

UNITED STATE OF AMERICA  
NUCLEAR REGULATORY COMMISSION



In the Matter of )  
 )  
BOSTON EDISON COMPANY, et al. )  
 )  
(Pilgrim Nuclear Generating )  
Station, Unit 2) )

Docket No. 50-571

EXCEPTIONS BY THE MASSACHUSETTS WILDLIFE  
FEDERATION IN LIEU OF REQUESTS FOR FINDINGS OF  
FACT AND CONCLUSIONS OF LAW

Pursuant to prior notification to the Board, counsel for the Applicant, the Staff, and the Intervenor Massachusetts Wildlife Federation (MWF) met on Friday, November 23, 1979 at the offices of the Applicant in Boston in order to negotiate stipulated findings of fact as to the MWF's contentions 1(a) and (b). After several hours of discussing the record, it became apparent that in the light of the Board's ORDER of July 14, 1978, the MWF was effectively precluded from further litigating, before this Board, the issue of whether additional radwaste systems should be required beyond those currently required by Appendix I.

In the view of the MWF, the record demonstrates compliance with the numerical design objectives and the cost benefit analysis requirements of Appendix I to 10 C.F.R Part 50, as it is written and as the Board has decided to apply it.

The MWF, however, does not accept the Applicant's requested findings of fact and conclusions of law, nor will it accept the

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Staff's, as we understand them to be contemplated.

The Board has ruled, on July 14, 1978 that "We will apply Section IID of Appendix I to 10 C.F.R. Part 50, as it is relevant to this proceeding, as that Section is written."

The MWF continues to assert that Appendix I as applied to its contentions in this case violate its procedural and substantive rights, without limitation, in that the regulation, inter alia, precludes the MWF from further litigating its contention that the Applicant should be required to install additional radwaste systems. Under these circumstances, then, it would be a totally futile act for the MWF to submit findings of fact and conclusions of law on this issue; indeed, since the Board has unequivocally ruled on this point, we refrain from doing so since, as to this particular issue, such an act might be construed as defiance of the Board's Order. The administrative and judicial appellate process will have to resolve the issue as to whether the Board's position as manifested by its Order of July 14, 1978 is legally sound.

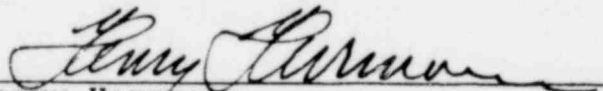
The MWF will rely on the record in this case as it is constituted, and expressly re-affirms its position that it should have been permitted, under these circumstances, to challenge the constitutionality and legality of the regulation in question, and the MWF maintains and re-affirms all oral argument, and written pleadings previously filed with the Board, in this regard.

In conclusion, therefore, the MWF formally takes exception to the Board's Order of July 14, 1978, since the latter precludes

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the MWF at this time from litigating that notwithstanding compliance with Appendix I as currently written and interpreted, the Applicant should be required to install additional radwaste filtration and containment systems. This present pleading, therefore, is in the nature of requests for findings of fact and conclusions of law, and is intended, therefore, to preserve the MWF's position for appellate review.

Respectfully submitted,

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

Henry Herrmann  
Attorney for the Massachusetts  
Wildlife Federation - Intervenor

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CERTIFICATE OF SERVICE

I, Henry Herrmann, attorney for the Massachusetts Wildlife Federation, certify that I have made service of "Exceptions By The Massachusetts Wildlife Federation In Lieu Of Requests For Findings of Fact and Conclusions of Law" by deposit in the mail, first class postage prepaid, addressed to the following:

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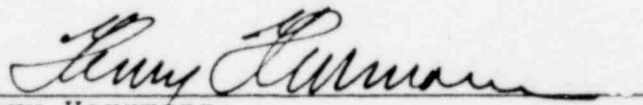
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Dated: November 30, 1979

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