

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Commission

In the Matter of

PUBLIC SERVICE COMPANY OF

Docket Nos.

NEW HAMPSHIRE, et al.

(Seabrook Station, Units 1 and 2)

(Off-site Emergency
Planning Issues)

AFFIDAVIT OF MICHAEL C. SINCLAIR

August 6, 1990

I, Michael C. Sinclair, being on oath, depose and say as follows:

- 1 I am a self-employed emergency planning consultant d/b/a Graystone Emergency Management Associates, Hillsboro, NH, and have been recognized as an expert in the field of offsite radiological emergency response planning during testimony before the Atomic Safety and Licensing Board in the above-referenced case in 1988 and 1989.
- 2 On the occasions of my testimony with respect to certain aspects of the New Hampshire Radiological Emergency Response Plan (NH RERP) and the utility-sponsored Seabrook Plan for Massachusetts Communities (SPMC), I testified as a consultant under the employ of and on behalf of the applicant utility, New Hampshire Yankee, and asserted that within the context of the issues raised that the plans were adequate at the time the

testimony was offered

- 3 During the preparation of testimony in 1988, I was involved in the development of data relating to the staffing requirements for the NH PERP and subsequent to the conclusion of the testimony, I was assigned the task of developing documentation to demonstrate a full staffed roster of PERP positions for review by the Federal Emergency Management Agency. That document was presented and reviewed by Bruce Swiren of FEMA, Region 1
- 4 Similarly, in 1989, during preparation of testimony on the SPMC, I assisted fellow contractor William Renz in developing similar personnel staffing data. Following the ASLB hearings on the SPMC, I was assigned to assist Michael Lewis, Bruce Gretter, Ron Thompson and other NHY employees in updating the NH PERP personnel staffing information to document full staffing of PERP positions and the training received by each individual. During the process of gathering the information, a substantial number of vacancies were identified and I worked with Directors Richard Strome and his successor George Iverson, Michael Nawoj, Robert Jeffries and John Gifford of the New Hampshire Office of Emergency Management, and William Coburn and Clay Ogilvie of the NH Human Services Agency, among others, to secure personnel to fill the vacant positions. The updated roster information was presented to Richard Donovan of FEMA, Region 10, in the fall of 1989
- 5 Subsequent to completing my contracted work for the utility in November, 1989, and continuing through the Spring of 1990, I visited informally with a number of the people representing the state agencies with which I had

worked during the previous three years. During these encounters, I inquired about progress in their efforts to maintain RERP personnel and to complete the required training. In virtually every instance, I was told that agencies were continuing to encounter difficulty filling vacant positions. At the State government level, it had been my experience over the past three years that the State Agency of Human Services, one of the largest providers of RERP implementation personnel in a number of key areas including Reception Center staffing, accident analysis, laboratory support, field monitoring and decontamination supervision, has been plagued by chronic instances of short staffing, high turnover, and the inability to fill vacant positions. At the local level, there had been similar problems with respect to turnover and short staffing within municipal police and fire departments.

6 The Governor of New Hampshire, in February, 1990, announced a series of expenditure reductions, including employee layoffs and the freezing of vacant job positions. In the weeks that followed, I again made informal inquiries about RERP staffing levels and was advised that the budget reductions and hiring freeze had further reduced the number of people available to fill RERP requirements. Among the agencies with significant problems in this respect were the Agency of Human Services and the State Office of Emergency Management. Based on the information provided, I concluded that staffing levels throughout the RERP as of that time in late March, 1990, might be in the neighborhood of 10-15% below minimum RERP requirements.

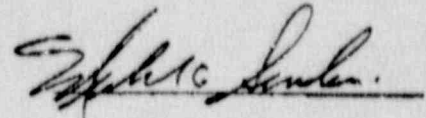
7 Between March and June, 1990, on separate occasions, both in person and in

writing. I made representatives of the Office of Emergency Management, the utility, and FEMA aware of my concerns that NH RERP staffing had fallen below the minimum levels testified to before the ASLB as being required to implement the plan. Among those to whom I expressed these concerns were George Gram, Donald Tailleart, and Paul Frechette of NHY and David Wise, a NHY contractor, George Iverson and Michael Nawoj of NH OEM; Richard Donovan of FEMA; and White House Chief of Staff John Sununu, former Governor of New Hampshire. All of these individuals acknowledged existence of the problem, with the exceptions of Mr. Sununu and Mr. Gram, who did not respond.

