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September 18, 1978

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Michael C. Farrar
ATOMIC SAFETY AND LICENSING APPEAL BOARD
U. S. Nuclear Regulatory Commission
Washington, DC 20555



RE: In the Matter of Public Service Company of NH, et al
(Seabrook Station, Units 1 and 2) Docket Nos. 50-443
50-444

Gentlemen:

In response to ALAB-495, I simply want to note for the record that SAPL and Audubon except to the rulings of the Board as follows:

1. The ruling that "All of the Parties" have proceeded on the basis that there was no need to examine alternate sites in northern New England beyond the 19. SAPL and Audubon believe that it has been a clear issue from the very beginning of this proceeding that the alternate site inquiry conducted by the Commission's Staff, and approved by the Licensing Board, was insufficient to comply with NEPA. SAPL and Audubon do not believe they ever approved the selection of the 19 as being in compliance with either the spirit or the letter of NEPA. It may be true that, due to the glaring failure to examine any sites whatsoever south of the New Hampshire border, that this has become the major focus for the issue. However, the fact that that major deficiency exists cannot be used as a shield to protect the Staff from other deficiencies in its alternate site analysis.

2. The ruling that SAPL and Audubon now have a "heavy burden" of suggesting to the Staff that they have a further duty to perform. SAPL/Audubon respectfully suggest that the weaknesses in the Staff's analysis have been pointed out by one or more of the parties throughout this proceeding and that there is no logic in requiring a "heavy burden" when this Commission has undertaken an evidentiary inquiry into alternate sites.

We can well understand, indeed we share, this Appeal Board's frustration at being asked to perform this absurd task of alternate site review at this point. Everybody to this proceeding recognizes that it is a joke. Indeed, counsel for the Staff has suggested to counsel for SAPL/Audubon, sotto voce, that they are really only going through this exercise in an attempt to sharpen up their skills for

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another Application where the alternate site inquiry might involve something more than shadow boxing.

In short, we wish this Appeal Board to understand that we are not going to be providing details on the characteristics of the sites in northern New Hampshire which have been listed by New England Power Company for two clear reasons. The first is that the Intervenors, notwithstanding that these are remanded proceedings, still do not have the burden of proof to require, much less the capability to permit, the development of this information. The second is that, given the fact that the Commission's sunk cost ruling has apparently survived in the Court of Appeals, that the proceeding is a sham in any event.

Very truly yours,
O'NEILL BACKUS SPIELMAN

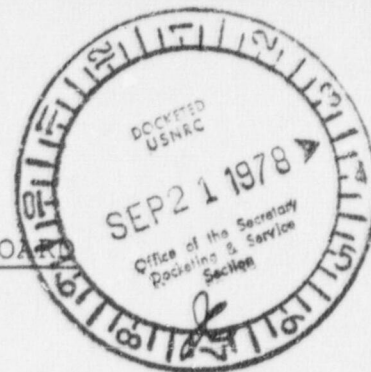


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Audubon Society of New Hampshire

RAB/sld
cc: All Parties on Service List

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD



_____)
In the Matter of)

PUBLIC SERVICE COMPANY OF)
NEW HAMPSHIRE, et al)

Seabrook Station, Units)
1 and 2)
_____)

) Docket Nos. 50-443
) 30-444

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed postage prepaid to the following on this the 18th day of September, 1978:

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