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January 19, 1990

Administrative Judges  
Ivan W. Smith, Chairman  
Dr. Richard F. Cole  
Dr. Kenneth A. McCollom  
US NRC  
Washington, DC 20555

Re: In the Matter of  
Public Service Company of New Hampshire, et al.  
(Seabrook Station, Unit 1)  
Docket No. 50-443-OL /444-OL

Dear Administrative Judges:

Three days ago I received the Board's Memorandum and Order of January 11, 1990, the purpose of which was "to provide to interested parties an opportunity to advise the Board on how to proceed in accordance with the directives of ALAB-924 and how they proposed to participate in the resolution of the remanded issues."

My first reaction was that this Order must be in jest. Surely, the members of this Board could not expect SAPL to have the least interest whatsoever in any further proceedings before the Board, given the fact that the Board has decided the issue in the case by directing the "immediate authorization" for a full power nuclear license.

Perhaps the Board has forgotten that SAPL intervened in this proceeding to oppose the issuance of a nuclear license for Seabrook. It did not intervene in this proceeding for the sake of being in the proceeding, and it has no intention of serving as an uncompensated emergency planner for FEMA, NRC, or the New Hampshire Emergency Management Agency.

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Administrative Judges  
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In case the Board has forgotten SAPL's position in this matter, we enclose a copy of SAPL's Opening Statement. SAPL's position remains what it has been, there is no "adequate" emergency plan for Seabrook<sup>1</sup>, adequate emergency planning at Seabrook may indeed not be feasible, and therefore no nuclear license should be issued.

Respectfully submitted,

Seacoast Anti-Pollution League  
By its Attorney,



Robert A. Backus

RAB:jsr

Enclosure

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<sup>1</sup>If it comes to pass that these new proceedings involve licensing, SAPL will again be a participant.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

before the

ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	Docket No. 50-433-OL
PUBLIC SERVICE COMPANY OF	)	
NEW HAMPSHIRE, et al	)	Off-site Emergency Planning
	)	and Safety Issues
(Seabrook Station, Unit 1)	)	

OPENING STATEMENT ON BEHALF OF THE SEACOAST  
ANTI-POLLUTION LEAGUE

Mr. Chairman, and Administrative Judges, the Seacoast Anti-Pollution League has been concerned about the unfortunate siting of the Seabrook Plant since the organization's founding 18 years ago. Prominent among those concerns has been the issue of whether the population at risk could be reasonably assured of safety in the event of a catastrophic accident.

Today we are here to determine this issue as to the New Hampshire Radiological Emergency Response Plans. This issue is entrusted, in the final analysis, to this agency, the Nuclear Regulatory Commission.

In this opening, I want to do three things:

First, to set this issue in context in light of the history of the Seabrook licensing, for SAPL has been involved throughout

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that history.

Second, to set forth our particular contentions, and highlight the conclusions of the evidence on those contentions.

Third, to urge SAPL's position as to the ultimate issues to be considered.

However, at the outset, I think it is important to emphasize that this issue is, at its center, one that depends on an appreciation of the unique character of the Seabrook site. The fact is that the Seabrook site is indeed unique. No other commercial nuclear power plant is sited as close proximity to a beach population of thousands of individuals, as close as 1.7 miles to the reactor, with limited egress routes, and with the beach goes largely without the protection of even ordinary street clothing.

In fact, [REDACTED], it has long been recognized that the Seabrook site exceeds the NRC's own siting population guidelines, as set forth in Regulatory Guide 4.7.

In light of the absolute central importance of the Seabrook site and its environs to the determination of whether an "adequate" level of protection can be afforded to the population at risk, SAPL filed on June 22, 1987, a Motion for this Board to take a view of the Seabrook EPZ. Although this Motion was not opposed by any party, it was not ruled upon by this Board until denied by the Chairman during our multi-party telephone conference held on September 17, after the opportunity to view the summer conditions in the EPZ had expired. We do recognize there was a

change of Board chairman in the meantime.

