



Revised Contention V to Revision 2;  
Revised Contention VIII to Revision 2.]

"contained in Memorandum on 10 CFR  
§ 2.714(a)(1) and Contention of Town of  
Hampton to New Hampshire Radiological  
Emergency Response Plan Revision 2 filed  
by the Town of Hampton on October 31,  
1986."

to incorporate and adopt Hampton Contentions as its own,  
Applicants incorporate by reference their answers to said  
Contentions as filed in this proceeding on November 14, 1986  
in a pleading styled Applicants' Answer to Contentions of  
the Town of Hampton to New Hampshire Radiological Emergency  
Response Plan Revision 2.

#### CONTENTIONS

##### Revised SAPL Contention No. 31

"The evacuation time estimate report, as  
described in Volume 6 of NHRERP Rev. 2  
does not meet the requirements of 10 CFR  
§50.47(a)(1), §50.47(b)(10) and  
NUREG-0654 II.J.2, II.J.10 i, 10 h and  
10 l, and Appendix 4 because it fails to  
account properly for the number of  
vehicles that would be evacuating the  
EPZ; relies in part upon unsupported  
assumptions; relies in part upon  
potentially biased input data; does not  
rely upon an extensive enough empirical  
base; relies upon traffic control  
personnel not shown to be available;  
does not appropriately account for  
travel impediments such as flooding,  
snow, fog and icing of roadways; does  
not account for the effect of driver  
disobedience on evaluation time  
estimates (ETE's); does not  
appropriately deal with topographical  
features; does not deal realistically  
with the transport of transit dependent

persons; in some instances overestimates roadway capacity and, for all of these reasons, underestimates the amount of time it would take to evacuate the EPZ and its subparts ("Regions") under the various scenarios analyzed."

This contention should be excluded. All that the NRC regulations require is the preparation of ETEs by Applicants. "The nuclear power reactor operating license applicant shall also provide an analysis of the time required to evacuate and for taking other protective actions for various sectors and distance within the plume exposure pathway EPZ for transient and permanent populations." 10 CFR Part 50, App. E, § IV (introductory paragraph). ETEs are not mentioned in 10 CFR § 50.47. Such ETEs were prepared in connection with the Applicants' radiological emergency response plans, and the Applicants' ETEs were litigated in the August, 1983 hearings. While New Hampshire may determine to employ its own ETEs, this Board is limited to litigation of matters required by the Commission's regulations; in any respect in which the state determines to go beyond the requirements of the Commission's regulations the plans present no litigable issue. See Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-781, 20 NRC 819, 829-33 (1984).

The requirement that Applicants prepare and submit ETEs is mirrored in the Staff/FEMA guidance document, NUREG-0654, Rev. 1, Criterion J-8. While the apparent assumption was the state and local plans would employ the Applicants' ETEs



(or such portion of them that was relevant) in the plans for state and local action, there is nothing that constrains New Hampshire to use one set of ETEs over another. Any contention that ETEs must be litigated twice must, of necessity, rely on NUREG-0654 as supplying such a requirement. It is well-established, however, that NUREG-0654, which has never been promulgated as regulation, imposes no regulatory requirements. Even more plainly, NUREG-0654 must yield to the duly promulgated regulation where the regulation expressly addresses a topic. Thus, prescinding entirely from whether the various ETEs differ, the only set that is fair game for litigation in these proceedings is the set that has already been litigated.

Reasserted SAPL Contention No. 7

"The New Hampshire State and local plans fail to meet the requirements of 10 CFR §50.47(b)(11), §50.47(b)(10) and NUREG-0654 K.5.b. and II.J.12. because there has been no showing that the means of radiological decontamination of evacuee or emergency personnel, wounds, supplies and equipment have been established. Further, there has not been a clear showing that adequate means for waste disposal exist."

In its Memorandum and Order of November 4, 1984 the Board dismissed so much of SAPL Contention 7 previously admitted by Board Memorandum and Order of April 27, 1986, pp. 84-85, in regard to the issues of monitoring emergency workers and the adequacy of arrangements in the RERPS for

disposal of low level radioactive waste from decontaminated activities. It also found verifying the assignment of specific individuals to monitor emergency workers could be delegated to the NRC staff. ASLB Memorandum and Order, November 4, 1986 at 25-26. Board rejection of the need for letters of agreement committing host communities came earlier in ASLB Memorandum and Order of May 21, 1986, pp. 6-7.

