

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Morton B. Margulies, Chairman
Dr. George A. Ferguson
Dr. Jerry R. Kline

In the Matter of

Long Island Lighting Co.,
Shoreham Nuclear Power Station;
Confirmatory Order Modifying
License (Effective Immediately)
(55 Fed. Reg. 12758, April 5, 1990)

)
) Docket No. 50-322-OLA

) SLBP No.
) 91-621-01-OLA

AFFIDAVIT OF JOHN L. BATEMAN, M.D.

John L. Bateman, M.D., being duly sworn, says as follows:

1. I, John L. Bateman, reside at 10 Cameron Drive, Huntington, New York 11743 which is just over twenty-eight miles from the Shoreham Nuclear Power Station ("Shoreham Plant"). I have owned this property for over ten years. Thus, I live within the fifty mile geographical zone utilized by the U.S. Nuclear Regulatory Commission ("NRC") to determine whether a party is sufficiently threatened by the radiological hazard and other environmental impacts of the proposal to establish the requisite interest and standing for intervention as of right.

2. I also own a thirty-seven foot O'Day center cockpit sloop (sailboat) moored in Huntington Harbor, New York 11743

which is just over twenty-eight miles from the Shoreham plant and is, therefore, also within the geographical zone of interest.

3. I am presently employed by V.A. Medical Center (115) in Northport, New York 11768 as the Associate Chief of Nuclear Medicine Service (diagnostic radioisotope imaging and therapy). The Medical Center is located about twenty-three miles from the Shoreham Plant. I have worked there as a physician for almost sixteen years. Thus, the majority of my time, whether I am at work, at home, or relaxing on my boat, is spent within the geographical zone of interest established by the NRC. Prior to taking my current position at the V.A. Medical Center, I spent more than thirteen years in fast neutron and photon radiation biology/medical research at the Medical Research Center at Brookhaven National Laboratory, Upton, New York 11973. As a nuclear medicine physician, I am familiar with both the benefits and risks of nuclear power plants. I strongly support the use of nuclear power to meet our nation's energy needs in a safe, economical, and environmentally benign manner. In this era of escalating energy need and fossil-fuel pollution of our environment, including the disastrous effects of acid rain, it is critical that efficient non-polluting sources of energy, like nuclear energy, be encouraged and supported.

4. I have been a member of Scientists and Engineers for Secure Energy, Inc. ("SE₂") since early in 1990. I authorize SE₂

to represent my interests, as described herein, in any proceedings to be held in connection with the Immediately Effective Confirmatory Order, issued by the NRC on March 29, 1990, prohibiting the Long Island Lighting Company ("LILCO"), licensee of the Shoreham plant from placing fuel into the reactor vessel without prior NRC approval.

5. I am concerned that the Confirmatory Order constitutes another step in the decommissioning process presently underway at Shoreham in violation of my rights under the National Environmental Policy Act ("NEPA"). The Order reaffirms the previous NRC decisions allowing LILCO to reduce staffing and maintenance to a level clearly inconsistent with the terms of the full power operating license and several NRC regulations. These very actions which the NRC explicitly allowed are now being advanced as presenting a health and safety threat of such a magnitude that an immediately effective Order was issued to effectively prohibit operation. SE₂ submitted a Section 2.206 request in conjunction with the Shoreham-Wading River Central School District in July of 1989 when the destaffing and plant disassembly activities had only just been announced and were yet to be implemented. The Request asserted that these actions should not be allowed to go forward before publication of a Final Environmental Impact Statement ("FEIS") pursuant to the dictates of NEPA and because they were inimical to the public health and safety due to their inconsistency with LILCO's license obligations

as a full-power licensee. Despite the fact that the Commission denied the request for immediate relief and continues to ignore the issues raised in the original Section 2.206 request and the supplements thereto, it now relies on the results of the challenged actions to justify issuance of the immediately effective Order without ordering remedial measures or proposing fines.

