nor, has the Mass AG been able to identify through a review of the relevant pleadings including the Applicants' and NRC Staff's briefs on the Mass AG's appeal of LBP-89-32 any suggestion that the issues contained in Mass AG Contention 56, Basis A, were moot. The Mass AG has been unable to find any reference in the Applicants' Brief to Mass AG Contention 56, Basis A, and the NRC Staff's brief challenged the Mass AG's appeal on this issue not on the basis that it was moot or resolved, but rather on the grounds that it was untimely.

There are no other issues pending on appeal that are concedely resolved; while there may be two issues that are susceptible of resolution, the Mass AG does not have enough information on those issues to assess the likelihood of their being resolved.

Prior to January 31, 1991, the Mass AG was unaware of any other and yet undecided issues raised by his pending appeal

that were resolved or susceptible of resolution on the basis of changes in the SPMC, and was prepared to so inform the Board in this pleading. During the afternoon of that day, counsel for the Applicants informed the Mass AG by telephone that the Applicants had reviewed the Mass AG's appeal brief and had identified certain issues that they believed may have potentially been resolved by planning changes. Counsel for Applicants then undertook to telefax to the Mass AG a document indicating the issues that the Applicants believe potentially may have been resolved.

That document identifies eight issues addressed in the Mass AG's brief that the Applicants believe potentially may have been resolved by planning changes or other events. While it is possible that a few of the issues indicated in that document may be susceptible to resolution, on the basis of that document the Mass AG is unable to conclude that the issues have been resolved.<sup>2/</sup> Seemingly none of the planning changes or other events potentially effecting issues on appeal were reflected in the evidentiary record that was before the Licensing Board since they apparently all occurred after the close of the record. Given the lack of time between receipt of the document and

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<sup>2/</sup> Part of one of the eight issues, the staffing and duration of use of Holy Cross has been resolved by stipulation.

the filing deadline for this response, the Mass AG has been unable to explore and investigate the factual basis underlying the Applicants' belief that the issues listed in the document may have been resolved or susceptible of resolution.

However, after a review of the document alone, it appears that certain of the issues identified by the Applicants are highly unlikely to be susceptible of resolution. At this point, the Mass AG can identify only two issues that potentially may be susceptible of resolution. Those issues concern bathrooms for the handicapped at the Westborough facility and the use of the Haverhill staging area. The Applicants represent in the document that FEMA has evaluated both facilities and found them to be adequate and that the Haverhill facility has been used in drills and the 1990 exercise. Unfortunately, on the basis of those representations alone, the Mass AG is unable to conclude the issues have been resolved.<sup>3/</sup> The Mass AG has often differed with FEMA's findings of adequacy. Nor, does the Mass AG otherwise have enough information about the post-hearing events effecting the issues to concede that they are resolved.

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<sup>3/</sup> FEMA previously evaluated Shriners Arena and found it to be adequate for all special populations in the Massachusetts EPZ even though the Applicants own assessment showed that it was large enough to house only about half the number of people that they were intending to house there. Tr.21453.

The Mass AG will endeavor to investigate the facts concerning post-hearing events that potentially effect still pending issues on appeal and will report to the Board if he concludes that they are resolved.

Respectfully submitted,

SCOTT HARSHBARGER  
ATTORNEY GENERAL

By:

Leslie B. Greer  
Leslie B. Greer,  
Assistant Attorney General  
Nuclear Safety Division  
One Ashburton Place  
Boston, Massachusetts 02108  
617-727-2200

Date: February 1, 1991

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EXHIBIT 1



January xx, 1991

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
before the  
ATOMIC SAFETY AND LICENSING BOARD

DRAFT OF 1/7/91

In the Matter of )

PUBLIC SERVICE COMPANY OF )  
NEW HAMPSHIRE, et al. )

(Seabrook Station, Units 1 and 2 )

) Docket Nos. 50-443-OL-1  
) 50-444-OL-1  
) (Offsite Emergency  
) Planning and Safety  
) Issues)

AFFIDAVIT OF ANTHONY M. CALLENDRELLO

I, Anthony M. Callendrello, being on oath, depose and say as follows:

1. I am the Licensing Manager for New Hampshire Yankee. A statement of my professional qualifications are a matter of record in this proceeding. I have testified before this Board regarding the Seabrook Plan for Massachusetts Communities (SPMC). In addition, I have testified before this Board regarding the protective action recommendation process utilized in the New Hampshire Radiological Emergency Response Plan.

