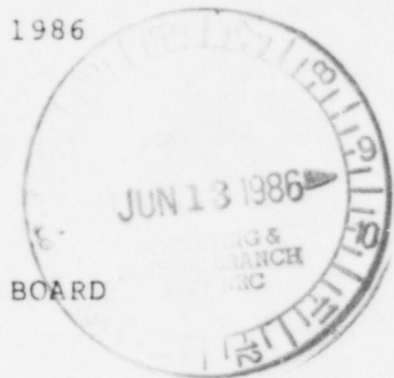


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June 9, 1986

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



Public Service Company of New  
Hampshire, et. al.  
(Seabrook Station, Units 1 and 2)

Docket Nos.  
50-443, -444 C L

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S OPPOSITION  
TO APPLICANTS' MOTIONS FOR SUMMARY DISPOSITION

Introduction

The New England Coalition on Nuclear Pollution ("NECNP") opposes the summary judgment motions filed by Applicants regarding contentions RERP-2, RERP-3, RERP-10, RERP-12, NHLP-3, and NHLP-4. All of the motions must be denied as a matter of law because as discussed below, the Board has no basis for eliminating any issues from this case until the Federal Emergency Management Agency ("FEMA") has made findings regarding the adequacy of offsite emergency planning for Seabrook. Although this is sufficient ground for denial of all of the motions, NECNP also addresses the additional legal and factual grounds on which the motions must be denied.

I. Applicants' motions must be denied as a matter of law.

NECNP opposes each of Applicants' Motions for Summary disposition with respect to NECNP's contentions on the ground that summary disposition of these contentions is inappropriate prior to a finding by the Federal Emergency Management Agency as to the

adequacy and implementation capability of the New Hampshire plan as a whole. Accordingly, each of Applicants' motions should be denied as a matter of law. In the alternative, NECNP requests that it be given an opportunity to respond in the event that FEMA submits a motion in support of any of Applicants' motions for summary disposition.

A. Background

On August 4, 1986, the Licensing Board will hold a hearing to determine whether, with respect to the issues admitted by the Board on April 1, 1986, there exists reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the Seabrook nuclear power plant. The Board will base its finding of reasonable assurance on a review of the Federal Emergency Management Agency ("FEMA") findings as to the adequacy of emergency plans prepared by the State of New Hampshire.<sup>1</sup> 10 C.F.R. § 50.47(a)(2). At the hearing, FEMA interim findings will be entitled to a rebuttable presumption as to questions of adequacy and implementation capability. Id. As

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<sup>1</sup> The role of FEMA in NRC licensing is set forth in the "Memorandum of Understanding Between NRC and FEMA Relating to Radiological Emergency Planning and Preparedness" ("MOU"), 45 Fed. Reg. 82,713 (Dec. 16, 1980). Under the MOU, FEMA is required to provide "findings and determinations on the current status of emergency preparedness around particular [nuclear power plant] sites ... for use as needed in the NRC licensing process." 45 Fed. Reg. at 82,714.

yet, FEMA has not completed its review of the State plans or submitted findings as to their adequacy and implementation capability.

At the pre-hearing conference to determine the admissibility of NECNP's contentions regarding the New Hampshire plans, NECNP submitted and the Board accepted, a number of contentions as matters in controversy as to whether New Hampshire's plans meet the reasonable assurance standard. Applicants have submitted motions for summary disposition of six of these contentions accompanied by affidavits which purport to establish as a matter of law that there exists reasonable assurances as to the adequacy and implementation capability of these six aspects of the NHRERP.<sup>2</sup> If granted, the aspects of the plan with which these contentions are concerned will not be considered at the hearing, nor will NECNP have an opportunity to cross-examine those affiants on whose statements Applicants rely in their summary disposition motions.

B. Argument

1. Applicants have the burden of proving that NECNP's contentions are appropriate for summary disposition

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<sup>2</sup> The six contentions as to which Applicants have moved for summary disposition relate to federal assistance, availability of radioprotective drugs, radiological monitoring, emergency communications, notification of people with special needs, and bilingual pre-emergency instructions.



