

# UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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AFFIRMATION/DISCUSSION AND VOTE

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PUBLIC MEETING

Nuclear Regulatory Commission  
One White Flint North  
Rockville, Maryland

Thursday, March 1, 1990

The Commission met in open session, pursuant to notice, at 11:30 a.m., Kenneth M. Carr, Chairman, presiding.

COMMISSIONERS PRESENT:

KENNETH M. CARR, Chairman of the Commission  
THOMAS M. ROBERTS, Commissioner  
KENNETH C. ROGERS, Commissioner  
JAMES R. CURTISS, Commissioner  
FORREST J. REMICK, Commissioner

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STAFF SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

DOCTOR ANDREW BATES, Office of the Secretary

WILLIAM C. PARLER, General Counsel

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## P-R-O-C-E-E-D-I-N-G-S

11:30 a.m.

CHAIRMAN CARR: Good afternoon, ladies and gentlemen.

This is an affirmation session. We have two items to come before us this morning.

AUDIENCE: Excuse me, sir. Does the public have a right to speak, or should the public be silenced as it has been throughout this whole process?

There's one thing. You can silence the public, but you cannot silence the truth. And I tell you, sir, you are here to perpetrate an evil.

I am just asking if we are -- will we be allowed to speak?

CHAIRMAN CARR: Would you please remove the gentleman?

AUDIENCE: The motto of our state is, "Live free or die." That is not a call to war. That says if the democratic rights are violated, then people will be killed. And that is what you're doing today. You're sentencing women, children, and men to death. You're trampling on American democracy in the interest of money and power, and it cannot be done in secret.

CHAIRMAN CARR: This is an affirmation session. We have two items to come before us this

1 morning.

2 Before I ask the Secretary to lead us  
3 through the items for affirmation, I would like to  
4 make a statement.

5 We have carefully considered the matters  
6 related to full power operation of Seabrook. We  
7 believe the license should be issued and the plant can  
8 be operated safely.

9 The Commission is issuing two decisions  
10 today on matters affecting the Seabrook Nuclear Power  
11 Facility. The first of our decisions resolves a  
12 question certified to the Commission by the Appeal  
13 Board. That question involved an interpretation of  
14 our emergency planning regulations. We have concluded  
15 that the Licensing Board's actions in this matter were  
16 correct, because under our regulations the adequacy of  
17 an emergency plan is to be determined by evaluating it  
18 against the 16 planning standards of 10 CFR 50.47(b),  
19 not by whether the plan would achieve any particular  
20 dose savings for the population in the emergency  
21 planning zone.

22 By our second decision, we are allowing the  
23 Atomic Safety and Licensing Board's authorization for  
24 a full-power license for the Seabrook Nuclear Power  
25 Station Unit 1 to become effective. The issues

1 surrounding issuance of the operating license have  
2 been heavily litigated. We see nothing at present  
3 that persuades us that Seabrook cannot be operated  
4 safely. We believe that the emergency plans will  
5 provide adequate protection for the public in the  
6 event of an accident.

7 In reaching our decision today, we are  
8 relying on the findings of the Licensing Board, and on  
9 the basis of our reviews so far have judged them  
10 reasonable. Our decision does not preclude further  
11 appeals to the Appeal Board and the Commission itself,  
12 nor does it prejudice those appeals. This is, in  
13 essence, the same process that the Commission has  
14 followed and the courts have upheld in other licensing  
15 cases.

16 The Atomic Safety and Licensing Appeal  
17 Board, with the exception of four issues, has, to the  
18 extent it has acted, affirmed the Licensing Board's  
19 decisions and related rulings regarding letters of  
20 agreement, transportation availability and support  
21 services, decontamination and reception centers, and  
22 sheltering of beach population. In those four areas  
23 where the Appeal Board remanded matters to the  
24 Licensing Board, we have provided our analysis and  
25 reasoning why we believe full-power license issuance

1 can go forward.

2 We rely on the provisions of our regulations  
3 at 10 CFR 50.47(c), that an emergency planning  
4 deficiency which is not significant need not preclude  
5 authorization of a full-power license, provided that  
6 the finding required by 10 CFR 50.47(a) is made. That  
7 is, that there is reasonable assurance that adequate  
8 protective measures can and will be taken in the event  
9 of a radiological emergency. The Licensing Board has  
10 made the 50.47(a) finding. We arrive at the judgement  
11 that the four issues remanded are not significant for  
12 the Seabrook emergency plans on the basis of our  
13 review of the decisions which have been rendered and  
14 the relevant evidentiary record.

15 We have also reviewed various concerns which  
16 have recently been raised outside the context of the  
17 litigation. These include the allegations prepared by  
18 the Quality Technology Corporation for the Employees  
19 Legal Project, and the allegations of a private  
20 citizen concerning control room conversations. Within  
21 the past few days, allegations received in 1984 from a  
22 former radiographer at the site have been resurfaced.  
23 The staff has examined these allegations again.

24 On the basis of our review of staff  
25 inspection reports and evaluations of these concerns

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1 and the various staff reports on the readiness of the  
2 Seabrook Plant to receive a full-power license, we  
3 have concluded that there are no issues outstanding  
4 which represent concerns that are material to the  
5 issuance of a full-power license.

6 While we have concluded today that there are  
7 no impediments to authorization of a full-power  
8 license for the Seabrook plan, should new aspects of  
9 these issues or new problems arise which require  
10 enforcement action, we will not hesitate to take any  
11 necessary steps to assure that the public health and  
12 safety are protected.

13 Given the controversy which has surrounded  
14 the Seabrook facility, we fully expect judicial review  
15 will be sought. As a courtesy to the parties to  
16 permit the filing of judicial stay motions, the  
17 effective date of this decision will be March 8. If  
18 stay motions are filed in the U.S. Court of Appeals,  
19 then the decision's effective date will be one week  
20 after the motions are filed, but no later than March  
21 15th.

