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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Before Administrative Judges:

Alan S. Rosenthal, Chairman
Thomas S. Moore
Howard A. Wilber

In the Matter of)	Docket Nos. 50-443-OL
)	50-444-OL
PUBLIC SERVICE COMPANY)	
OF NEW HAMPSHIRE, ET AL.)	
(Seabrook Station, Units 1 and 2))	March 19, 1991

INTERVENORS REPLY TO THE NRC STAFF'S
AND THE LICENSEES' RESPONSES TO THE
FEBRUARY 22, 1991 APPEAL BOARD ORDER

The Massachusetts Attorney General, The New England Coalition on Nuclear Pollution, and the Seacoast Anti-Pollution League ("the Intervenor") make the following reply to the NRC Staff's and Licensees' Responses to the February 22, 1991 Appeal Board Order. In their responses both the NRC Staff and the Licensees took the position that the issue remanded by the United States Circuit Court of Appeals for the District of Columbia in Massachusetts v. NRC, No. 89-1306, __ F.2d __ (D.C. Cir. 1991), was rendered moot by the December 1990 exercise. As support for their positions the NRC Staff and Licensees rely upon the NRC inspection report of the December 1990 exercise. In addition, the NRC Staff provides an affidavit by Edwin F. Fox, Jr.

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As previously observed in the Intervenor's Reply to the Appeal Board Order of February 22, 1991, the inspection report does not contain information as to specifically what steps the on-site operators took to meet the challenges presented in the December 1990 exercise. The Fox affidavit adds virtually no information to that provided in the inspection report. The Fox affidavit simply walks through the inspection report and references portions of it as being responsive to weaknesses identified in IR No. 50-443-88-09. The Fox affidavit does not on its face directly address the criticisms leveled in the two affidavits of Robert Pollard previously submitted in connection with the 1988 on-site exercise contention. The Fox affidavit does not provide any additional specific information as to what transpired in the December 1990 exercise beyond what is contained in the inspection report. For example, in his affidavit Fox states:

"Among the specific activities observed during a 1990 exercise were the assessment and projection of off-site radiological doses and consideration of protective actions. The NRC staff listed as exercise strengths (areas which provide strong possible indication of the ability to cope with abnormal plant conditions and implement the plan) the ability of TSC Staff to trend and extrapolate data, anticipate problems and actually predict when conditions would be reached justifying the declaration of a Site Area Emergency." The Fox affidavit at 5.

In his affidavit Mr. Fox does not provide any information as to what steps are taken by the on-site staff to assess and project off-site radiological doses, nor is any information provided as to what analyses were made in considering protective actions. The affidavit does not provide any information as to what steps

were taken by the TSC Staff as evidence of their ability to trend and extrapolate data. Nor, is any indication given as to any examples of what problems were purportedly anticipated by them, or evidence provided to show that they made accurate predictions. In sum, the Fox affidavit provides no new information about the December 1990 exercise that is not readily apparent from reading the exercise report.

If the NRC Staff and Licensees actually believe that the 1990 exercise has rendered moot the issue remanded by the Court of Appeals, they should file the appropriate motions and supply the requisite evidentiary basis that will allow this Board to make an informed decision on the matter.

Respectfully submitted,

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Docket Nos. 50-443-OL
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March 19, 1991

CERTIFICATE OF SERVICE

I, Leslie Greer, hereby certify that on March 19, 1991, I made service of the enclosed Intervenor's Reply to the NRC Staff's and Licensees' Responses to the March 22, 1991 Appeal Board Order by fax as indicated by (*) and by first class mail to:

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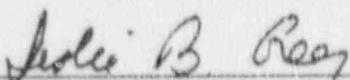
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Dated: March 19, 1991