The burden of proof with respect to summary disposition is upon the movant, and the record and affidavits supporting or opposing the motion must be viewed in the light most favorable to the party opposing the motion. See Public Service Co. of New Hampshire (Seabrook Station, Units 1 & 2), LBP-74-36, 7 AEC 877 (1974). A contention will not be summarily dismissed where the Licensing Board determines that there still exist controverted issues of material fact. Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), LBP-81-34, 14 NRC 637, 640-641 (1981). The fact that the party opposing the motion fails to submit evidence controverting the motion does not mean that the motion must be granted. The proponent of the motion must still meet his burden of proof to establish the absence of a genuine issue of material fact. Cleveland Electric Illuminating Co. et al. (Perry Nuclear Power Plant, Units 1 & 2), ALAB-443, 6 NRC 741, 752 (1977). It is NECNP's position that, as a matter of law, Applicants' evidence is insufficient to carry their burden of proof to support a grant of summary disposition. Until FEMA either submits its interim findings on the adequacy and implementation capability of the New Hampshire RERP as a whole, or has had an opportunity to testify at the hearing, contested issues are presumptively in dispute.

2. Contentions related to emergency planning are unripe for summary disposition prior to issuance by FEMA of interim or final findings on the plans.

NECNP believes that contested emergency planning issues are unripe for summary disposition prior to the issuance of FEMA



final or interim findings on the plans. While the Licensing Board may make findings at the hearing as to the adequacy of state and local emergency plans even though FEMA has not issued interim findings, there is no authority for allowing contested issues to be summarily disposed of prior to the hearing without the benefit of FEMA's findings or testimony. In fact, in In the Matter of Cincinnati Gas & Electric Co. et al., (Wm. H. Zimmer Nuclear Power Station, Unit No. 1), ALAB 727, 17 NRC 760 (1983), the Appeal Board specifically noted that while the Licensing Board could make findings with respect to emergency plans prior to FEMA's issuance of final findings on the plans,

"[t]hat decision will have to be made by the licensing Board upon hearing all of the evidence (including the views of FEMA, the intervenors, and the staff) on the then current state of the plans."

Id., at 775 (emphasis added).

The NRC recognizes that summary disposition of contentions in a licensing proceeding is premature where the entity possessing the expertise to make the necessary technical review has not yet reviewed or assessed the matter. In Duke Power Co. (Wm B. McGuire Nuclear Station, Units 1 and 2), LBP-77-20, 5 NRC 680 (1977), the Board denied applicant's motion for summary disposition of two of intervenor's contentions on the grounds that "safety related issues are not ripe for summary disposition because the staff's safety review is not complete and the ACRS report has not issued." In the context of emergency planning and preparedness, it is FEMA, rather than the NRC, which is the

agency possessing the technical expertise.<sup>3</sup> Hence, FEMA's role in assessing emergency plans and preparedness is analagous to the role of NRC staff and the ACRS in making technical safety evaluations since under the MOU, the NRC has in effect delegated to FEMA its responsibility to undertake safety analyses with regard to emergency planning and preparedness.

Even if FEMA should offer specific evidence in support of one or more of Applicants' motions, a grant of summary disposition prior to FEMA's issuance of findings as to the overall adequacy of the NHRERP would be inappropriate. Applicants' summary disposition motions address discrete aspects of the NHRERP in isolation from the plan as a whole. On the other hand, the NRC, in the person of this Board, is charged with responsibility

[t]o make decisions with regard to the overall state of emergency preparedness (i.e. intergration of emergency preparedness on-site as determined by the NRC and off-site as determined by FEMA and reviewed by NRC)...

MOU, 45 Fed. Reg. at 82,714 (emphasis added). A grant of summary disposition on discrete aspects of the plan, without an interdisciplinary assessment of the emergency plan could result in the premature dismissal of issues which may subsequently be revealed to have serious problems at the hearing as a result of the ex-

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<sup>3</sup> See Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-83-61, 18 NRC 700 (1983), in which the Licensing Board, noting FEMA's "unique" role in emergency planning matters, ruled that FEMA qualified as "NRC personnel" under the definition in 10 C.F.R. § 2.4(p) in recognition of FEMA's role in assessing emergency preparedness plans and implementation of those plans.

amination of a related aspect of the plan. For example, the adequacy of the state's arrangements for obtaining federal assistance cannot be determined in isolation from an assessment of the adequacy the state's capability to respond in the event of a radiological emergency because an assessment of the adequacy of the state's response might result in the identification of additional needs for federal assistance.<sup>4</sup> Similarly, in assessing the adequacy of the state's means of communicating between emergency response organizations, a determination that the state plan failed to provide adequate personnel for operating communications equipment would affect the separate issue of whether the state has adequate personnel to carry out the emergency response. These examples are not exhaustive; an examination of virtually any requirement of NUREG-0654 will yield implications for another aspect of the plan. Accordingly, granting summary disposition of issues accepted by the Board as in controversy without any overall assessment of the adequacy and implementation capability of the NHRERP as a whole would prevent the NRC from fulfilling its obligation "to make decisions with regard to the overall state of

