

In his "Definitions and Instructions, Mass AG, in paragraph "A", defined "NHY" to include the Public Service Company of New Hampshire's New Hampshire Yankee Division and "any of its representatives, officers, employees, agents, servants, affiliates or subsidiaries." Mass AG's Interrogatories at 1. Applicants objected to the definition of "NHY" insofar as it goes to all of NHY's "agents" because that broad term would require an unduly burdensome search. Applicants have made inquiry of those persons likely to have information relevant to the interrogatories. Mass AG's definition would require Applicants to initiate the time-consuming and laborious process of interviewing everyone who, in any way, acted on behalf of NHY for any purpose. Applicants do not attempt to insulate themselves. Rather, Applicants objected, and continue to object, to Mass AG's use of overly broad terms.

The second definition on which Mass AG has moved to compel is contained in paragraph "F." It states,

F. For any document or part of a document that was at any time, but is no longer, in Applicants' possession, custody or control, or which is no longer in existence, or which cannot be located, identify the document, state where and how it passed out of existence or why it can no longer be located and reasons therefor, and identify each person having knowledge concerning such disposition or loss and the contents of the document, and identify each document evidencing its

prior existence and/or any fact
concerning its nonexistence or loss.

Mass AG's Interrogatories at 3.

Mass AG asserts that Applicants ought to accept his definition since it is "very similar to one of Applicants' own interrogatory instructions." Massachusetts Attorney General's Motion to Compel Answers by Applicants to Mass AG's Second Set of Interrogatories [hereinafter, Mass AG's Motion to Compel] at 3. Applicants objected to this instruction because, unlike their own definition, which was narrowly focused and limited, Mass AG's instruction is completely without bounds.

Mass AG's instruction covers "any document or part of a document that was at one time, but is no longer, in Applicants' possession, custody or control, or which is no longer in existence, or which cannot be located," Mass AG's Interrogatories at 3, whether or not relevant to the contentions. Applicants' definition, on the other hand, only sought information on destroyed documents "required to be identified or produced in these answers," Applicants Interrogatories and Request for Production of Documents to All Intervenors and Participating Local Governments Concerning Joint Intervenors Contentions 1-26 [hereinafter Applicants' Interrogatories] at 4. For this reason,

Applicants maintain their objection and request the Board to enter a protective order denying discovery.

Interrogatory 9 asks:

For schools in the Massachusetts EPZ which have engaged in no prior planning for a radiological emergency, does the SPMC depend or rely upon the administrators and teachers at these schools to behave and respond in certain ways to implement the SPMC for the children in their schools in the event of a radiological emergency at Seabrook Station? If so, describe specifically the administrator and teacher behavior(s) and/or response(s) the SPMC depends or relies upon for each of the precautionary and protective actions which may be recommended for schools under the SPMC.

Mass AG's Interrogatories at 6. Applicants objected to this interrogatory to the extent it seeks information regarding human behavior issues, a subject previously litigated and not admitted by the Board in this proceeding. See Memorandum and Order of the Board, July 22, 1988 at 72, 73 (rejecting Bases N, Q, R, and S.1 to MAG Contention No. 47). The Board noted that Bases N, Q, R, and S.1 to MAG Contention 47 were "human-behavior considerations, alleging, for example, role-conflict and abandonment by school-bus drivers and teachers." Id. at 71. In evaluating these arguments, the Board first observed, "[t]he human behavior issues were in fact litigated under other broad issues The Attorney General participated in the litigation of those issues." Id. at 72. The Board concluded that "[e]xcept for the baseless assumption that

actors in school-oriented emergency activities will not trust the Applicants' Offsite Response Organization, there is nothing fundamentally new about Bases N, Q, R and S.1. They are not accepted." Id. at 73.

Moreover, without waiving their objection, Applicants fully answered the interrogatory by responding in the negative. Applicants maintain their objection and further state that, to the extent Mass AG is seeking more information than his interrogatory sought, he is out of time.¹ Applicants object and move for a protective order denying discovery.

Interrogatory 10 states:

For schools in the Massachusetts EPZ which have engaged in no prior planning for a radiological emergency, does the SPMC depend or rely upon the regular school bus drivers for these schools to behave and respond in certain ways to implement the SPMC in the event of a radiological emergency? If so, describe specifically the bus driver behavior and/or response the SPMC depends or relies upon for each of the precautionary and protective actions which may be recommended for schools under the SPMC.

Mass AG's Interrogatories at 6-7. Applicants objected to this interrogatory insofar as it seeks information regarding

¹ Mass AG in effect poses a new interrogatory, too late and contrary to this Board's ruling. See Memorandum of November 9, 1988 at 1 ("The Board has ruled that as of November 3, 1988, all new discovery against the Applicants . . . has ended.")

human behavior issues for the reasons set forth in Applicants' response to Interrogatory 9. "Role conflict and abandonment by school bus drivers" has already been litigated and the Board has decided not to admit such issues for further litigation. Memorandum and Order of the Board, July 22, 1988 at 72, 73 (rejecting Bases N, Q, R and S.1 to MAG Contention No. 47).

Furthermore, without waiving their objection, Applicants emphasize that they have fully answered the interrogatory by responding in the negative. Applicants object to what is in effect a new interrogatory, out of time and contrary to the Board's ruling, as noted above in n.1.