- 8 In mid-July, during a conversation with NHOEM Director Iverson, I again mentioned my concerns regarding RERP staffing deficiencies as exacerbated by the continuing state budget constraints and the overall economic downturn being experienced in the region. Mr. Iverson volunteered that he too was concerned and had been instructed by the Governor that week to prepare for further agency spending cuts and perhaps more staff reductions. I suggested such actions would only increase the 10-15 per cent deficiency I believed already existed, and Mr. Iverson responded that he believed that the deficiency could be as much as 20-25% in minimum staffing capacity across-the-board even before instituting further state budget cuts. He also agreed with the supposition that similar spending constraints and economic pressures were taking a toll among municipal emergency response organizations in the EPZ communities and the non-governmental support providers. He said some effort had been made to correct a few of the problems, but that the situation might get worse before it got better.

- 9 At the time I testified before the ASLB, the position taken by the utility and the State was that minimum staffing capability, that is, the availability of trained personnel to fully staff two consecutive shifts in all positions listed in the RERP, would be maintained because that was what was required to implement the plan. It is my position as a planning professional that the emergency response plans litigated in these proceedings are not fully implementable and functional without a full complement of trained, available personnel to staff each of the specified functions. Based on my experience and the information made available, I do not believe that capability currently exists.
- 10 Having received no formal response to my concerns from the responsible parties I believed were in a position to mitigate the staffing situation, I authored a letter dated July 20, 1990, to Administrative Law Judge Ivan W. Smith of the ASLB before whom I had testified as to the sufficiency of the emergency response plans for Seabrook Station. (Letter attached as Exhibit A)
- 11 In my opinion the scope and depth of the present deficiencies in staffing are sufficient to question whether the RERP could be fully implemented and should be considered safety significant as the utility prepares to bring Seabrook Station to continuous, full power operation. Once the facility is on-line and operating on a day-to-day basis, the emergency response capability specified in the emergency response plans must be available on a 24-hour-a-day, 365-days-a-year basis in order to protect the public health and safety of the people who live within the 10-mile EPZ. The

finding of reasonable assurance that the written emergency response plans are adequate to provide protection is meaningless in the absence of a full complement of trained personnel resources to implement them if and when circumstances require it.



Affiant.

STATE OF NEW HAMPSHIRE)

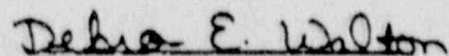
) SS.

County of Hillsborough)

August 7, 1990

The above-subscribed individual appeared before me and made oath that he was the author of the foregoing affidavit and that the statements set forth therein are true to the best of his knowledge.

Before me,



Notary Public

My commission expires: 9/07/93



EXHIBIT A

Graystone

July 20, 1990

Administrative Law Judge
Ivan W. Smith, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Public Service Company of New Hampshire
(New Hampshire Yankee - Seabrook Station)

Dear Judge Smith:

Please excuse the informality of this correspondence, but I am no longer affiliated with any of the parties involved in the case, and it would appear I have no legal standing in which to present this issue other than as an interested citizen. Nevertheless, out of respect for you and for the Board, I felt you should be made aware of this situation.

You may recall that during the Seabrook licensing hearings on both the New Hampshire Radiological Emergency Response Plan (NHRERP) and the utility-sponsored Special Plan for Massachusetts Communities (SPMC), I testified as an expert witness for the Applicants (New Hampshire Yankee) on a number of off-site emergency response planning issues. At the time, I was a contractor, employed by the utility as an off-site planning specialist.

Since leaving the project in November, 1989, several people with whom I worked closely have expressed concerns about a significant deterioration in the emergency response capability since the emergency plans were litigated and exercised under FEMA scrutiny. These concerns focus on the time period between March of this year and the present during which the State of New Hampshire undertook to reduce state expenditures by eliminating several hundred state jobs and placing a "freeze" on the hiring of new employees and the filling of vacant positions in state government.