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<sup>4</sup> For instance, as discussed below with respect to Contention RERP-2, the Regional Advisory Committee (RAC) has recommended that the state should rely on federal resources, such as the national guard or Pease Airforce base rather than the New Hampshire Civil Air Patrol to conduct radiological monitoring. If FEMA agrees with that finding, it will carry implications for the adequacy of the state's plans for obtaining federal assistance.



emergency preparedness."<sup>5</sup> MOU, 45 Fed. Reg. at 82,714 (emphasis added).

Accordingly, summary disposition of NECNP's contentions would be premature unless and until they are supported by FEMA findings as to the adequacy and implementation capability of the NHRERP as a whole.

C. Conclusion

Under the authority cited above, the six aspects of the NHRERP which are the subject of Applicants' motions for summary disposition are presumptively in dispute until such time as either FEMA issues findings as to their adequacy and implementation capability, or these issues are litigated in an on-the-record hearing. Summary disposition of these issues prior to the issuance of FEMA findings would prematurely dismiss issues in controversy without the benefit of the input of the agency with the greatest degree of expertise in assessing emergency planning

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<sup>5</sup> Summary disposition of these issues prior to FEMA's issuance of findings as to the adequacy of the plans would also preempt and undermine FEMA's responsibilities under 10 C.F.R. 50.47(a)(2) and the MOU "to take the lead in state and local emergency planning and preparedness activities with respect to nuclear power facilities." 44 C.F.R. § 350.3. See also Executive Order 12148, the President's decision of December 7, 1979, and section 201 of the Disaster Relief Act of 1974, 42 U.S.C. 5131. Granting Applicants' motion for summary disposition of these issues would also deprive both the NRC and the public of the evaluation and findings of the agency possessing the greatest degree of expertise in offsite emergency planning and which is best able to evaluate the plans and determine whether they in fact provide reasonable assurances that adequate protective measures will be taken in the event of a radiological emergency.

and preparedness, and would prevent the NRC from fulfilling its responsibility to assess the overall state of emergency preparedness based on FEMA findings as to the adequacy and implementation capability of the plan as a whole. Accordingly, Applicants have failed to meet their burden of proving that no material issue of fact is in dispute with respect to NECNP's contentions, and Applicants' motion for summary disposition must be denied as a matter of law. In the alternative, NECNP requests that it be given an opportunity to respond in the event that FEMA submits testimony in support of any of Applicants' motions for summary disposition.

II. Additional grounds for denial of individual motions

As discussed above, Applicants' summary judgment motions must be denied as a matter of law. The motions must also be denied on the following additional grounds.

A. Contention RERP-2

Contention RERP-2 states that:

The New Hampshire RERP violates 10 C.F.R. § 50.47(b)(3) as implemented by NUREG-0654 at § II.C.1.b in that the state has not specifically identified all areas in which it requires federal assistance or the extent of its needs; nor has it made arrangements to obtain that assistance; nor has it stated the expected time of arrival of Federal assistance at the Seabrook site or EPZ.

Applicants move for summary judgment on all three of the claims made in this contention. First, Applicants cite the Radiological Emergency Response Plan ("RERP") for the proposition

that there are only three areas where federal assistance is required: boat control, air control, and shellfish examination. The supporting affidavit of Richard H. Strome also states that the RERP sets forth only those three areas of need for federal assistance. These assertions are contradicted by the State's answer to NECNP's Interrogatory 3(a), which states that "Additional federal help, while not necessary to cover a specific resource requirement, could also be requested depending upon the nature and duration of an emergency..." (See also response to Interrogatory 3(d)). The State has neither identified these areas of assistance; stated the expected time of arrival of that Federal assistance at the Seabrook site or EPZ; or identified the State and local resources available to support the Federal response. Therefore the requirements of 10 C.F.R. § 50.47(b)(3) and NUREG-0654, § C.1. have not been met, and the Board must deny Applicants' motion for summary disposition on this aspect of the contention.<sup>6</sup>

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<sup>6</sup> The State's casual approach to the task of identifying areas of required federal assistance could create considerable delays and health risks in the event of a radiological emergency. For example, according to Section 2.7.3 of the November 1985 version of the plan, the State may request the federal government to provide additional supplies of potassium iodide for emergency workers. (Mysteriously, this provision does not appear in the portion of the June 1986 revision to the plan which is appended in part to Applicants' motion). Yet, the state made no attempt to demonstrate the existence of prior arrangements for those crucial supplies.