The Board permitted so much of the Contention as regarding the adequacy of personnel and equipment (including that for collection and storage of radioactively contaminated water) to accomplish the monitoring and decontamination of the numbers of emergency workers and general public expected at the decontamination centers located at the host community reception centers to stand. Id. at 26.

The Applicants do not oppose the admission of those portions of Reasserted Contention 7 which remain extant from the Board's rulings.

Reasserted SAPL Contention No. 8

"The New Hampshire State and local plans fail to meet the requirements that there be adequate manpower and 24-hour per day emergency response, including 24-hour per day manning of communications links, as required by 10 CFR §50.47(a)(1), §50.47(b)(1), §50.47(b)(2), and NUREG-0654 II.A.1.e, II.A.4. and II.F.1.a.

Applicants raised no opposition to the united admission of Contention 8. They do not now oppose admission of Reasserted SAPL 8 with the proposed additional basis drawn from SAPL 8A with the limitations as contained in the Board's Memorandum and Order of May 21, 1986, p. 6, in reference to SAPL Contention 8A.

Reasserted SAPL Contention 8A:

"The New Hampshire Compensatory Plan fails to meet the requirements that there be adequate manpower and 24-hour per day emergency response, including 24-hour per day manning of communications links, as required by 10 CFR §50.47(a)(1), §50.47(b)(1), NUREG-0654 II.A.1.e., II.A.4., and II.F.1.a."

Applicants do not oppose the admission of Reasserted SAPL Contention 8A if limited in the manner suggested in the Board's Memorandum and Order of May 21, 1986, p. 6, wherein assurances from the companies and the agencies supplying the personnel or materials are to be had but not as to require letters of agreement from individual workers, drivers, etc.

Redrafted SAPL Contention No. 15

"The letters of agreement that have been submitted by the N.H. Civil Defense Agency in Volume 5 of the State plan fail to meet the requirements of 10 CFR §50.47(a)(1), §50.47(b)(1), §50.47(b)(3), §50.47(b)(12), Appendix E.II.B. and NUREG-0654 II.A.3., II.C.4., and II.P.4, because they do not demonstrate that adequate arrangements for requesting and effectively using assistance resources have been made,



that the emergency responsibilities of the various supporting organizations have been specifically established, that each principal response organization has staff to respond or to augment its initial response on a continuous basis, or that agreements are being reviewed and certified to be current on an annual basis as is required."

Applicants do not oppose admission of Redrafted SAPL Contention 15 with the limitations as imposed with respect to nonopposition to SAPL Contention 8A and that letter agreements be limited to the provider of services not the recipients and that they not be required of individuals collectively supplying a labor force or activity.

Reasserted SAPL Contention 16

"The New Hampshire State and local plans do not make adequate provisions for the sheltering of various segments of the populace in the EPZ and therefore the plans fails to meet the requirements of 10 CFR §50.47(a)(1), §50.47(b)(10) and NUREG-0654 II.J.10.a. and m."

Applicants do not oppose the admission of this Contention.

Revised Contention 18

"The NHRERP Rev. 2 significantly miscalculates the numbers of non-auto owning population for the 17 New Hampshire local communities. No buses are provided in the plans for the individuals who are not accounted for due to these miscalculations. Therefore, these plans fails to meet the requirements of 10 CFR §50.47(a)(1), §50.47(b)(8), NUREG-0654 II.J.10.g. and NUREG-0654 Appendix 4, p. 4-3."

Contention 18 concerns the methodology utilized to calculate the numbers of non-auto owning public. The Board in its Memorandum and Order of November 4, 1986, pp. 14-17, dismissed Contention 18 on the basis that it called for "extraordinary measures" not required by the regulations of the Commission. No appropriate grounds are advanced for its revision.

Reasserted SAPL Contention No. 25

"The New Hampshire State and local radiological emergency response plans do not reasonably assure that the public health and safety will adequately be protected because the provisions for protecting those persons whose mobility may be impaired due to such factors as institutional or other confinement are patently lacking. Therefore, the plans do not meet the requirements of 10 CFR §50.47(a)(1), §50.47(b)(8) and NUREG-C654 II.J.10.d."