Notwithstanding Chairman Smith's statement that he had, as a matter of personal interest, once visited the New Hampshire seacoast, and that the other members had familiarity with the seacoast area, SAPL believes that to understand these issues it is essential to present visually the condition of the EPZ as best we can. Therefore, at this time, SAPL would like to play a 2 1/2 minute videotape of the EPZ, narrated by our Field Director, Jane Doughty. Copies have already been provided to the adverse parties and a copy has been furnished to the Board. (See attached Transcript of "Hampton Beach Area Traffic" Videotape)

This, then, is the human context for the issue before us. Now I want to turn to the historical context of the emergency planning issue, because it bears on one of the most critical issues in this case, and that is the credibility of the NRC's treatment of the issue.

The simple and unhappy fact is that the emergency planning issue has not been responsibly handled by the NRC. Instead, denial and procrastination have been the order of the day on the part of the NRC, at all levels.

This is indeed ironic, for it was way back in December of 1974, the year of this Agency's founding, and 18 months before construction at Seabrook began, that the Advisory Committee on Reactor Safeguards, the claimed independent body that reviews safety issues for the agency, criticized the Seabrook application, on the precise issue now before us. The ACRS said, and I quote:

"Because of the proximity of the Seabrook Station to the

beaches on the coast and because of the road networks serving the beaches, the Applicant has given early attention to the problem of evacuation. The Committee believes, however, that further attention needs to be given to evacuation of residents and transients in the vicinity even though they may be outside the LPZ."

Mr. Chairman, as the members of the Board will be aware, but the public here may not, the LPZ referred to by the ACRS refers to the low population zone, a circle that prior to the present emergency planning requirements was drawn around nuclear reactors based on certain engineering considerations and the distance to the nearest so-called population center. In the case of Seabrook, the LPZ eventually ended up being drawn in a circle a mere one and a quarter miles from the reactors, a distance which of course did not include either the heavily populated beaches or any town centers.

It is indeed interesting that the ACRS noted this concern so early, because it had also been noted in contentions raised by various intervenors in the Seabrook construction permit proceeding, including the former Attorney General of New Hampshire, now Senator Warren B. Rudman. In the construction permit proceeding, Attorney General Rudman had contended that evacuation of the beaches needed to be addressed, and there was sharply varying testimony on the time and feasibility of evacuating an area of five miles around the reactors.



Later, the Seabrook Appeal Board was asked to address these issues. Over ten years ago, in ALAB 422, the Appeal Board noted the following:

"There is no doubt that, at peak periods there, in excess of 25,000 people can be found in the densely populated area--indeed no one disputes the claim that this area will be at times the most densely populated area in the state."

Notwithstanding this, however, the Appeal Board finally disposed of Attorney General Rudman's contention, by simply stating :

"We would be left with a nagging practical question--what account is to be taken of the large number of people on the beach? As we have held in an earlier opinion, no plans for their evacuation are required."

Consequently, the Appeal Board was able to conclude: "For this reason we do not need to go into the sharply disputed issue respecting the evacuation of the beach areas or other territory likewise not encompassed by the LPZ." (ALAB 422, Slip Opinion, pages 31, 32 and 36).

There is thus absolutely no doubt that the issue of evacuation was timely raised in regard to Seabrook, long before construction at Seabrook was started, and that this agency refused to consider it.

The reason for this refusal was simple. The NRC had categorically declared that the chances of an accident at a licensed nuclear plant were so remote that the idea of protective

action outside the so-called low population zone was simply incredible.

This mind set largely prevailed against all challenges, including the intervenor challenges at Seabrook, until March of 1979, when an "incredible" accident in fact incurred at Three Mile Island. That accident eventually resulted in the August 1980 Emergency Planning Requirement that brings us here today: the requirement that there be in place emergency plans, as an essential independent safety requirement, and that those plans provide "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency."

However, even before this requirement became final in August 1980, SAPL had moved, in May of 1979, to have the construction permit for Seabrook suspended because of the failure of the NRC to require development of an evacuation plan beyond the LPZ.