According to the Regional Advisory Committee ("RAC"), which assists in the evaluation of emergency planning, the state has also failed to make adequate arrangements for federal assistance with aerial monitoring. See RAC review at 50, which recommends the use of National Guard or Pease Air Force Base helicopters for aerial monitoring. Attachment A.

Applicants have also failed to show that the State's arrangements for assistance from the Coast Guard meet the NRC's standards. Neither the Strome affidavit, the cited letter of agreement, nor the RERP provide a "specific" description of the federal resources" that the State expects the Coast Guard to provide. NUREG-0654, § C.1.b. No description is given, for example, of the number and type of vessels to be provided, or the equipment and personnel that they will carry.

Moreover, the arrangements described in the Strome affidavit do not provide for timely arrival of aid from the Coast Guard. The State expects the Coast Guard to arrive within one to three hours. Upon arrival, one of the Coast Guard's functions will be to notify offshore boaters within the ten mile EPZ. See RERP at 2.1-10. Such late notification violates the requirement of NUREG-0654, Appendix 3, that the State demonstrate the capability to alert and instruct the public in the EPZ within 15 minutes of an accident. NUREG-0654 at 3-3. Nor have Applicants or the State attempted to demonstrate that the State has made "special arrangements" with the Coast Guard to assure notification of boaters within 45 minutes or that there is some basis for a

"special requirements exception" that would allow for a longer notification time. Id. Thus, there remain genuine factual issues with respect to the adequacy of arrangements for Coast Guard support.

STATEMENT OF MATERIAL FACTS AS TO  
WHICH THERE EXISTS A GENUINE ISSUE  
REGARDING NECNP CONTENTION RERP-2

1. The RERP for the State of New Hampshire does not identify all of the Federal resources that the State of New Hampshire expects to call on in the event of an emergency. State of New Hampshire's response to NECNP Interrogatory 3(a). Thus, the State has not made adequate arrangements for provision of those resources, including describing the expected time of arrival of those resources and the specific State, local, and licensee responses available to support the Federal response, as required by NUREG-0654, § C.1.

2. Neither the RERP, the letter of agreement between the State and the Coast Guard, or the Strome affidavit, describe the specific Coast Guard resources, including vessels, personnel, and equipment, to be provided by the Coast Guard during a radiological emergency. Applicants thus have failed to demonstrate compliance with NUREG-0654, § C.1.b.

3. In the Strome affidavit, the State estimates for the first time that the first Coast Guard responders could be available within an hour of notification and that several vessels could be available, if necessary, within two to three hours. This response time is inadequate to meet the requirements of

NUREG-0654, § E.6 and Appendix 3, for prompt notification of the public in an event of a radiological emergency at Seabrook.

4. According to the Regional Advisory Committee ("RAC"), which assists in the evaluation of emergency planning, the state has failed to make adequate arrangements for federal assistance with aerial monitoring. See RAC review at 50, which recommends the use of National Guard or Pease Air Force Base helicopters for aerial monitoring. Attachment A.

B. Contention RERP-3.

The admitted portion of Contention RERP-3 challenges the State's failure to provide instructions to the public in French as well as English. Since the time that this contention was filed, the State has distributed some bilingual instructional material to the parties. Applicants do not challenge the need for bilingual instructional materials, but rather move for summary judgment on the grounds that the informational materials have now been designed, and that arrangements have been made for French language emergency broadcasts.

The materials that NECNP has received from the State largely satisfy NECNP's concerns in this area. However, the Board may not approve these measures unless and until they are specifically incorporated into the New Hampshire RERP. In order to provide a reasonable assurance that the State will continue to implement these measures throughout the forty year term of the Seabrook li-



cense, the plans must accurately reflect the State's current commitment to providing bilingual instruction to the public.

STATEMENT OF MATERIAL FACTS  
AS TO WHICH A GENUINE ISSUE EXISTS  
WITH RESPECT TO CONTENTION RERP-3

1. The State's commitment to providing bilingual notification to the public, as attested to in the affidavit of Richard H. Strome, is not reflected in the New Hampshire RERP.

2. Without the inclusion of such measures in the plan, there is no reasonable assurance that the State will carry out bilingual instructions for the entire term of the Seabrook license.