SAPL Contention 25 as initially introduced was concerned with whether mobility impaired individuals had been identified. The Board in its Memorandum and Order of November 4, 1986, pp. 14-17, dismissed the Contention for reasons as previously stated in connection with SAPL Contention 18. SAPL now seeks without any authority in the rules to do so to object to that decision by reasserting the Contention and enlarging its basis. Applicants oppose the Contention's "re-admission".



SAPL Contention No. 33

"Contrary to the requirements of 10 CFR §50.47(a)(1), §50.47(b)(8), §50.47(b)(9), §50.47(b)(10) and NUREG-0654 II.J.12, there is no showing that NHRERP Rev. 2 provides adequately for the registration and monitoring of evacuees at reception centers within about a 12-hour period."

Contention 33 is in essence a restatement of SAPL Contention 3 in terms of NHRERP Revision 2. The Board in its Memorandum and Order of April 29, 1986 rejected SAPL Contention 3 at pp. 81-82. Applicants oppose the admission of SAPL Contention 33 on the same grounds, the absence of a regulatory requirement for relocation centers to be able to provide for all evacuees who leave the EPZ.

SAPL Contention No. 34

"The New Hampshire State and local plans do not meet the requirement that there be maps showing the population distribution around the facility as required at NUREG-0654 J.10.b. and Appendix 4. Therefore, there is no reasonable assurance that adequate protective measures can and will be taken pursuant to 10 CFR §50.47(a)(1) and §50.47(b)(10)."

Applicants do not object to the admission of this Contention.

SAPL Contention No. 35

"NHRERP Rev. 2 does not meet the requirements of 10 CFR §50.47(a)(1), §50.47(b)(7), §50.47(b)(9), §50.47(b)(10) and NUREG-0654 II.G.1 (and its subsections) and II.J.12 because the

public information material does not instruct the public to go to reception centers for monitoring if there is any danger they have been in the plume exposure area."

This Contention does not arise out of NHRERP Revision 2, and no showing has been made as to why it could not have been raised earlier. The material which SAPL argues should be included in the informational materials was not in prior drafts either. Moreover, there is no regulatory requirement or regulatory guide of tenor set forth in the Contention and hence the Contention is beyond regulatory requirements and impermissible. The Contention should be excluded.

SAPL Contention No. 36

"The authorities (legal bases), responsibilities and concept of operations between the Town of Salisbury, Massachusetts and the State of New Hampshire Emergency Response Organization has not been set forth in a written agreement or in any way assured though the New Hampshire plans rely upon response actions by the Salisbury Police. This is contrary to the requirements of 10 CFR §50.47(a)(1); 10 CFR Part 50, Appendix E, Sections II.A.8 and NUREG-0654 A.2.b., II.A.3 and II.E.1."

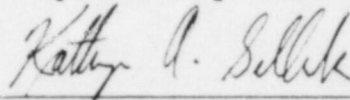
In light of the decision on "realism" handed down by the Commission in Long Island Lighting Co. (Shoreham Nuclear Power Station), CLI-86-13, 24 NRC \_\_\_\_ (July 24, 1986), this Contention, based upon the Massachusetts announced refusal to plan, is not litigable. The Contention should be excluded.

SAPL Contention No. 37

"The NHRERP Rev. 2 fails to provide reasonable assurance of adequate public protection because an adequate number of emergency vehicles are not provided for in the plans and further there is no assurance that effective use of these vehicles will be possible in view of a potential outgoing flow of evacuating traffic and a significant lack of drivers. Therefore, these plans do not meet the requirements of 10 CFR §50.47(a)(1), §50.47(b)(3), §50.47(b)(10) and NUREG-0654 II.J.10.g. and II.J.10.k."

Applicants object to the admission of this Contention for the lack of specificity.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Kathryn A. Selleck, one of the attorneys for the Applicants herein, hereby certify that on December 10, 1986, I made service of the within document by depositing copies thereof with Federal Express, prepaid, for delivery to (or, where indicated, by depositing in the United States mail, first class postage paid, addressed to):

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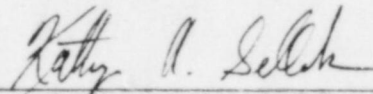
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