2. This affidavit addresses MAG Contention 56, Basis A, as remanded by the Atomic Safety and Licensing Appeal Board in ALAB-942. Specifically, this affidavit establishes that the SPMC's overall Protective Action Recommendation (PAR) development process includes the factors which the contention alleges are deficient in the predetermined PAR generation process. Further, this affidavit explains that the predetermined PARs during a General Emergency classification are not solely based

IP 2.5 when incorporated?

on radiation levels inside the containment.

3. The SPMC provides specific criteria for determining plume exposure EPZ protective action strategies during an emergency. The criteria are emergency classification, in-containment radiological conditions, meteorological conditions and dose projections based on field measurements or sample analyses. (SPMC, section 3.4.2, Table 3.4-1 and IP 2.5).

4. The New Hampshire Yankee Offsite Response Organization (NHY ORO) Radiation Health Advisor is responsible for formulating protective action recommendations. At a General Emergency, the PAR development process considers all of the following: (1) predetermined PARs, (2) protective actions based on dose projections, and (3) potential evacuation/sheltering constraints. (SPMC IP 2.5, section 5.2).

meteorological conditions?

5. SPMC, IP 2.5, Plume Exposure Pathway Protective Action Recommendations, directs the choice of predetermined and other PARs. In the version of that procedure (Revision 0, Amendment 3 attached as "A") that was current during the filing of contentions on the SPMC, the only predetermined PAR based on reaching a General Emergency classification was the closure of the Parker River Wildlife Refuge. All other predetermined PARs for a General Emergency classification were based solely on in-containment radiation readings.

6. In the version of the SPMC admitted as Applicants' Exhibit 42, (Revision 0, Amendment 6) IP 2.5, Attachment 1, entitled "Communities Affected by Plume Exposure Protective Action Flowchart for General Emergency," (attached and marked "B"), provides predetermined PARs for the general public based on emergency classification, in-containment radiation levels and wind direction. However, once a General Emergency classification is reached, Attachment 1 provides a predetermined PAR if there is no indication of elevated in-containment radiation levels. SPMC IP 2.5

Attachment 1, specifically provides for the following:

- If a General Emergency has been declared, a predetermined PAR of closure of the Massachusetts beaches is always reached independent of post-LOCA monitor readings or wind direction.

- If the post-LOCA monitor indicates that containment radiation levels are less than 5,000 R/hr (which includes the condition where there is no indication of elevated in-containment radiation levels), and the wind direction is towards Massachusetts, then sheltering is the predetermined PAR for Amesbury and Salisbury. If the wind direction is towards New Hampshire, no protective actions other than beach closure are recommended.

- If the Post LOCA monitor indicates that containment radiation levels are between 5,000 and 10,000 R/hr, and the wind direction is towards Massachusetts, the predetermined PAR is evacuation for Amesbury and Salisbury and sheltering for the other Massachusetts EPZ communities. If the wind direction is towards New Hampshire, the predetermined PAR is sheltering for all six Massachusetts EPZ communities.

- If the Post LOCA monitor indicates that containment radiation levels exceed 10,000 R/hr, and the wind direction is towards Massachusetts, the predetermined PAR is evacuation for all six Massachusetts EPZ communities. If the wind direction is towards New Hampshire, the predetermined PAR is evacuation for Amesbury and Salisbury and sheltering for the other Massachusetts communities.

7. ORO personnel need not wait for in-containment radiation readings to reach the trigger levels before selecting PARs. ORO personnel are also directed to evaluate PARs based on dose projections

*later?*

for actual or projected releases of radiation. (SPMC IP 2.5 at 5.2.3, 5.2.5 and 5.3). These protective actions are based on a calculation which compares the ~~dose of sheltering~~ to that of evacuation. SPMC IP 2.5, Attachment 2, entitled "Protective Action Recommendation Worksheet," (attached and marked "D") is utilized for this calculation.