C. Contention RERP-10

Contention RERP-10 challenges the adequacy of the RERP's provision for radiological monitoring during an accident at the Seabrook nuclear power plant. In response to Applicants' motion for summary disposition of this contention, NECNP joins in the opposition of the Seacoast Anti-Pollution League and incorporates by reference the letter to Robert Backus from Richard Piccioni, Ph.D., Nancy Eyler, M.D., and Steven Meshnik, M.D., Ph.D, dated June 9, 1986.

D. Contention RERP-12

The admitted portion of Contention RERP-12 faults the New Hampshire RERP for failure to provide for the distribution of radioprotective drugs to institutionalized persons. Since the

time that the contention was admitted, the RERP has been amended to provide for the distribution and administration of potassium iodide ("KI") to institutionalized persons. Applicants move for summary disposition on the ground that the amended plan now complies fully with the evaluation criteria set out in NUREG-0654 §§ J.10.e and J.10.f. In support of their motion, Applicants attach the affidavit of William C. Wallace and a June, 1986, revision to the RERP.

Contrary to their assertion, Applicants have not demonstrated that the State fully complies with NUREG-0654. First, NUREG-0654, § J.10.e requires that the RERP's provision for the use of KI must include a description of the quantity, storage, and means of distribution of KI. These requirements are not met. First the quantity of KI to be stored at the EOCs and distributed to institutions is not described anywhere in the revised plan. The June 1986 revision attached to Applicants' motion also deletes a previous provision under which the Department of Health Services would arrange to obtain additional KI supplies from the Federal Government. See November 1985 plan at 2.7-3. Thus, the state appears to have reduced the assurance that sufficient quantities of KI will be available during a radiological emergency.

Moreover, the scant information the plan gives about storage and means of distribution is incomplete and confusing. For instance, while Mr. Wallace's affidavit alleges that the plan calls for "predistribution of radioprotective drugs to institutions in

the Plume Exposure EPZ" (§ 4.d), the RERP itself states that "KI will be stored in the local EOCs and at the IFO/EOFs." RERP at 2.7-3 (Attachment "A" to Applicants' motion for summary disposition). The plan further states that KI "will be made available" to the staff and residents of institutions, but does not describe the means by which it will be made available. Thus, the plan itself does not appear to contemplate predistribution of KI to institutions; nor does it describe the means by which KI stored at the EOCs and IFO/EOFs will be distributed to the institutions. There is thus no reasonable assurance that institutions will have timely receipt of KI if it is needed in an emergency.<sup>7</sup>

The plan also lacks any criteria for decisions regarding administration of KI. The RERP states that KI will be administered only after instructions from the DPHS. Mr. Wallace's affidavit states that decisions regarding the administration of KI will be made according to criteria described in attachments A-C of Applicants' motion. However, those attachments contain only a partial discussion of criteria for KI distribution for emergency workers, and no discussion at all of the criteria for administration to institutionalized persons. (RERP at 2.7-6) (Although

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<sup>7</sup> As stated in Attachment "B" to Applicants' motion for summary disposition, KI is 90% effective if taken within one hour of exposure, and its effectiveness diminishes with time (50% after 3-4 hours, "very small effect" after 12 hours).



the discussion appears to continue onto a following page, no further pages were included with Applicants' motion.) In order to make rapid and rational decisions regarding the ingestion of KI, the DPHS must have pre-established criteria for its administration. There is no basis for a determination that the RERP now contains adequate criteria for KI distribution for emergency workers; or whether it contains any criteria for KI distribution to institutionalized persons.

STATEMENT OF MATERIAL FACTS  
AS TO WHICH A GENUINE ISSUE EXISTS  
WITH RESPECT TO CONTENTION RERP-12

1. NUREG-0654, § J.10.e requires that the RERP's provision for the use of KI must include a description of the quantity, storage, and means of distribution of KI.
2. The quantity of KI to be stored at the EOCs and distributed to institutions is not described in the June 1986 revision to the plan which is attached to Applicants' motion.
3. The June 1986 revision also deletes a previous provision under which the Department of Health Services would arrange to obtain additional KI supplies from the Federal Government. See November 1985 plan at 2.7-3. Thus, the state appears to have reduced the assurance that sufficient quantities of KI will be available during a radiological emergency.
4. Moreover, the scant information the plan gives about storage and means of distribution is incomplete and confusing. For instance, while Mr. Wallace's affidavit alleges that the plan

calls for "predistribution of radioprotective drugs to institutions in the Plume Exposure EPZ" (§ 4.d), the RERP itself states that "KI will be stored in the local EOCs and at the IFO/EOFs." RERP at 2.7-3 (Attachment "A" to Applicants' motion for summary disposition). The plan further states that KI "will be made available" to the staff and residents of institutions, but does not describe the means by which it will be made available. Thus, the plan itself does not appear to contemplate predistribution of KI to institutions; nor does it describe the means by which KI stored at the EOCs and IFO/EOFs will be distributed to the institutions.