6. I do not believe that any steps in furtherance of the Shoreham Plant's decommissioning should be implemented until a FEIS evaluating the impacts of, and alternatives to, the entire decommissioning proposal has been completed in compliance with the terms of NEPA and the NRC's own regulations in a single proceeding. If the NRC allows steps which are clearly in furtherance of decommissioning, and have no necessary independent utility, to be implemented at the Shoreham Plant prior to the necessary NEPA review, my rights, and the rights of those similarly situated, to have an opportunity for meaningful comment on the environmental consideration of the decommissioning proposal will be prejudiced, if not completely denied. Besides reaffirming past actions aimed at removing the Shoreham Plant from service and, therefore, in furtherance of decommissioning, the Confirmatory Order also sets the stage for yet other actions in furtherance of decommissioning. LILCO has applied for a license amendment to recognize the defueled state of the plant which will in turn facilitate the transfer of the plant to the

Long Island Power Authority. The Confirmatory Order, which prohibits operation of the plant, is a first link in a chain of actions directed towards the issuance of a license amendment authorizing "possession and use, but not operation." The issuance of a possession only license would be, in turn, a further step in removing the plant from service which is the first part of "decommissioning" as defined by the NRC regulations.

7. The Confirmatory Order also represents a threat to my personal radiological health and safety and to my real and personal property in violation of my rights under the Atomic Energy Act of 1954, as amended. In direct violation of its own stated enforcement policy, the NRC has failed, in that Order, to require LILCO to undertake remedial actions to bring the Shoreham Plant into compliance with the terms of its full-power operating license. Thus, should a determination later be made to operate the Shoreham Plant, deterioration allowed by LILCO and by that incomplete Order will at the least move operation further away in time, and at the worst, increase the likelihood and risk of a radiological accident.

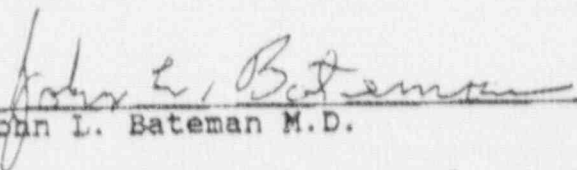
8. As a Long Island resident, I am also interested in actions which will have a direct effect on the availability of reliable and environmentally benign electric generation to meet my needs and those of my family and the community as a whole. I

understand that Long Island is presently at the full capacity of the existing natural gas pipelines which supply this area and that there is inadequate reserve capacity for the growing electric energy demand of the area. Thus, either the Shoreham Plant must be operated or alternative generating facilities will have to be built and operated. Because natural gas supplies cannot easily be increased, oil-burning plants will inevitably be needed to replace the Shoreham Plant thereby increasing our reliance on foreign oil and thus reducing the security of our energy supply, among other things. These plants, in turn, will emit pollution lowering air quality in the region and contributing to global warming and acid rain. These effects of the Shoreham Plant's decommissioning will have detrimental effects on my health and on the quality of the natural environment in which I live day-to-day. This calls for serious consideration of the alternatives to decommissioning.

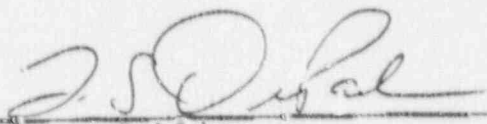
9. And if the scope of this proceeding is narrowed to its relationship to the choice among the alternatives for decommissioning mode, I believe my health, safety and environmental interests would be harmed by any actions inconsistent with mothballing the plant ("SAFSTOR").

10. I understand that SE₂ has been joined by the Shoreham-River Central School District ("School District") in asking to intervene in a hearing to be held not only on the

Confirmatory Order, but also in hearings to consider the implications of LILCO's license amendment requests affecting both Physical Security and Offsite Emergency Preparedness. I also understand that the issues raised by all of these actions significantly overlap due to the fact that each of the actions constitute another step in the decommissioning process underway at the Shoreham Plant. I would favor the consolidation of these three proceedings to consider the issues raised by the School District and SE₂. Consolidation would be the most efficient and expeditious way to proceed for all concerned. I also submit that such consolidation is demanded by NEPA because all of these segmented proposals and actions are, in fact, part of a single proposal, are cumulatively significant, and have no utility independent of the decommissioning proposal.


John L. Bateman M.D.

SUBSCRIBED AND SWORN BEFORE ME, on this 1ST day of February, 1991.


Notary Public

My Commission expires: July 27, 1991

FRANK E. DI PAOLA
NOTARY PUBLIC, State of New York
No. 480787
Qualified in Suffolk County
Commission Expires July 27, 1991