I am told that the impact of this move was the elimination of a number of jobs in the State Health and Human Services agency, among others, impacting on RERP staffing capability for Reception Centers. In addition, staff reductions and consolidations also sharply reduced the number of trained individuals available to staff RERP positions in areas such as Field Monitoring, Radiological Laboratory Analysis, and Decontamination Center Supervision. I am also aware that as a result of staff turnover, reductions in force, and the hiring freeze, the State Office of Emergency Management is unable to fill a number of key RERP positions in its own Command and Control organization.

~~9488474199~~ 3 pp.

Graystone Emergency Management Associates
13 Summer Street, Hillsboro, NH 03244 (603) 484-0757

Administrative Law Judge Ivan T. Smith
Atomic Safety and Licensing Board
July 20, 1990
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Based on my own knowledge of the RERP personnel situation, it would appear the state is unable to meet 20 to 25 per cent of the minimum staffing requirements with trained personnel at this time. Moreover, within the past week, Governor Gregg has directed that further budget reductions be undertaken in the fiscal year that began July 1 with the prospect of additional layoffs and continued vacancies in state government.

The net result of this situation is that at a time when Seabrook Station is ascending to full power operation, the state's ability to effectively implement the off-site emergency response called for under the litigated plan appears to be in question.

When I first learned of this situation last Spring, I mentioned the concerns to OEM and utility officials and a FEMA representative, suggesting in each instance that some remedial effort should be made to correct the problems, either by informing the Governor that the positions were necessary to fulfill the state's commitments under the RERP or by revising the RERP to reflect a realignment of the staffing requirements. OEM officials indicated they were powerless to influence state policy on staffing; utility Emergency Planning officials said it was not their problem; and the FEMA representative said it was a "moot" point unless FEMA conducted an audit of RERP personnel - which was unlikely - or the positions remained unfilled during the next FEMA graded exercise in December, 1990, at which time they would be noted as a ARCA.

My purpose in bringing this issue to your attention is that I believe it involves the integrity of the licensing process. No emergency response plan can be effective without the trained personnel necessary to implement it. As a professional planner, I did my best to ensure that the off-site response plans for Seabrook Station represented not only compliance with regulatory guidance, but an effective and implementable plan to protect public health and safety in the event of an accident. As a witness in the proceedings, I accepted, as the Board did, the assurances of FEMA, the state, and the applicant utility that the emergency response capability reflected in the plans would be constantly monitored and maintained. I am no longer confident that the commitment is being kept.

As one who testified under oath before the ASLB regarding the efficacy of the RERP, had I been aware that such a situation would be allowed to develop, I would have been more cautious or tentative in framing my statements. In retrospect, there are a number of affirmations I might not have made at all.

Obviously the system is flawed when it allows a situation such as this to arise and go unaddressed. And it appears there is no recourse despite the fact that it constitutes a failure on the part of the state to abide by the requirements of NUREG-0654 and the language of its own emergency response plan. It is a conundrum that the utility's license initially is contingent on a state's commitment which may subsequently be abdicated through no fault of the utility. Yet, at the same time, the utility is free to balk at helping the state meet its commitment with no apparent sanction. I know of no way to compel the parties involved to live up to their responsibilities and to ensure that they do so on a continuing basis.

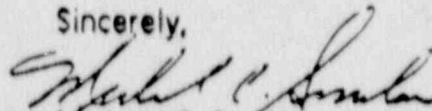
Administrative Law Judge Ivan T. Smith
Atomic Safety and Licensing Board
July 20, 1990

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Perhaps the most disturbing aspect of the problem is that during the period when any state or municipal response organization is incapable of implementing the protective actions required to meet a nuclear emergency, the Board's findings that a response plan provides reasonable assurance that public health and safety will be protected is rendered invalid.

I would be interested in knowing your views on this issue and what action you feel could be taken to mitigate such situations. I hope that in the future, the Board and perhaps the full Commission, will see fit to address this problem by insisting that the NRC and FEMA use its authority to enforce at least minimum emergency response staffing requirements.