SAPL had noted that Seabrook had been designated one of the 12 problem sites by the Federal Emergency Management Agency, FEMA, and indeed, pursuant to a FEMA report, FEMA Rep. 3, had the longest estimated range of evacuation times of any site in the country, an estimate ranging up to 15 hours. Not until July of 1981, more than two years after SAPL's request, did the NRC staff refuse to take action. The Staff Response noted that: "Indeed, for the lowest likelihood events, some serious health effects could be expected." The Staff held, however, that emergency planning was not necessarily expected to ameliorate all health effects.

The NRC Commissioners, in reviewing the Staff position on



SAPL's request, also refused to take action. However, two of the five NRC Commissioners dissented. They noted, and I quote:

"Seabrook poses difficult, and perhaps unique, emergency planning problems. In light of the time and cost likely to be involved in improving Seabrook's emergency preparedness, we should begin to seek solutions now, not some years from now when the plant is almost ready to operate. Moreover, at that time it will be much more difficult for the NRC to require remedial measures which could delay plant operation."

SAPL did not stop with the Commission's refusal to review. Believing that Seabrook indeed posed uniquely difficult planning problems, SAPL appealed to the United States Court of Appeals for the District of Columbia. Before that Court, the NRC again reiterated its belief that the Emergency Planning issue was not necessarily unsolvable at Seabrook, and went on to make a solemn promise to the Court, and to SAPL, that it would not allow the continuing massive investment in construction to sway its judgment on whether the Applicants had met the requirement that emergency planning achieve an "adequate" level of public protection. The Court, accepting the NRC's promise to ignore the utilities' investment, agreed the inquiry could be postponed to the operating licensing proceeding. It noted, however,

"We are not unsympathetic with SAPL's position in this case. SAPL has presented evidence regarding the unique features of the Seabrook area and the current state of emergency preparedness would seem to warrant the Commission's most careful examination in evaluating the adequacy of the final Seabrook EPZ emergency plans. (690 F. 2d 1025-1033 (1982)).

And so, the NRC has, in the 13 years since the agency was founded, first denied the existence of an emergency planning problem at Seabrook by first decreeing an accident requiring emergency protective action beyond the LPZ to be incredible, and later, when that position became untenable, by refusing to face the issue until the eleventh hour, which is today. SAPL respectfully submits, Mr. Chairman, that this is not a pretty record.

Now, let us turn to the SAPL contentions and our evidence on those contentions. We must first note, however, that many of our concerns are not going to be addressed at this hearing, due to denials of contentions and summary dismissal rulings that have been made. Those concerns relate to contentions directed toward the capability for radiological monitoring, capability of the telephone system to handle emergency conditions, the adequacy of area medical facilities to handle contaminated and/or injured individuals, the adequacy of the ten mile zone, and the adequacy of emergency fuel supplies in the area. All of these issues will be dealt with only in the event of an appeal ordering a remand for failure to consider these issues in this proceeding.

The issues which we do have before the Board are:

SAPL Contentions 7 and 33 having to do with the capability to monitor and decontaminate evacuees in the host community reception centers.

SAPL 8 and 8A, having to do with inadequate personnel to carry out the plans on a continuous 24 hour basis.

SAPL 15, having to do with whether or not there are

sufficient commitments, through letters of agreement, to insure adequate response by entities having emergency plan responsibilities.

SAPL 16, having to do with the adequacy of sheltering as a protective response.

SAPL 18, having to do with the protection of non-auto owning persons.

SAPL 25, having to do with the protection of those whose mobility may be impaired due to institutional confinement or other factors.

SAPL 31, having to do with the adequacy of the evacuation time estimates.

SAPL 34, having to do with the accuracy of population estimates for the Seabrook EPZ.

SAPL 37, having to do with the availability of emergency vehicles and drivers.

Because of our limited resources, SAPL's direct testimony is directed to only five of those contentions, those having to do with personnel resources, SAPL 8 and 8A, those having to do with mobility impaired populations, SAPL 25, and those having to do with decontamination at host community reception centers, SAPL 7 and 33. However, we do support the testimony of others, particularly the Massachusetts Attorney General, on the other SAPL contentions.

