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November 9, 1990

Mr. Samuel J. Chilk
Secretary
Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Chilk:

Attached please find a substitute page 20 for the document entitled "AMICUS SUBMISSION BY THE UNITED STATES DEPARTMENT OF ENERGY" filed with the Commission on Friday, November 9, 1990.

Thank you for your cooperation in this matter.

Sincerely,

Lawrence A. Gollomp
Assistant General Counsel for
Regulatory Interventions and
Power Marketing

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influence a decision to operate Shoreham. For example, through the DOE Organization Act, the Secretary of Energy acquired the authority originally vested in the Federal Power Commission to order the operation of an electrical generating facility whenever the Secretary determines that there is an energy emergency by reason of, among other things, a shortage of electrical energy or facilities for the generation or transmission of such energy, or of fuel for such generating facilities, or other causes (16 USC 824a(c)). The regulations implementing this statutory authority define the term "emergency" to include sudden increases in consumer demand, inability to obtain adequate amounts of fuel, extended periods of insufficient supply resulting from inadequate planning or failure to construct necessary facilities, or regulatory action prohibiting the use of certain electrical power facilities (10 CFR 205.371). Obviously, the use of this authority is one of the options available to the Secretary depending on the course of events both in the Middle East and in this country as those events affect the local, regional or national energy supply and security.

Indeed, the Commission itself has authority to compel plant operation should Congress determine that an emergency exists, by reason of the Middle East situation or otherwise (42 USC 2138, 2238). This is precisely the type of alternative which the court in NRDC v. Morton had in mind as being beyond the immediate authority of the agency, but "within the purview of both Congress and the President, to whom the impact statement goes," (458 F.2d at 834-

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing substitute page 20 of the Amicus Submission of the United States Department of Energy dated November 9, 1990 have been served upon the following persons by U.S. mail first class, except as otherwise noted and in accordance with the requirements of 10 CFR Section 2.712.

Lawrence J. Chandler, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

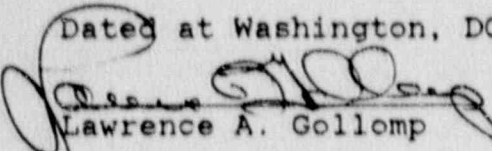
James P. McGranery, Jr. Esq.
Dow, Lohnes and Albertson
1255 23rd Street, N.W.
Suite 500
Washington, DC 20037

Donald P. Irwin, Esq.
Hunton and Williams
707 East Main Street
P. O. Box 1535
Richmond, VA 23212

Carl R. Schneker, Jr. Esq.
O'Melveny and Myers
Counsel for Long Island Power Authority
55513th Street, N.W.
Washington, DC 20004

Michael R. Deland, Chair
Council on Environmental Quality
Executive Office of the President
Washington, DC 20500

Dated at Washington, DC this 9th day of November 1990


Lawrence A. Gollomp