Sincerely,



Michael C. Sinclair

MCS/hs

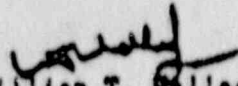
EXHIBIT 2

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE

FROM


William T. Gallace, Jr., M.D., M.P.H.
Director

July 18, 1990
AT (Office)

DPHS

SUBJECT

RADIATION EMERGENCY RESPONSE

TO

All Division Staff

It has been some time since I have made a request like this, but in that time there have been several personnel changes, and so, it is necessary to ask again. Many of you are well aware of the involvement of the Division in radiation emergency response, specifically as it pertains to mitigation of any effects of emergencies which may arise from operation of fixed nuclear facilities, e.g., the Vermont Yankee and Seabrook power stations.

While we have a permanent "core" of trained radiological health personnel, successful participation in exercises to test our response capability requires that we have a pool of individuals who can be called upon to fill in in several capacities. Among these are exposure control clerks, field monitors, field sampling team members, laboratory assistants, accident assessors, reception and decontamination center supervisors, and clerical staff. Our ultimate goal in this regard is to have sufficient trained staff in all capacities so that shift changes can be accomplished smoothly.

The Division has received high marks from federal agencies which have graded our participation in previous exercises. Our success has been, in no small way, due to the dedication of those of you who have given of your time and talents in the past. We need to continue this successful carrying out of our mandate and responsibility. In this regard, we need additional persons to replace those who have left.

You may say that you have no knowledge of radiation emergency response planning or implementation. Several of the positions require little, if any, education or experience in the field of radiation. In addition, training is available to all to make sure you are clear as to what your role is.

There may be those of you who have declined to participate in the past - perhaps feeling that participation may have been considered tacit approval of that which was not in line with your personal convictions. I have respected these convictions. However, Seabrook Station now has an operating license and we in the Division have our mandate - protection of the public health. I therefore request those of you, who have previously declined, to reconsider, to share your expertise and talent, and to assist us in fulfilling our mandate. We must protect the public in the best way that we can.

The questions often comes up about additional remuneration. If you are asked to participate during regular working hours and need additional time to complete regular duties, or if you participate during other than regular working hours you can be paid either in compensatory time or overtime.

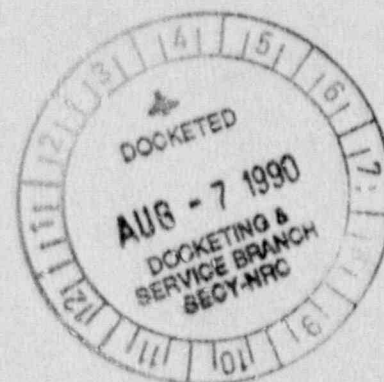
I ask all to seriously consider this request and if you wish to become a member of our response team, please contact me directly.

Thank you for your cooperation.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission:

Kenneth M. Carr, Chairman
Thomas M. Roberts
Kenneth C. Rogers
James R. Curtiss
Forrest J. Remick



In the Matter of)

PUBLIC SERVICE COMPANY)
OF NEW HAMPSHIRE, ET AL.)

(Seabrook Station, Units 1 and 2))

Docket Nos. 50-443-OL
50-444-OL

August 7, 1990

CERTIFICATE OF SERVICE

I, John Traficante, hereby certify that on August 7, 1990, I made service of the within "INTERVENORS' EMERGENCY MOTION TO REOPEN THE RECORD ON THE ADEQUACY OF THE STAFFING OF THE NHRERP AND FOR IMMEDIATE SHUTDOWN" by telefax as indicated by ['] and by first class mail to the following parties:

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1/ Hand delivery was also made on August 8th by 10:00am.

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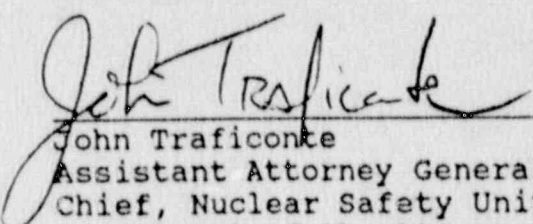
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Respectfully submitted,

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Dated: August 7, 1990