

June 2, 1988

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

_____ )	
In the Matter of )	
Public Service Company of )	
New Hampshire, et al. )	Docket Nos. 50-443 OL
(Seabrook Station, Units 1 & 2) )	50-444 OL
_____ )	OFFSITE EMERGENCY
	PLANNING

INTERVENORS' JOINT MOTION FOR DISCOVERY  
AND TO PERMIT ENTRY UPON LAND IN CONTROL  
OF APPLICANTS AND INTERESTED GOVERNMENTS

Intervenors New England Coalition on Nuclear Pollution, Seacoast Anti-Pollution League, Town of Hampton, Town of Amesbury, and Commonwealth of Massachusetts (hereafter "Intervenors") jointly request the Licensing Board to issue an order requiring Applicants and the State of New Hampshire to permit Intervenors' representatives to observe the emergency planning exercise, which is now scheduled for the Seabrook reactor during the week of June 26, 1988.<sup>1</sup> This motion is made pursuant to 10 CFR § 2.740(b)(1), which governs discovery through entry upon land.<sup>2</sup>

An exercise observation is necessary for several reasons. First, the outcome of the exercise is material to the issuance of

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1 The exercise was previously scheduled for the last week in May, but Applicants requested a month's extension. Counsel for FEMA has informed counsel for NECNP that the exercise is now planned to take place during the last week of June.

2 This type of request is not unprecedented. Observation of practice exercises as part of discovery has been allowed at least three times in the past, in proceedings concerning the Indian Point, Three Mile Island, and Big Rock Point reactors.

an operating license for Seabrook, and is thus subject to the hearing requirements of the Atomic Energy Act. Union of Concerned Scientists v. NRC, 735 F.2d 1437 (D.C. Cir. 1984). Observation of the exercise will allow Intervenors to perform their own evaluation of the conduct of the participants and thereby gather necessary information for the preparation of contentions concerning the exercise.

Second, the exercise will have a significant bearing on the resolution of Intervenors' pending contentions regarding the adequacy of the New Hampshire RERP's provision for emergency response personnel and transportation resources for the special needs population. FEMA has testified that it is unable to reach a positive finding regarding those issues unless and until it observes and evaluates another exercise. Hearings on New Hampshire RERP, Emergency Response Personnel and Transportation Adequacy issues, Tr. at 4056, 4073, 4610.

Moreover, the exercise is a critical tool for testing the adequacy of the entire RERP, especially the preparedness of state and local governments to respond. The 1986 exercise resulted in 55 deficiencies, which precluded a FEMA finding that the New Hampshire RERP was adequate to protect the public health and safety. The question of whether the exercise shows that these defects have been cured and supports a reasonable assurance finding is central to this case.

Finally, the exercise will test for the first time Applicants' ability to respond to a radiological emergency under

the Seabrook Plan for the Massachusetts Communities ("SPMC"). The SPMC is only the second utility-sponsored offsite emergency plan that has undergone FEMA review and an exercise. The exercise of the SPMC will involve complex and problematic issues such as the ability of the utility to carry out roles otherwise held by state and local individuals; and to show that coordination with the state and local governments on an ad hoc basis provides some degree of protection to the public. Needless to say, Intervenor's are vitally interested in observing the manner in which the exercise of the SPMC is carried out.

It should be noted that FEMA is the principal observer and evaluator of the exercise, and that FEMA's testimony on the outcome of the exercise carries a rebuttable presumption in NRC proceedings. In order to either rebut or support FEMA's testimony in any meaningful way, Intervenor's should be able to observe the actions that are the subject of FEMA's evaluation.

The Intervenor's appreciate the need for the drill to be conducted without hindrance and obstruction, and intend by this request only to gain relevant information in the most efficient and least burdensome manner to all parties. NRC rules of discovery specifically provide for entry upon land as a discovery method, and it is submitted that this method is the most appropriate in the circumstances of the drill. Intervenor's will comply with any safeguards necessary to the effective implementation of the exercise, which are consistent with the discovery purposes of observers.

WHEREFORE, Intervenors request the Board to issue an order permitting two Intervenor representatives to:

- 1) observe the exercise from the following locations listed in the New Hampshire RERP at Section 2.4:
  - a. State Emergency Operations Center
  - b. Incident Field Office and Emergency Operations Center in Newington, New Hampshire
  - c. State Police Communications Center
  - d. Rockingham County Dispatch Center
  - e. Reception Center(s) selected for the exercise
  - f. Decontamination Center(s) selected for the exercise
  - g. Transportation Staging Areas
  - h. Media Centers
  - i. Local EOCs for towns participating in the Seabrook emergency plans
  - j. each school, hospital, or other institution selected for the exercise
- 2) observe the exercise from the following locations listed in the SPMC at Section 5.2:
  - a. New Hampshire Yankee ("NHY") Offsite Response Emergency Operations Center
  - b. NHY Offsite Response Staging Area
  - c. Emergency Worker Facility
  - d. Monitoring Trailers
  - e. VANS Staging Area

- f. Helicopter Facility
- g. Reception Center(s) selected for the exercise
- h. Congregate Care Center(s) selected for the exercise
- i. each school, hospital, or other institution selected for the exercise
- j. Media Center

3) be informed of the time and locations of the exercise concurrently with the participants;

4) be provided with reasonable access to a telephone at or near the observation locations;

5) be present at any pre-exercise meetings at which state, local, or other emergency response personnel will be briefed regarding their assignments;

6) be present at any post-exercise meetings between government observers and state, local, or utility officials.