*Response Implementation*

8. Prior to the formulation of a PAR, the Radiation Health Advisor also confers with the Assistant Offsite Response Director regarding meteorological factors, conditions interfering with sheltering, and conditions interfering with evacuation. (SPMC IP 2.5 at 5.2.4 and 5.5.1).

9. The ORO Offsite Response Director will recommend PARs to officials of the Commonwealth of Massachusetts and must, by procedure, await the authorization of the Commonwealth prior to notifying the public to take any protective actions. Officials of the Commonwealth therefore have the final word on any protective actions to be taken.

10. Based on the foregoing, at a General Emergency, the SPMC's overall PAR development process considers not only predetermined PARs, but protective actions based on dose projections and constraints to implementation of PARs. In addition, predetermined PARs are not based solely on post-LOCA monitor readings.

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Anthony M. Callendrello

Rockingham County, NH

January xx, 1991

The above-subscribed Anthony M. Callendrello appeared before me and made oath that he had read the foregoing affidavit and that the statements set forth therein are true to the best of his knowledge.

Before me,

\_\_\_\_\_  
Notary Public  
My Commission Expires:

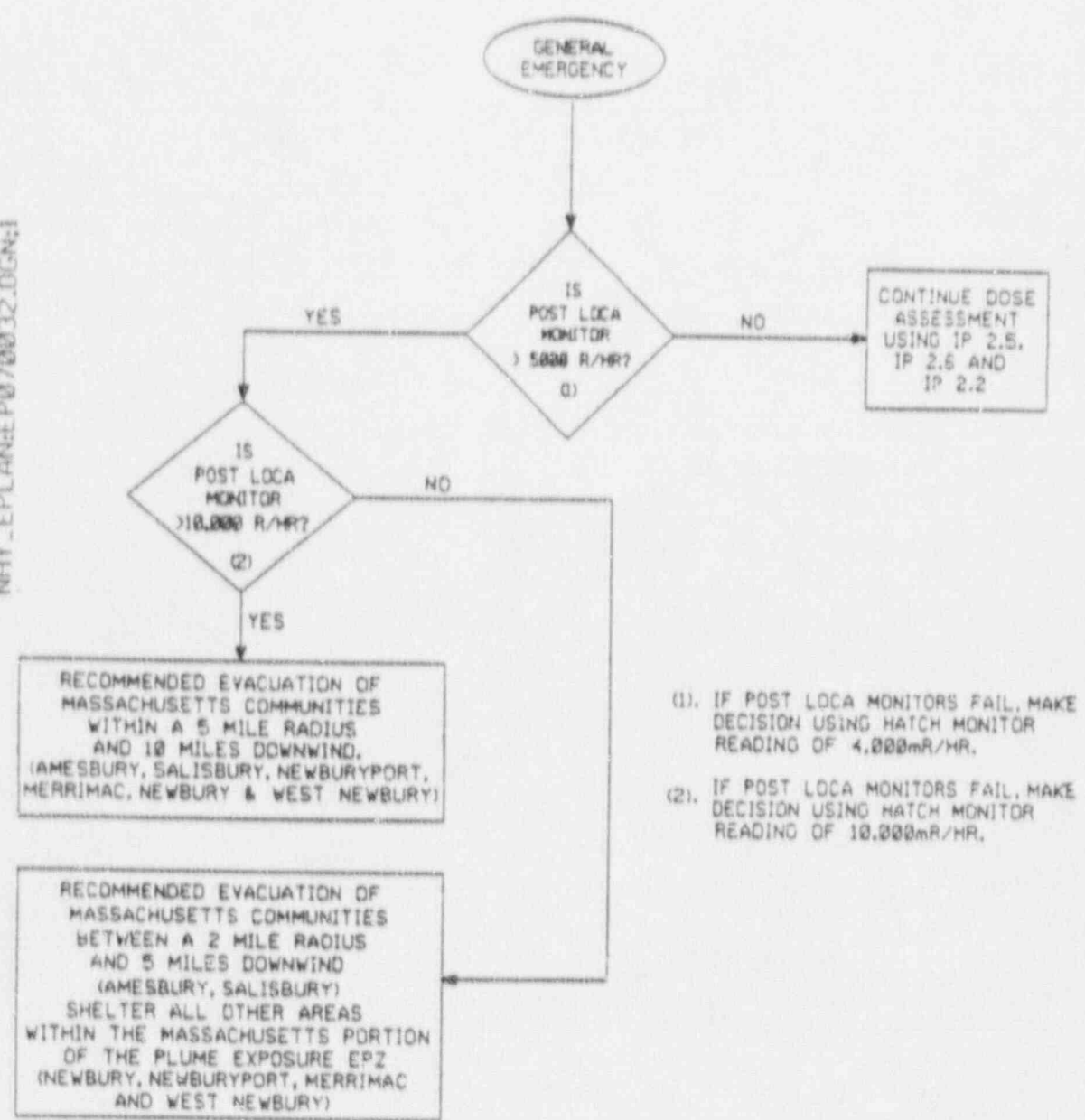
ATTACHMENT A

*in place at time of drafting?*

### PLUME EXPOSURE PROTECTIVE ACTION FLOWCHART FOR GENERAL EMERGENCY

(Wind direction is toward Massachusetts; i.e. wind from 304° to 101°)\*

NHY\_EPLANE.P070032.DGN:1



- (1). IF POST LOCA MONITORS FAIL, MAKE DECISION USING HATCH MONITOR READING OF 4,000mR/HR.
- (2). IF POST LOCA MONITORS FAIL, MAKE DECISION USING HATCH MONITOR READING OF 10,000mR/HR.

\* IF WIND IS HEADING TOWARD NEW HAMPSHIRE USE ATTACHMENT 2 TO DETERMINE WHICH COMMUNITIES ARE AFFECTED BY THIS PROTECTIVE ACTION FLOWCHART

COMMUNITIES AFFECTED BY PLUME EXPOSURE  
 PROTECTIVE ACTION FLOWCHART FOR GENERAL EMERGENCY

<u>POST LOCA MONITOR</u> <u>(P.H.)</u>	<u>wind Direction</u> <u>Toward</u>	<u>Evacuate</u>	<u>Shelter</u>
>5,000 but <10,000	Massachusetts	Amesbury, Salisbury	Newbury, Newburyport, Merrimac, west Newbury
>5,000 but <10,000	New Hampshire		Amesbury, Newbury, Newburyport, Merrimac, Salisbury, West Newbury
>10,000	Massachusetts	Amesbury, Newbury, Newburyport, Merrimac, Salisbury, west Newbury	
>10,000	New Hampshire	Amesbury, Salisbury	Newbury, Newburyport, Merrimac, west Newbury