22 Do any of my fellow Commissioners have any  
23 opening comments they would like to make?

24 COMMISSIONER ROGERS: No.

25 If not, Mr. Secretary, you may proceed.

1 SECRETARY CHILK: The first matter before  
2 the Commission, Mr. Chairman, is SECY-90-014. It's a  
3 Commission opinion on Seabrook, on the question  
4 certified in ALAB-922.

5 The Commission is being asked to act on an  
6 order which responds to a question certified to the  
7 Commission by the Appeal Board on October the 11th,  
8 1989, in ALAB-922.

9 The question certified was the following:

10 "Whether the Massachusetts Attorney  
11 General's testimony, which seeks to address the dose  
12 reductions/dose consequences that will arise under the  
13 New Hampshire Radiological Emergency Response Plan, is  
14 admissible as relevant to the determination whether,  
15 in accordance with the Commission's *Shoreham* guidance,  
16 the New Hampshire Radiological Emergency Response Plan  
17 will achieve 'reasonable and feasible' dose reduction  
18 under the circumstances so as to provide 'reasonable  
19 assurance that adequate protective measures can and  
20 will be taken' in accordance with 10 CFR 50.47."

21 Chairman Carr, Commissioners Rogers and  
22 Roberts have approved an order which determines that  
23 the testimony proffered by the Massachusetts Attorney  
24 General was not admissible for the purpose mentioned  
25 by the Appeal Board, nor for any other. Commissioners

1 Curtiss and Remick abstained in this action.

2 Would you please affirm your votes?

3 CHAIRMAN CARR: Aye.

4 COMMISSIONER ROBERTS: Aye.

5 COMMISSIONER ROGERS: Aye.

6 SECRETARY CHILK: The second item is SECY-  
7 90-037/037A. It's the Seabrook Immediate  
8 Effectiveness Decision and full power license.

9 The Commission is considering in this paper  
10 the issuance of an order to allow the Atomic Safety  
11 and Licensing Board's authorization of a full power  
12 license for the Seabrook Nuclear Power Station Unit 1  
13 to become effective under NRC regulations during the  
14 pendency of further appeals and other administrative  
15 proceedings.

16 In acting on this order, the Commission is  
17 also addressing motions to revoke or vacate the  
18 Licensing Board's authorization addressing its  
19 immediate effectiveness review of the contest issues  
20 in this case and deciding motions to stay the  
21 effectiveness of the Licensing Board's authorization.

22 As a result of its consideration, the  
23 Commission, by a vote of three to nothing, with  
24 Chairman Carr, Commissioner Roberts and Rogers  
25 approving and Commissioners Curtiss and Remick

1 abstaining, denies a November 17, 1989 motion of the  
2 Intervenors, that is the Massachusetts Attorney  
3 General, Seacoast Anti-Pollution League, and New  
4 England Coalition Against Nuclear Pollution, to vacate  
5 those portions of the Licensing Board's decision on  
6 the Seabrook plant for Massachusetts communities which  
7 authorized the license.

8 The Commission has also conducted its  
9 immediate effectiveness review under 10 CFR 2.764 and  
10 by the same vote of three to nothing has found the  
11 review supports allowing the Licensing Board's  
12 authorization of the issuance of a full power license  
13 to become effective.

14 The Commission, by same vote, also denies  
15 the December 1, 1989 stay motion filed by the  
16 Intervenors, the Massachusetts Attorney General,  
17 Seacoast Anti-Pollution League, New England Coalition  
18 Against Nuclear Pollution, and the Town of Hampton,  
19 finding that the moving parties have not demonstrated  
20 their entitlement to a stay.

21 However, given the controversy that has  
22 surrounded the Seabrook plant since these proceedings  
23 commenced, and the Commission's expectation that  
24 judicial review of this decision will be sought, the  
25 Commission has decided, as a courtesy to the parties

1 to permit the filing of judicial stay motions, that  
2 the effective date of the decision will be March 8th,  
3 1990. If motions for a stay are filed by plant  
4 opponents in the U.S. Court of Appeals within this  
5 period, then the decision's effective date will be one  
6 week after the relevant motions are filed.

7 Accordingly, consistent with the provisions  
8 for a housekeeping stay, the Director of the Nuclear  
9 Reactor Regulation may issue the license authorized by  
10 the Licensing Board in their proceeding, 89-32.

11 Would you please affirm your vote.

12 CHAIRMAN CARR: Aye.

13 COMMISSIONER ROBERTS: Aye.

14 COMMISSIONER ROGERS: Aye.

15 CHAIRMAN CARR: Is there anything else to  
16 come before us today?

17 SECRETARY CHILK: I have nothing further.

18 CHAIRMAN CARR: If not, we stand adjourned.

19 (Whereupon, at 11:40 p.m., the above-  
20 entitled matter was adjourned.)  
21  
22  
23  
24  
25

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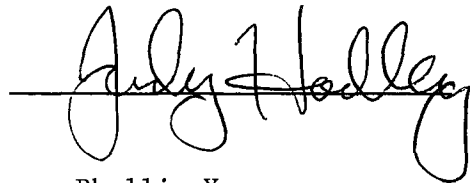
This is to certify that the attached events of a meeting  
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PLACE OF MEETING: ROCKVILLE, MARYLAND

DATE OF MEETING: MARCH 1, 1990

were transcribed by me. I further certify that said transcription  
is accurate and complete, to the best of my ability, and that the  
transcript is a true and accurate record of the foregoing events.

A handwritten signature in cursive script, appearing to read "Phyllis Young", written over a horizontal line.

Reporter's name: Phyllis Young

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