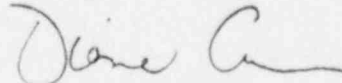
7) be provided with all documents used during the exercise, including scripts, schedules, news releases, and announcements. Intervenors ask that they be provided with these materials at the time they are distributed or used during the exercise.

Intervenors also ask the Board to require that NRC and FEMA officials preserve, for further examination and discovery by Intervenors, all charts, notes, drafts of reports and comments prepared in connection with the exercise.

Finally, Intervenors request that the Board give expedited treatment to this motion, in order to allow sufficient time for

the parties to reach agreement regarding procedures for the conduct of Intervenor's observers during the exercise. In order to assist in the efficient disposition of this request, undersigned counsel sent copies to counsel for the Applicants, NRC Staff, the State of New Hampshire, and FEMA by overnight mail on June 2, 1988. Mr. Flynn, counsel for FEMA, has verbally stated that that FEMA would agree in principle to an observation by Intervenor's of the exercise, assuming that the parties could agree on procedures for the conduct of the observation.

Respectfully submitted,



Diane Curran  
HARMON & WEISS  
2001 "S" Street N.W. Suite 430  
Washington, D.C. 20009  
(202) 328-3500

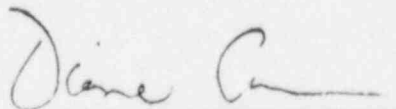
Counsel for NECNP

On behalf of NECNP, SAPL, Town  
of Hampton, Town of Amesbury,  
and Commonwealth of Massachus-  
setts

June 2, 1988

#### CERTIFICATE OF SERVICE

I certify that on or before June 3, 1988, copies of the foregoing pleading were served by hand, overnight mail, or first-class mail on all parties to this proceeding, as designated on the attached service list.



Diane Curran  
Diane Curran

SEABROOK SERVICE LIST -- OFFSITE LICENSING BOARD

Ivan W. Smith, Chairman  
U.S. NRC  
Washington, D.C. 20555

Dr. Jerry Harbour  
U.S. NRC  
Washington, D.C. 20555

Gustave Linenberger  
U.S. NRC  
Washington, D.C. 20555

Atomic Safety and Licensing  
Board Panel  
U.S. NRC  
Washington, D.C. 20555

Atomic Safety and Licensing  
Appeal Board Panel  
U.S. NRC  
Washington, D.C. 20555

Docketing and Service  
U.S. NRC  
Washington, D.C. 20555

Mrs. Anne E. Goodman  
Board of Selectmen  
13-15 New Market Road  
Durham, NH 03842

William S. Lord, Selectman  
Town Hall -- Friend Street  
Amesbury, MA 01913

Jane Doughty  
SAPL  
5 Market Street  
Portsmouth, NH 03801

Carol S. Sneider, Esquire  
Assistant Attorney General  
1 Ashburton Place, 19th Floor  
Boston, MA 02108

Stanley W. Knowles  
Board of Selectmen  
P.O. Box 710  
North Hampton, NH 03826

J.P. Nadeau  
Town of Rye  
155 Washington Road

Rye, New Hampshire 03870

Richard E. Sullivan, Mayor  
City Hall  
Newburyport, MA 01950

Alfred V. Sargent, Chairman  
Board of Selectmen  
Town of Salisbury, MA 01950

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

Selectmen of Northampton  
Northampton, New Hampshire 03826

Senator Gordon J. Humphrey  
1 Eagle Square, Ste 507  
Concord, NH 03301

Michael Santosuosso,  
Chairman  
Board of Selectmen  
Jewell Street, RFD # 2  
South Hampton, NH 03842

Judith H. Mizner, Esq.  
Silvergate, Gertner, et al.  
88 Broad Street  
Boston, MA 02110

Rep. Roberta C. Pevear  
Drinkwater Road  
Hampton Falls, NH 03844

Phillip Ahrens, Esq.  
Assistant Attorney General  
State House, Station # 6  
Augusta, ME 04333

Thomas G. Dignan, Esq.  
R.K. Gad II, Esq.  
Ropes & Gray  
225 Franklin Street  
Boston, MA 02110

Robert A. Backus, Esq.  
Backus, Meyer & Solomon  
111 Lowell Street  
Manchester, NH 03105

Sherwin E. Turk, Esq.  
Office of General Counsel

U.S. NRC  
Washington, D.C. 20555

Mr. Angie Machiros,  
Chairman  
Town of Newbury  
Town Hall, 25 High Road  
Newbury, MA 01951

H. Joseph Flynn, Esq.  
Office of General Counsel  
FEMA  
500 C Street S.W.  
Washington, D.C. 20472

George Dana Bisbee, Esq.  
Geoffrey M. Huntington, Esq.  
Office of the Attorney General  
State House Annex  
Concord, NH 03301

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

Richard A. Hampe, Esq.  
Hampe and McNicholas  
35 Pleasant Street  
Concord, NH 03301

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

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

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

Matthew T. Brock, Esq.  
Shaines & McEachern  
P.O. Box 360  
Maplewood Ave.  
Portsmouth, NH 03801

Edward A. Thomas  
FEMA  
442 J.W. McCormack

(POCH)  
Boston, MA 02109

Sandra Gavutis  
RFD 1 Box 1154  
East Kensington, NH 03827

Charles P. Graham, Esq.  
McKay, Murphy and Graham  
100 Main Street  
Amesbury, MA 01913