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May 6, 1988

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UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'88 MAY 12 P5:36

In the Matter of)
)
Public Service Company of)
New Hampshire, et al.)
)
(Seabrook Station, Units 1 & 2))
)
_____)

OFFICE OF SECRETARY
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BRANCH

Docket No. 50-443 OL-1/444-d-1
ON-SITE EMERGENCY
PLANNING & TECHNICAL
ISSUES

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S
RESPONSE TO APPLICANTS' MOTION FOR SUMMARY
DISPOSITION ON NECNP CONTENTION IV.

By letter dated April 22, 1988, the New England Coalition on Nuclear Pollution (NECNP) notified the Licensing Board and the parties to this proceeding that NECNP did not intend to oppose any summary disposition motions filed by Applicants or the Staff on NECNP Contention IV, to the extent they pertained to "the adequacy of Applicants' program for monitoring to detect blockage of coolant flow resulting from the build-up of macro-biological organisms."¹ NECNP chose this course of action as a result of the Board's March 18, 1988 ruling, preventing NECNP from litigating within the scope of NECNP Contention IV the adequacy of Applicants' program for monitoring to detect corrosion and other detrimental effects resulting from the build-up of micro-biological organisms, including microbiologically induced corro-

1. Letter to Sheldon J. Wolfe, et al, from Andrea Ferster, Counsel to NECNP, dated April 22, 1988, at 1 (emphasis added).

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sion.²

On April 29, 1988, Applicants filed a Motion for Summary Disposition on NECNP Contention IV, accompanied by a Statement of Material Facts Not in Dispute and supporting affidavits.

Applicants' Statement of Material Facts Not in Dispute (hereinafter referred to as "SMF") contains a number of representations as to the adequacy of Applicants' program to control "fouling" by "marine" or "aquatic" organisms,³ and "biofouling,"⁴ and even makes specific representations that "microfouling" is adequately controlled.⁵

As a result of Applicants' use of these terms, Applicants motion appears to encompass the issue of microbiologically induced corrosion to some degree. As is indicated in the previously filed affidavit of Dr. James D. Bryers,⁶ the term "aquatic organisms," used by Applicants' in their motion, refers in the bio-chemistry field to both microbiological and macrobiological organisms.⁷ Moreover, microbiologically induced cor-

2 Memorandum and Order (March 18, 1988).

3 See SMF, at ¶4, 5, 18.

4 SMF, at ¶11, 14, 17.

5 SMF, at ¶6, 14.

6 Attached as Exhibit A to "NECNP's Motion for Reconsideration of the Board's Denial of NECNP's Motion to Compel, dated February 17, 1988," dated March 1, 1988 (hereinafter referred to as "Bryers Affidavit").

7 See Bryers Affidavit, at ¶8.

rosion is one of the detrimental effects of "fouling," another term used by Applicants.⁸ Finally, "biofouling" includes both microbial fouling, which can cause microbiologically induced corrosion, as well as macro-fouling, which can cause blockage.⁹ Accordingly, to the extent that Applicants' Motion for Summary Disposition on NECNP Contention IV and accompanying Statement of Material Facts defend the adequacy of Applicants' program for monitoring and controlling microbial fouling and microbiologically induced corrosion, NECNP disputes these statements.

Despite the Licensing Board's preclusive March 18, 1988 ruling on the scope of NECNP Contention IV, NECNP continues to believe that Applicants program for detecting and controlling microbiologically induced corrosion is not adequate. Accordingly, NECNP announced that it would not oppose any summary disposition motions filed by Applicants to the extent that such a motion addressed the more limited issue of blockage by macro-organisms.¹⁰ NECNP, at the same time, announced its intention to appeal at the appropriate time the Board's March 18, 1988 ruling that microbiologically induced corrosion is not within the scope of NECNP Contention IV in order to litigate this important

8 See Bryers Affidavit, at '4.

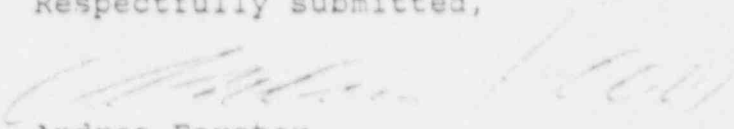
9 See Bryers Affidavit, at '6.

10 Letter to Sheldon J. Wolfe, et al, from Andrea Ferster, Counsel to NECNP, dated April 22, 1988, at 1 (emphasis added).

safety issue.

Given the plain implications of this Board's rulings regarding the scope of NECNP Contention IV, it would be manifestly unfair if NECNP's failure to oppose the instant motion for summary disposition were construed as barring or estopping NECNP from subsequently litigating the adequacy of Applicants' program for monitoring and controlling fouling by micro-organisms, or microbiologically induced corrosion, should it be determined on appeal that microbiologically induced corrosion is within the scope of NECNP Contention IV. Accordingly, Applicants' summary disposition motion must be read as limited to only one of the detrimental effects of biofouling, the effects of blockage of cooling systems by macro-organisms. NECNP further requests that any subsequent Licensing Board decision granting this motion should make clear that summary disposition is limited to the issue of blockage of cooling systems by macro-organisms.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I certify that on May 6, 1988, copies of the foregoing pleading were served by first-class mail on all parties listed on the attached service list.



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