

OCT 17 1984

Docket Nos. 50-443  
50-444  
(10 CFR 2.206)

William S. Jordan, III, Esq.  
Weiss & Jordan  
2001 S Street, N.W.  
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Washington, D.C. 20009

Dear Mr. Jordan:

This letter acknowledges receipt of the "New England Coalition on Nuclear Pollution Petition for Enforcement and Motion for Suspension of Construction at the Seabrook Nuclear Power Plant" dated August 22, 1984 (Petition) filed by you on behalf of the New England Coalition on Nuclear Pollution (Petitioner). The Petition claims that construction activities under way at the Seabrook facility are being conducted in violation of the construction permits issued to a number of electric companies (the licensees), including Public Service Company of New Hampshire (PSNH), to authorize construction of the Seabrook facility. The Petition alleges that a series of organizational changes beginning with the "Fifteenth Amendment of Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units" dated April 30, 1984, have effectively removed PSNH as the sole technically qualified entity responsible for the design and construction of Seabrook allegedly in violation of the terms of the construction permits. The Petition further alleges violations of the Commission's quality assurance requirements, specifically 10 CFR Part 50, Appendix B, Criterion I. The Petition claims that the recent organizational changes make it unclear who has authority over quality assurance and construction matters at the Seabrook facility. To the extent that PSNH does retain any control over the construction program at Seabrook, the Petition claims that PSNH has compromised its authority and organizational freedom to supervise quality assurance by becoming heavily indebted to its contractors and creditors. On the basis of these allegations, the Petition seeks an immediate suspension of construction activities at the Seabrook facility until the Commission determines conformance on the part of the licensees with the terms of the construction permits and the Commission's regulations. To the extent that a license amendment is required with regard to these matters, the Petition requests a hearing with respect to any such license amendment. 1/

1/ Should the current license holders seek amendment with respect to the construction permits, such amendment would be noticed in the Federal Register and an opportunity would be provided to members of the public to request a hearing. A hearing request by the Petitioner would be appropriate at that time.

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The Petition is being treated under 10 CFR 2.206 of the Commission's regulations and appropriate action will be taken on the Petition within a reasonable time. While the Petition does seek immediate action, including suspension of construction activities at the Seabrook facility, I decline to take such action based upon the preliminary evaluation by the NRC staff of the Petition and other information. The NRC staff has kept abreast of the organizational changes which have occurred at the Seabrook facility and which were discussed in the Petition. As recently as August 9, 1984, the staff met with the licensees' representatives to discuss and understand the changes which have been made and to understand their significance within the NRC's regulatory requirements. The staff requested, and on August 31, 1984, received from the licensees, detailed information on the organizational changes. Based on a review of this information, our preliminary conclusion is that PSNH continues to have the necessary authority over the Seabrook project to assure continued implementation of the Quality Assurance (QA) Program. The delegation of responsibility for development and implementation of the QA Program remains with the Yankee Atomic Electric Company as before. Consequently, the QA Program is in essence the program previously approved by the staff and found to be in compliance with 10 CFR Part 50, Appendix B.

Furthermore, NRC inspectors at the Seabrook facility are providing construction oversight to assure proper implementation of the QA Program. While there may be instances of isolated noncompliance in the QA Program implementation, no pervasive breakdown in quality assurance has been identified. Even if there were isolated deficiencies in the licensees' program, this would not necessarily undermine the program to such an extent as to give rise to a significant safety concern. As has been recently recognized by the Atomic Safety and Licensing Appeal Board, 2/ it would be unreasonable to expect error-free construction. Therefore, what is required is a careful consideration of whether all ascertained construction errors have been rectified and whether the errors indicate a breakdown in quality assurance procedures of sufficient dimension to raise legitimate doubt as to the overall integrity of the facility and its safety-related structures and components. 3/ No such breakdown has occurred at the Seabrook facility and, consequently, I decline to take any immediate actions with respect to the construction of the Seabrook facility based on the Petition's alleged concerns regarding quality assurance.

2/ Union Electric Company (Callaway Plant, Unit 1), ALAB-740, 18 NRC 343, 346 (1983).

3/ Id.

The Petitioner also alleges that construction activities at the Seabrook facility are being conducted in violation of the terms of the construction permit, the Atomic Energy Act of 1954, as amended, and the Commission's regulations in that PSNH is no longer the sole technically qualified entity responsible for design and construction of the Seabrook facility. My final decision in this matter will address this issue. However, the issue warrants no immediate action. Even were the allegations in the Petition true, the Petition identifies no imminent hazard to the public associated with the alleged violations. Not every violation of the Commission's regulations warrants suspension of the authorized activities. 4/ In this instance, we are dealing with construction of a facility which will not operate for some time. Also, on-site NRC oversight has found construction activities to be generally acceptable and in accordance with the approved QA Program. For these reasons, I decline to take any immediate action.

The NRC staff will continue to review the Petition and I will issue a formal decision with regard to it in the reasonably near future. A copy of the notice that is being filed for publication with the Office of the Federal Register is enclosed here for your information.

Sincerely,

~~Harold R. Denton~~ Signed by  
H. R. Denton

Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

Enclosure:  
As stated

cc: See next page

4/ Petition for Emergency and Remedial Action, CLI-78-6, 7 NRC 400, 405 (1978). \*See previous concurrence.

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DL:DIR *	NRR *	NRR	HRDenton			
DGEisenhut	ECase					
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