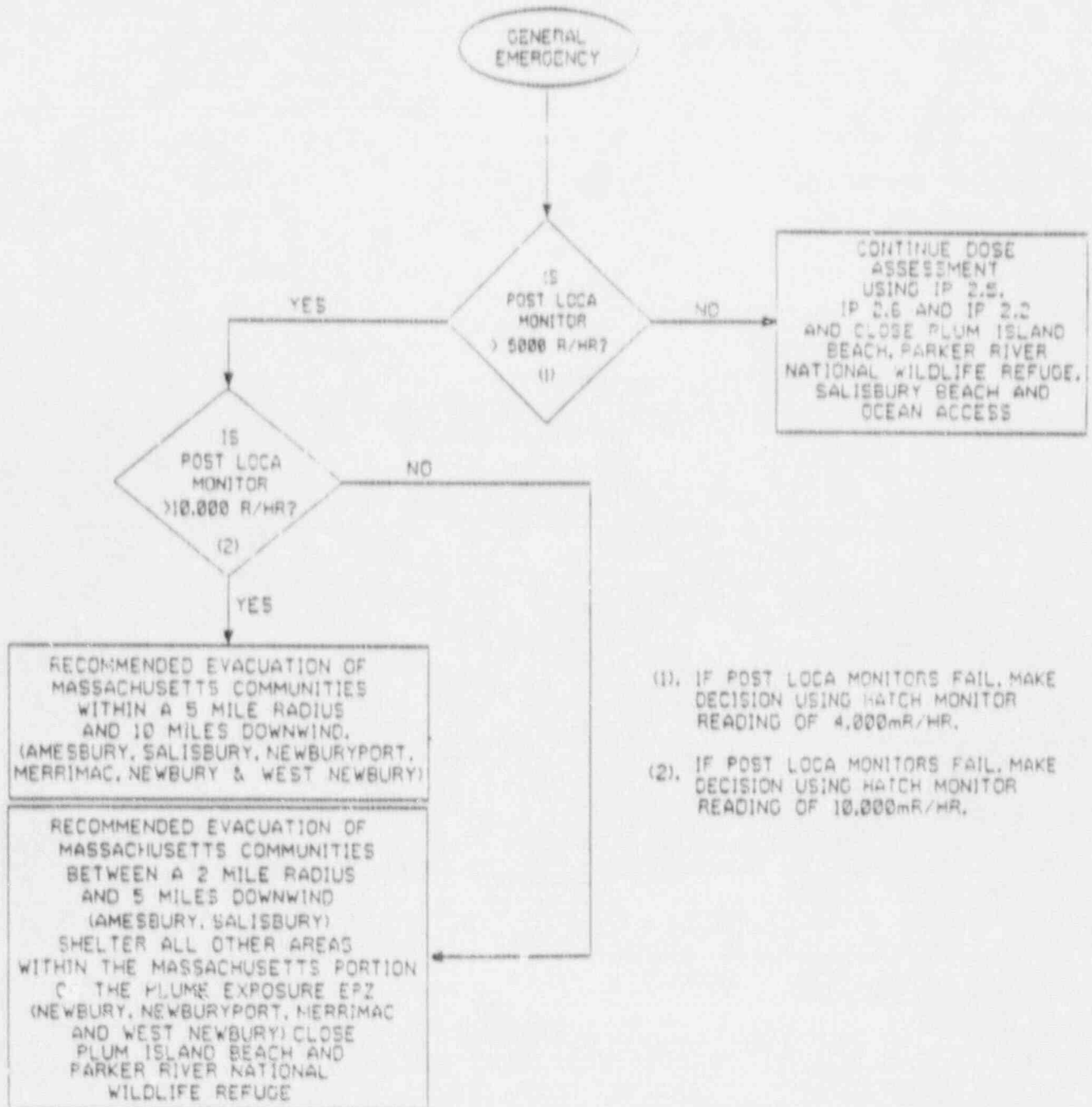
\* wind is considered heading toward Massachusetts if it is from NW, NNW, N,  
 NNE, NE, ENE or E (from 304° to 101°).



ATTACHMENT B

PLUME EXPOSURE PROTECTIVE ACTION FLOWCHART  
 FOR GENERAL EMERGENCY

(Wind direction is toward Massachusetts; i.e. wind from 304° to 101°)\*



- (1). IF POST LOCA MONITORS FAIL, MAKE DECISION USING HATCH MONITOR READING OF 4,000mR/HR.
- (2). IF POST LOCA MONITORS FAIL, MAKE DECISION USING HATCH MONITOR READING OF 10,000mR/HR.

\* IF WIND IS HEADING TOWARD NEW HAMPSHIRE USE ATTACHMENT 2 TO DETERMINE WHICH COMMUNITIES ARE AFFECTED BY THIS PROTECTIVE ACTION FLOWCHART

COMMUNITIES AFFECTED BY PLUME EXPOSURE  
 PROTECTIVE ACTION FLOWCHART FOR GENERAL EMERGENCY

<u>Post LOCA Monitor (R/Hr)</u>	<u>Wind Direction Toward*</u>	<u>Evacuate</u>	<u>Shelter</u>
>5,000 but <10,000	Massachusetts	Amesbury, Salisbury	Newbury, Newburyport, Merrimac, West Newbury Close Plum Island Beach and Parker River National Wildlife Refuge
>5,000 but <10,000	New Hampshire		Amesbury, Newbury, Newburyport, Merrimac, Salisbury, West Newbury, Close Plum Island Beach, Salisbury Beach and Parker River National Wildlife Refuge
>10,000	Massachusetts	Amesbury, Newburyport, Merrimac, Salisbury, West Newbury	
>10,000	New Hampshire	Amesbury, Salisbury	Newbury, Newburyport, Merrimac, West Newbury Close Plum Island Beach and Parker River National Wildlife Refuge

\*Wind is considered heading toward Massachusetts if it is from NW, NNW, N, NNE, NE, ENE or E (from 304° to 101°).

