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	Docket No. 50-322-OLA
Long Island Lighting Co., Shoreham Nuclear Power Station; Confirmatory Order Modifying License (Effective Immediately) (55 Fed. Reg. 12758, April 5, 1990)	ASLBP No. 91-621-01-OLA

AFFIDAVIT OF STEPHEN V. MUSOLINO, Ph.D.

Stephen V. Musolino, Ph.D., being duly sworn, says as follows:

1. I, Stephen V. Musolino, reside at 6 Middle Cross, Shoreham, New York 11786 which is about two miles from the Shoreham Nuclear Power Station ("Shoreham Plant"). I have owned this property for five 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 have been employed for the past twelve years at Brookhaven National Laboratory, Upton, New York 11786, located about five miles from the Shoreham plant. For the past nine

years, I have worked as a Health Physicist. I am Assistant for Safety to the Project Head of the Relativistic Heavy Ion Collider Project, including radiation, industrial, industrial hygeine, and cryogenic safety. I am also a member of the Brookhaven Emergency Planning Staff. I earned my BSET at Buffalo State, my Masters in Nuclear Engineering at Polytechnic Institute of New York, and my Ph.D. in Health Physics at Georgia Institute of Technology. I am past President of the New York Chapter of the Health Physics Society. Through both my training and work experience, 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.

3. I have been a member of Scientists and Engineers for Secure Energy, Inc. ("SE_2") since January 3, 1989. I authorize SE_2 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.

4. 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. SE_2 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 inconsistecy 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.

5. 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.

6. 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.

7. 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.

8. 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").

9. I understand that SE_2 has been joined by the Shoreham-Wading River Central School District ("School District") in seeking 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 SE_2. 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

Stephen V. Musolino

SUBSCRIBED AND SWORN BEFORE ME, on this 31 day of January, 1991 1991.

Notary Public
My Commission expires: Feb 28 1992

BONNIE E. SHERWOOD
Notary Public, State of New York
No. 4844809
Qualified in Suffolk County
Commission Expires Feb. 28, 19 92