Interrogatory 14 asks Applicants, inter alia, to "list the names, addresses, and phone numbers of each [bus or van company] driver who has agreed to drive a bus or van into the EPZ in the event of a radiological emergency at Seabrook." Mass AG's Interrogatories at 8. Applicants have provided a computerized list of the names of all bus and van drivers. Applicants objected to this interrogatory to the extent that it seeks home addresses and home phone numbers.

Massachusetts and New Hampshire courts recognize an employee's right to keep confidential "facts that are of a highly personal or intimate nature," see Bratt v. International Business Machines Corp., 392 Mass. 508 (1984); M.G.L. c. 214, § 1B, and "information necessary to an

individual's privacy," see Mans v. Lebanon School Board, 112 N.H. 160, 290 A.2d 866, 867 (1972). Home addresses and phone numbers constitute information that an individual must control to protect his privacy. Mass AG concedes that the drivers have "privacy interests" in this information and no longer seeks the drivers' phone numbers. Mass AG, however, moves to compel Applicants to disclose the city or town and state where each driver lives. Without waiving their objection, Applicants agree to produce under an appropriate protective agreement or order the names of the city or town and the state where each driver lives.

Applicants also objected to Interrogatory 14 insofar as it seeks information solely about issues of human behavior excluded by the Board and thus not relevant to the admitted contentions. Questions of role conflict and abandonment have already been litigated and were not admitted by the Board in this proceeding. See Memorandum and Order of the Board, July 22, 1988 at 71-73 (rejecting Bases N, Q, R, and 5.1 to MAG Contention No. 47). To the extent that Interrogatory 14 seeks information about previously litigated human behavior issues, Applicants request that the Board enter a protective order denying discovery.

Interrogatory 35 states:

List the names and addresses of the current companies relied upon by the SPMC to provide ambulances or other vehicles

for medical transport during a radiological emergency. For each company also provide the total number of drivers and the total number of other ambulance personnel who have agreed to travel into the Seabrook EPZ during an emergency response. Indicate for each company whether the drivers and accompanying personnel have signed letters of agreement indicating a willingness to provide such services. If no such agreements exist, what assurances do you have that the driver and other personnel will respond in a radiological emergency.

Mass AG's Interrogatories at 12. Applicants provided the names and addresses of each ambulance company. Applicants, however, objected to this interrogatory insofar as it seeks information solely about issues of human behavior excluded by the Board and thus not relevant to the admitted contentions. Again, Applicants note that such issues have been previously litigated and that the Board has refused to permit further litigation of questions concerning human behavior. See Memorandum and Order of the Board, July 22, 1988 at 38 (rejecting Basis E to MAG Contention No. 18), and at 71-73 (rejecting Bases N, Q, R, and S.1 to MAG Contention No. 47). Thus, Applicants maintain their objection and, to the extent that Interrogatory 35 seeks information about human behavior issues, request that the Board enter a protective order denying discovery.

Interrogatory 98 asks Applicants, inter alia, to "identify the locations of work and residence for those ORO

personnel identified as field monitoring teams." Applicants' answer included all the work locations of ORO field teams personnel. Applicants objected to providing home addresses.

Massachusetts and New Hampshire courts recognize an employee's right to keep confidential "facts that are of a highly personal or intimate nature," see Bratt v. International Business Machines Corp., 392 Mass. 508 (1984); M.G.L. c. 214, § 1B, and "information necessary to an individual's privacy," see Mans v. Lebanon School Board, 112 N.W. 160, 290 A. 2d 866, 867 (1972). Home addresses constitute information that an individual must control to protect his privacy. Mass AG now states that the interrogatory "does not ask for home addresses, but merely the 'locations of residences.'" Mass AG's Motion at 9. Mass AG thus moves to compel Applicants to disclose the city or town and state in which each of the ORO field monitoring team personnel resides. Without waiving their objection, Applicants agree to produce under an appropriate protective order or agreement the names of the city or town and the state where each of the ORO field monitoring personnel resides.

Interrogatory 105 asks Applicants to "identify and describe all studies or analyses the purpose of which was to compare the projected dose to the population in the event of an accident at Seabrook Station assuming different protective

action recommendations were made and followed." Mass AG's Interrogatories, at 27. Applicants objected to this interrogatory on the ground that it seeks information not relevant to the admitted contentions on the SPMC. The Board has excluded litigation of comparisons of projected dose savings. N.H. Hearings 11/16/87 Tr. 5608-09, 11/18/87, Tr. 5961. "The [NRC's Emergency Planning]... rule makes clear that every emergency plan has to be evaluated for adequacy on its own merits, without reference to the specific dose reductions which might be accomplished under the plan, or to the capabilities of any other plan." Tr. 5608. By not allowing litigation of dose reductions that "might" be accomplished, the Board rejected debate about comparisons of projected doses of radiation. Therefore, Applicants maintain their objection and request that the Board enter a protective order denying discovery.

Interrogatory 111 asks Applicants to "identify and describe any studies or analyses concerning Seabrook site meteorology." Applicants objected to this question on the ground that the information it seeks goes to matters properly before the Onsite Board. Without waiving their objection, Applicants agree to produce the requested information.

Conclusion

Wherefore, Applicants say Mass AG's Motion to Compel Answers to Mass AG's Second Set of Interrogatories should be denied with the exceptions noted.

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CERTIFICATE OF SERVICE

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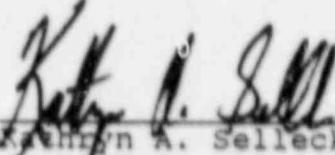
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