5. As stated in Attachment "B" to Applicants' motion for summary disposition, KI is 90% effective if take within one hour of exposure, and its effectiveness diminishes with time (50% after 3-4 hours, "very small effect" after 12 hours).

6. The plan also lacks any criteria for decisions regarding administration of KI to institutionalized persons. The RERP states that KI will be administered only after instructions from the DPHS. Mr. Wallace's affidavit states that decisions regarding the administration of KI will be made according to criteria described in attachments A-C of Applicants' motion. However, those attachments contain only a partial discussion of criteria for KI distribution for emergency workers. (RERP at 2.7-6) Although the discussion appears to continue onto a following page, no further pages were included with Applicants' motion.

7. In order to make rapid and rational decisions regarding the ingestion of KI, the DPHS must have pre-established criteria for its administration. There is no basis for a determination that the RERP now contains adequate criteria for KI distribution for emergency workers; or whether it contains any criteria for KI distribution to institutionalized persons.

E. Contention NHLP-3

Contention NHLP-4 challenges the New Hampshire local emergency plans for failure to make adequate provision for notification by the licensee of local response organizations and for notification of emergency response personnel by all organizations. Applicants seek summary disposition of this contention on the ground that a "highly reliable communications network" now exists in the Seabrook EPZ. In support of their motion, Applicants enclose the affidavit of Gary J. Catapano, which contains various assertions regarding the equipment that has now been supplied to the towns in the EPZ.

Applicants' summary disposition motion must fail as a matter of law because it gives no indication that the assertions made in the Catapano affidavit are reflected in the offsite emergency plans for the Seabrook EPZ. The Catapano affidavit refers to "discussions" with local safety officials and "purchases" of equipment that resulted in "improvements" to the communications system, but does not state when these actions took place or whether they were incorporated into any of the local plans. For



instance, the affidavit states that "In most communities within the EPZ new dual address pagers were supplied for the police and fire departments and for use by the key municipal officials as outlined by the RERP." ¶ 4. However, the plans that have been served on the parties do not reflect that information. A review of Part J of Appendix C of each local plan, which lists equipment possessed by each town, shows that most of the towns have no pagers. The generalizations offered by Mr. Catapano cannot substitute for a listing in each plan of how many pagers the town possesses, who will use them, and what they will be used for. Without that information, there can be no basis for a finding that the New Hampshire local plans provide adequate assurance that there will be a reasonable assurance of safety during a radiological emergency.

The Catapano affidavit makes many other generalizations without reference to the local plans that cannot be confirmed by reference to the plans. For instance, the affidavit states that "base stations and other types of communications equipment was also purchased to facilitate RERP communications." ¶ 3. Neither the affidavit nor the plans themselves contain any explanation of what the "other types of communications equipment" might be. Mr. Catapano also states that "new multiline telephone systems have also been purchased and additional phone lines will be added to the EOCs." ¶ 5. Again, the plans make no mention of such telephones. The only information given in the plans regarding telephones consists of a brief paragraph in II.C which states that

the plan employs "standard commercial telephone equipment" and Figures 7 and 8, which show the communications channels that rely on telephones. There is thus no way to determine how the changes attested in the Catapano affidavit affect the communications network described in the plans. Similarly, Mr. Catapano's affidavit also states that the towns of Hampton and Seabrook have "specialized communications systems." Again, this information is not reflected in the plans. It thus appears that in general, Mr. Catapano is attesting to recent changes in the communications system for the EPZ that have not been incorporated into the plans.

The Applicants' attempt to dispose of this contention based on new and generalized information that is not specifically reflected in each local emergency plans must fail. Without a specific discussion in the plans that accurately reflects the type and amount of communications equipment possessed by each town and the means by which it will be employed in the communications network, neither the Board nor the parties have any basis for evaluating the adequacy of offsite communications for the Seabrook EPZ. The Board must base its finding on the adequacy of the emergency plans themselves and not on the vague post hoc generalizations offered by Applicants in their motion.

