

Filed: August 20, 1986

DOCKETED  
USNRC

'86 AUG 22 11:40

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

before the

ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

PUBLIC SERVICE COMPANY OF  
NEW HAMPSHIRE, ET AL

Docket Nos. 50-443-OL  
50-444-OL

(Seabrook Station, Units 1 and 2)

SAPL RESPONSE TO MEMORANDUM AND ORDER OF THE APPEAL BOARD  
DATED AUGUST 11, 1986

In its Memorandum and Order of August 11, 1986, the Appeal Board sought the views of the parties as to whether challenges to the Licensing Board's rulings on admissibility of contentions in the off-site phase of litigation should be carried forward at this time. In SAPL's view, the Appeal Board has correctly assumed that parties have an interest in appealing many of the Licensing Board's rulings with respect to the off-site contentions.

SAPL is generally in favor of the certification of the Licensing Board's rulings on off-site issues for appellate review prior to the conclusion of the Licensing Board conducted proceedings. SAPL holds that the Licensing Board has erred in excluding issues and that, should these defects in the record remain uncured, it would have the result of irreparable impact and would pervasively and adversely affect the integrity of the proceeding.

That said SAPL would hold that certain conditions ought prevail with respect to the timing and conduct of the appellate review in order that it not harm intervening parties' rights by infringing upon the time needed to prepare for hearings before the Licensing Boards dealing with on-site (hereinafter "Wolfe Board") and off-site (hereinafter "Hoyt Board") issues. The conditions that SAPL would hold ought prevail are as follows:


- 1) That the process not begin until after parties have completed requests for findings and rulings on the Wolfe Board hearings.<sup>1</sup> The parties would then be allowed two weeks to identify issues they would want to have reviewed by the Appeal Board. Following that, the Appeal Board would notify the parties as to which of the issues should be briefed. A 30 day period would then ensue in which the parties would prepare briefs dealing with claimed errors of law and the exclusion or admission of contentions.
- 2) That the Hoyt Board proceeding be stayed pending the Appeal Board's issuance of definitive rulings on the issues brought before it.
- 3) That the contentions previously tendered to and admitted by the Hoyt Board still be held viable notwithstanding the commitment by the New Hampshire Civil Defense Agency to file new plans by August 25, 1986, and/or in the event that new contentions must be filed, that rulings on those

---

1. SAPL does not see a "hiatus" appropriate for preparation of briefs at this time since parties are now involved in preparing for the hearings to be conducted on on-site issues to begin September 29, 1986.

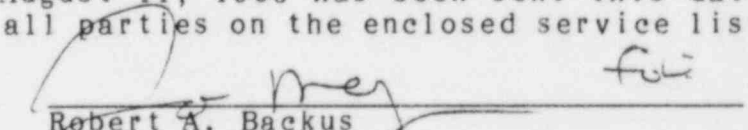
contentions be made on an expedited basis by the Hoyt Board and then be immediately transferred to the Appeal Board for review.

Respectfully submitted,  
SEACOAST ANTI-POLLUTION LEAGUE  
By its attorney,  
BACKUS, MEYER & SOLOMON

  
Robert A. Backus  
P. O. Box 516  
116 Lowell Street  
Manchester, N.H. 03105  
Tel: (603) 668-7272

DATE: August 20, 1986

I hereby certify that a copy of the within SAPL Response to Memorandum and Order of the Appeal Board Dated August 11, 1986 has been sent this date, first class, postage prepaid, to all parties on the enclosed service list.

  
Robert A. Backus

CERTIFICATE OF SERVICE AND SERVICE LIST

Joseph Flynn, Asst.Gn.Cnsl.  
Fed. Emerg. Mgmt. Agcy.  
500 C.St. So. West  
Washington, DC 20472

Helen Hoyt. Chm. \*  
Admn. Judge  
Atomic Safety & Lic Brd.  
USNRC  
Washington, DC 20555

Thomas Dignan, Esq. \*  
Ropes & Gray  
225 Franklin St.  
Boston, MA 02110

Office of Selectmen  
Town of Hampton Falls  
Hampton Falls, NH 03844

Dr. Jerry Harbour \*  
Admin. Judge  
Atomic Safety & Lic Brd.  
USNRC  
Washington, DC 20555

Docketing & Serv. Sec. \*  
Office of the Secretary  
USNRC  
Washington, DC 20555

Sherwin E. Turk, Esq.  
Office of Exec. Legl. Dr.  
USNRC  
Washington, DC 20555

Dr. Emmeth A. Luebke \*  
Admin Judge  
Atomic Safety & Lic. Brd.  
USNRC  
Washington, DC 20555

Jane Doughty  
SAPL  
5 Market Street  
Portsmouth, NH 03801

Phillip Ahrens, Esq.  
Asst. Atty. General  
State House, Sta. #6  
Augusta, ME 04333

Paul McEachern, Esq.  
Matthew Brock, Esq.  
25 Maplewood Ave.  
P.O. Box 360  
Portsmouth, NH 03801

George Dana Bisbee, Esq.  
Attorney General's OFF.  
State of New Hampshire  
Concord, NH 03301

Carol Snider, Esq., Asst. AG  
One Ashburton Place,  
19th Floor  
Boston, MA 02108

Diane Curran, Esq.  
Harmon, Weiss  
20001 S Street NW Suite 430  
Washington, DC 20009

William S. Lord  
Board of Selectmen  
Town Hall-Friend St.  
Amesbury, MA 01913

Richard A. Hampe, Esq.  
New Hampshire Civil Defense  
Agency  
Hampe & McNicholas  
35 Pleasant St.  
Concord, NH 03301

Maynard Young, Chairman  
Board of Selectmen  
10 Central Road  
Rye, NH 03870

Sandra Gauvutis  
Town of Kingston  
Box 1154  
East Kensington, NH 03827

AJan Rosenthal, Chairman  
Atomic Safety & Lic. Appeal  
Board  
US. NRC  
Washington, DC 20555

Edward Thomas  
FEMA  
442 J.W. McCormack (POCH)  
Boston, MA 02109

Mr. Robert Harrison  
Pres. & Chief Exec. Officer  
PSCO  
P.O. Box 330  
Manchester, NH 03105

Gary Edles  
Atomic Safety & Licensing  
Appeal Board  
U.S.NRC  
Washington, DC 20555

Roberta Pevear  
State Rep.-Town of Hampt Falls  
Drinkwater Road  
Hampton Falls, NH 03844

Howard A. Wilber  
Atomic Safety & Licensing  
Appeal Board  
U.S. NRC  
Washington, DC 20555