The testimony, taken as a whole, will just demonstrate certain basic facts:

1. The Applicants have seriously underestimated the population at risk. The beach population will be shown to have a



peak capacity of 93,000 persons, not the 61,000 or so persons estimated by the Applicants' consultant. This means that the total EPZ population estimate should be 260,000, more than a quarter of a million people.

2. The time to evacuate is more than 12 hours, a figure 93% greater than the Applicants' estimate, and a figure which we believe will show two things:

First, that the time to evacuate is so long that evacuation is not a reasonably adequate protective measure for the population at risk, particularly in the beach area, and that in the absence of an effective sheltering alternative, the only conclusion that can be arrived at is that there is no reasonable assurance that adequate protective measures and will be taken.

Second, that the New Hampshire radiological emergency plans do not in fact achieve dose savings over the estimates for an unplanned evacuation that were the subject of hearings before this Board in August of 1983. As I have already mentioned, the original FEMA report on the Seabrook evacuation time estimates, FEMA Rep. 3, released in February of 1981, set forth a range of evacuation time estimates from four to fifteen hours, and it now appears that, based upon the testimony offered by the Massachusetts Attorney General, the time estimate for a planned evacuation is in the upper end of that range. Therefore, it is SAPL's position that the New Hampshire radiological emergency plans for Seabrook have done nothing but demonstrate the inadequacy of the New Hampshire emergency plans in this

situation.

Now let me turn to the SAPL position on the ultimate issues in these proceedings.

SAPL believes the major issue in this proceeding is the standard that will be applied. That standard, once again, is whether or not these plans provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. But what is "reasonable assurance"? What is "adequate protection"?

We all know that the NRC has steadfastly refused to set any objective criteria for measuring either adequacy or reasonable assurance. The Commission has already held that there are no time limits in which evacuation must be carried out, and there are no minimal acceptable dose limits for either individuals or the population at large. Thus, it remains the task of the agency, and this Board in the first instance, to determine what will be the definition of adequacy and reasonable assurance in light of the findings it may make about the efficacy of these plans.

We already know what the position of the Applicants and the utility is on this matter. This Board, and the parties, were furnished on June 12 with a letter from Mr. Edward Christenberry, Chief Hearing Counsel, to the Acting General Counsel of FEMA. In that letter Mr. Christenberry set forth the basic position that adequacy would be established if the plans in fact achieved dose reductions and represented the best effort achievable given the facility and the site in question. Under this theory, adequacy

could be found if the plans achieved some dose savings for say 500 of perhaps 50,000 people on the beach, even if the remaining 49,500 did sustain radiation injury, or even death, as the result of a nuclear accident.

SAPL totally rejects the NRC/utility view of the meaning of adequate protection. It is SAPL's position that even if the plan is found to be "the best" that can be achieved given this site and the major facilities, such as roadways, that are available and even if that plan does achieve some level of dose reduction, it is wholly inadequate in the event of an accident, in which early warning is not possible and there is a major radiation release, and which results in off-site consequences which are, as set forth in the Massachusetts testimony, five times greater than for accidents at other licensed nuclear facilities.

Rather, SAPL concurs with the position taken by FEMA in this case, that:

"It appears that thousands of people would be unable to leave during an accident at Seabrook involving a major release of radioactivity without adequate shelter for as much as the entire duration of that release. Therefore, until these issues are resolved even if all the other inadequacies and deficiencies cited in the RAC Reviews of the New Hampshire Plans, and the Review of the Exercise of these plans were to be corrected, FEAM would not be able to conclude that the New Hampshire State and local plans to protect the public in the event of an accident at the Seabrook Nuclear Power Plant are adequate to meet our regulatory standard that such plans 'adequately protect the public health and safety by providing reasonable assurance that appropriate protective measures can be taken offsite in the event of a radiological emergency.'"



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In conclusion, Mr. Chairman, we believe SAPL's long standing position in this matter will be vindicated, and that since, at Seabrook, the people cannot be adequately protected from the risk of catastrophic accidents, the risk must be removed from the people. This must be accomplished by denial of the application for a nuclear operating license.

Thank you.

Ivan W. Smith, Chairman  
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