STATEMENT OF MATERIALS FACTS  
AS TO WHICH THERE EXISTS A GENUINE  
ISSUE REGARDING CONTENTION NHLP-3

1. Neither Applicants' summary disposition motion nor the supporting Catapano affidavit allege or demonstrate that the al-

leged improvements to the communications system in the Seabrook EPZ are actually reflected in the local emergency plans; nor can this be discerned from comparing the Catapano affidavit with the plans.

2. For instance, the affidavit states that "In most communities within the EPZ new dual address pagers were supplied for the police and fire departments and for use by the key municipal officials as outlined by the RERP." ¶ 4. However, the plans that have been served on the parties do not reflect that information. A review of Part J of Appendix C of each local plan, which lists equipment possessed by each town, shows that most of the towns have no pagers.

3. Mr. Catapano also states that "new multiline telephone systems have also been purchased and additional phone lines will be added to the EOCs." ¶ 5. Again, the plans make no mention of such telephones. The only information given in the plans regarding telephones consists of a brief paragraph in II.C which states that the plan employs "standard commercial telephone equipment" and Figures 7 and 8, which show the communications channels that rely on telephones. There is thus no way to determine how the changes attested in the Catapano affidavit affect the communications network described in the plans.

4. Mr. Catapano's affidavit also states that the towns of Hampton and Seabrook have "specialized communications systems." Again, this information is not reflected in the plans.



5. Applicants' summary disposition motion appears to be based on recent changes in the communications system for the EPZ that have not been incorporated into the plans. Unless and until those changes are incorporated into the plans in sufficient detail to allow a reasonable evaluation of the adequacy of the Seabrook communication system, there is no basis for a reasonable assurance finding regarding compliance with 10 C.F.R. § (b)(5).

F. Contention NHLP-4

The admitted portion of Contention NHLP-4 asserts that the New Hampshire local plans make inadequate provision for the notification of people with special notification needs. Applicants move for partial summary disposition on the adequacy of the State's measures for identifying those individuals who require special notification. In support of their motion, Applicants submit the affidavit of Richard H. Strome, which states that the State of New Hampshire has performed a mail survey of all utility customers in the Seabrook EPZ, which will be updated annually. Mr. Strome also claims that the Civil Defense Agency will make periodic public information announcements to inform the public of the distribution of the survey.

The measures described by Mr. Strome do not provide a reasonable assurance that the State can obtain identification of all residents of the EPZ with special notification needs. As Mr. Strome concedes, "a utility customer list is not necessarily coextensive with the actual number of households" in the EPZ. ¶

6. Mr. Strome attests that the state has attempted to compensate for this problem by providing for public information announcements by the Civil Defense Agency. Presumably, these announcements will be made over the radio. Therefore, they will not reach hearing-impaired individuals, non-English-speaking individuals, or those individuals without televisions or radios.

The survey form used by the State also purports to identify individuals who cannot speak English by asking whether there are individuals in the household who do not speak English. This question will be self-defeating in many cases, since a person who cannot speak English is unlikely to be able to read the form.

Because of these deficiencies in the State's survey program, Applicants have failed to demonstrate that there is a reasonable assurance that the State can identify all individuals with special notification needs. For this reason, Applicants' partial summary disposition motion must be denied.

STATEMENT OF MATERIAL FACTS  
ON WHICH THERE EXISTS A GENUINE ISSUE  
REGARDING CONTENTION NHLP-4

1. In order to identify persons with special notification needs, the State of New Hampshire principally relies upon a survey mailed to all residential customers of the two electric utilities serving the Seabrook EPZ.

2. A utility customer list is not necessarily coextensive with the actual number of households in the EPZ. Strome Affidavit, ¶ 6. The state has attempted to compensate for this

problem by providing for public information announcements by the Civil Defense Agency. Id.

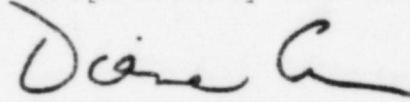
3. Presumably, these announcements will be made over the radio. Therefore, they will not reach hearing-impaired individuals, individuals who do not speak English, and individuals without televisions or radios.

4. The survey form used by the State also purports to identify individuals who cannot speak English by asking whether there are individuals in the household who do not speak English. This question will be self-defeating in many cases, since a person who cannot speak English is unlikely to be able to read the form.