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD

FEB -5 P5:11

Before Administrative Judges:

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

OFFICE OF SECRETARY  
DOCKETING & 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

) February 1, 1991  
)

CERTIFICATE OF SERVICE

I, Leslie Greer, hereby certify that on February 1, 1991, I made service of the enclosed Mass AG's Response to the Appeal Board's Dated January 22, 1991 by Federal Express as indicated by (\*) and by first class mail to:

Ivan W. Smith, Chairman  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Kenneth A. McCollom  
1107 W. Knapp St.  
Stillwater, OK 74075

Dr. Richard F. Cole  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

Robert R. Pierce, Esq.  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

\*Docketing and Service  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

\*Elaine Chan  
Mitzi A. Young, Esq.  
Edwin J. Reis, Esq.  
U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
11555 Rockville Pike, 15th Floor  
Rockville, MD 20852

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

Robert A. Backus, Esq.  
Backus, Meyer & Solomon  
116 Lowell Street  
P.O. Box 516  
Manchester, NH 03106

Jane Doughty  
Seacoast Anti-Pollution League  
Five Market Street  
Portsmouth, NH 03801

Barbara St. Andre, Esq.  
Kopelman & Paige, P.C.  
77 Franklin Street  
Boston, MA 02110

Charles P. Graham, Esq.  
Murphy & Graham  
33 Low Street  
Newburyport, MA 01950

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

Senator Gordon J. Humphrey  
One Eagle Square, Suite 507  
Concord, NH 03301  
(Attn: Herb Boynton)

\*Thomas G. Dignan, Jr.<sup>1/</sup>  
Ropes & Gray  
One International Place  
Boston, MA 02110

Philip Ahrens, Esq.  
Assistant Attorney General  
Department of the Attorney General  
Augusta, ME 04333

\*Atomic Safety & Licensing  
Appeal Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Diane Curran, Esq.  
Harmon, Curran & Towsley  
Suite 430  
2001 S Street, N.W.  
Washington, DC 20008

Judith Mizner, Esq.  
79 State Street  
Second Floor  
Newburyport, MA 01950

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

Senator Gordon J. Humphrey  
U.S. Senate  
Washington, DC 20510  
(Attn: Tom Burack)

John P. Arnold, Attorney General  
Office of the Attorney General  
25 Capitol Street  
Concord, NH 03301

Paul McEachern, Esq.  
Shaines & McEachern  
25 Maplewood Avenue,  
Portsmouth, NH 03801

\*G. Paul Bollwerk, Chairman  
Atomic Safety & Licensing  
Appeal Board, 5th FL.  
U.S. Nuclear Regulatory Commission  
Bethesda, MD 20814

\*Howard A. Wilber  
Atomic Safety & Licensing  
Appeal Board, 5th FL.  
U.S. Nuclear Regulatory Commission  
Bethesda, MD 20814


George Iverson, Director  
N.H. Office of Emergency Management  
State House Office Park South  
107 Pleasant Street  
Concord, NH 03301

\*Alan S. Rosenthal  
Atomic Safety & Licensing  
Appeal Board, 5th FL.  
U.S. Nuclear Regulatory Commission  
Bethesda, MD 20814

Jack Dolan  
Federal Emergency Management Agency  
Region 1  
J.W. McCormack Post Office &  
Courthouse Building, Room 442  
Boston, MA 02109

Respectfully submitted,

SCOTT HARSHBARGER  
ATTORNEY GENERAL



Leslie Greer  
Assistant Attorney General  
Department of the Attorney General  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200

Dated: February 1, 1990