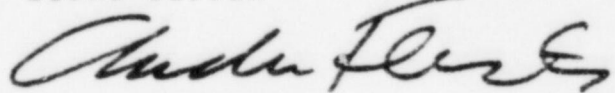
Conclusion

For the foregoing reasons, Applicants' motions for summary disposition must be denied in their entirety.

Respectfully submitted,



Diane Curran



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

June 9, 1986



RAC REVIEW OF THE STATE OF NEW HAMPSHIRE  
RADIOLOGICAL EMERGENCY RESPONSE PLAN FOR SEABROOK  
(Revision Dated 11/85)

APR 30 1986

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RAC Comments/Recommendation	Adequate (A) Inadequate (I)	State Response Action	Projected Date of Completion	RAC Evaluation of State Response	Response Adequate (A) Inade- quate (I)	Response Act Comp (C) Spec (S)
I 10 Generally adequate.	A					
I 11  The plan discusses using the CAP for assistance in the taking of aerial measurements by DHS staff (Sec. 2.5.3, p. 2.5-7 and p. 1.3-13).  However, the RAC is doubtful that CAP should be used for this task. National Guard or PEASE AFB helicopters would be better. Also, the	I					

WUERO-0654  
CL 000000

I 10

I 11

APPROVED

CERTIFICATE OF SERVICE

I certify that on June 9, 1986, copies of New England Coalition on Nuclear Pollution's Opposition to Applicants' Motion for Summary Disposition, Notice of Appearance of Andrea C. Ferster, and Supplemental Response to Applicants' Interrogatories, were served on the following by first-class mail or Federal Express as indicated, with the exception of the Licensing Board, the NRC Staff, and the Federal Emergency Management Agency, which were served by hand on June 10, 1986.

\*Helen Hoyt, Esq.  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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

\*Dr. Emmeth A. Iuebke  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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

\*Dr. Jerry Harbour  
Administrative Judge  
Atomic Safety and Licensing  
Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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

Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

\*\*Thomas G. Dignan, Esq.  
R.K. Gad, III, Esq.  
Ropes and Gray  
225 Franklin Street  
Boston, MA 02110

Atomic Safety and  
Licensing Appeal Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Mrs. Anne E. Goodman  
Board of Selectmen  
13-15 New Market Rd.  
Durham, NH 03824

\*Sherwin E. Turk, Esq.  
Office of the Executive  
Legal Director  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Docketing and Service  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

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

Mr. Angie Machiros, Chairman  
Board of Selectmen  
Newbury, MA 01950

Jane Doughty  
SAPL  
5 Market St.  
Portsmouth, NH 03801

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

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

J. P. Nadeu, Selectman  
Town of Rye  
155 Washington Road  
Rye, NH 03870

Sandra Gavutis  
Town of Kensington  
RFD 1 Box 1154  
East Kensington, NH 03827

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)

Selectment of Northampton  
Town of Northampton  
New Hampshire 03862

Senator Gordon J. Humphrey  
1 Pillsbury Street  
Concord, NH 03301

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

H. Joseph Flynn, Esq.  
Office of General Counsel  
Federal Emergency  
Management Agency  
500 C Street, SW  
Washington, D.C. 20472

\*\*George Dana Bisbee, Esq.  
Stephen E. Merrill, Esq.  
Assistant Attorneys 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, Esquire  
Holmes & Ellis  
47 Winnacunent Rd  
Hampton, NH 03842

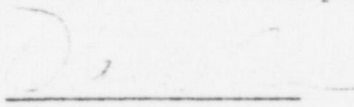
William Armstrong  
Civil Defense Director  
10 Front Street  
Exeter, NH 03833

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

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

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

\* - By Messenger  
\*\* - By Federal Express

  
Diane Curran



UNITED STATES NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of )  
)

Public Service Company of )  
New Hampshire, et al. )

(Seabrook Station, Units 1 & 2) )  
)  
)

Docket Nos. 50-443 OL  
50-444 OL

NOTICE OF APPEARANCE


Notice is hereby given that the undersigned attorney, an attorney-at-law in good standing admitted to practice before the U.S. District Court for the District of Columbia and the D.C. Court of Appeals, herewith enters an appearance in the above-captioned matter. In accordance with 10 C.F.R. § 2.713(b), the following information is provided:

NAME: Andrea C. Ferster

ADDRESS: Harmon & Weiss  
2001 S Street, N.W. Suite 430  
Washington, D.C. 20009  
(202) 328-3500

NAME OF PARTY: New England Coalition on Nuclear Pollution

Respectfully submitted:

  
Andrea C. Ferster

Dated: June 9, 1986

DS03