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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

EXEMPTED  
USNR

ATOMIC SAFETY AND LICENSING BOARD

'91 FEB -6 P2:52

Before Administrative Judges:

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

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	Docket No. 50-322-OLA
LONG ISLAND LIGHTING COMPANY	)	ASLBP No. 91-621-01-OLA
(Shoreham Nuclear Power Station, Unit 1)	)	(Physical Security Plan Amendment)

SHOREHAM-WADING RIVER CENTRAL SCHOOL DISTRICT  
AMENDMENT TO ITS REQUEST FOR HEARING  
AND PETITION TO INTERVENE

Pursuant to the Atomic Safety and Licensing Board's ("ASLB") Memorandum and Order of January 8, 1991 ("January 8 Order") in the above-captioned proceeding, Shoreham-Wading River Central School District ("Petitioner") amends, by counsel, its request for hearing and petition to intervene in that proceeding by providing an affidavit from the President of its School Board and the employee requesting representation by Petitioner addressing the injury in fact to its organizational interests and the interest of the employee who has authorized it to act for him (attached) as well as detailing further contentions to be raised in this proceeding, as specified below.

Petitioner agrees with the determination that the overarching issue in this proceeding is: "Should the amendment of the Shoreham Security Plan be sustained"? Petitioner further

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submits that the particular issues raised in Section III of its original petition in this proceeding are subsidiary elements of the overarching issue identified by the ASLB.

In particular, Petitioner identifies the issues of whether the reduction in vital areas, vital equipment and plant security staff will offer adequate assurance of the public health and safety to meet the design basis threat of radiological sabotage described in 10 C.F.R. § 73.1(a)(1) (1990).

A further specific aspect of the proceeding as to which Petitioner seeks to intervene on behalf of itself and its represented employee is whether the categorical exclusion from environmental assessment and environmental impact statement review pursuant to 10 C.F.R. § 51.22(c)(12) applies since Petitioner urges on behalf of itself and its represented employee that the amendment at issue is not "confined to (i) organizational and procedural matters, (ii) modifications to systems used for security and/or materials accountability, (iii) administrative changes, and (iv) review and approval of transportation routes pursuant to 10 C.F.R. 73.37." Given the alleged unavailability of a categorical exclusion pursuant to 10 C.F.R. § 51.22(c)(12) (1990), Petitioner's and Petitioner's represented employee's rights pursuant to NEPA and 10 C.F.R. Part 51 (1990) to have at least an environmental assessment ("EA") and possibly an environmental impact statement ("EIS") review of the proposed amendment to the physical security plan have been

violated. In addition to being a per se violation of such NEPA rights, the absence of an EA or EIS obviously causes an injury to the Petitioner's right to the availability of the information that would be developed by the NRC Staff. The absence of such an EA or EIS similarly causes such injury to Petitioner's represented employee, thus totally depriving them of their ability to disseminate the information that is essential to programatic activities in a zone of interest protected by NEPA.

Under the AEA, to the extent that the amended physical security plan is not adequate to meet the design basis threat of radiological sabotage, Petitioner's represented employee suffers a particularized injury in fact resulting from the reduced security against such radiological sabotage and thus an increase to the risk of his radiological health and safety. The reductions in plant vital areas and security personnel obviously reduce the barriers against radiological sabotage and the amendment at least requires a hearing to determine whether the represented employee's radiological health and safety is adversely affected.

Petitioner also specifies as an issue: "Whether the security changes for a defueled plant that has never been in commercial operation can result in harm." January 8 Order at 36.

In support of the proposition that security changes for a defueled plant that has never been in commercial operation can result in harm to Petitioner's represented employee, it is

asserted that there is a full core of slightly radioactive fuel at the Shoreham plant which is now subject to protection by lesser physical barriers and a smaller security force, thus increasing the risk from radiological sabotage. Given the fact that Petitioner has not yet been allowed access to the changes in the physical security plan for Shoreham, it is therefore limited in the extent to which the harm can be specified. It can be stated in the response to the Board's question that the theft of spent fuel with a burnup of approximately two effective full power days and subsequent offsite transportation could result in offsite radiological harm by deposit in water supplies, and/or the configuration of those fuel bundles in such a manner as to create further fission activities.

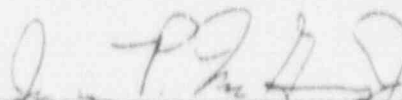
Given the design basis threat assumption of "[w]ell-trained (including military training and skills) and dedicated individuals," it is not fanciful to posit that degraded armed response personnel staffing and reduced physical barriers increases the risk of penetration and creation of a radiological incident at the fuel pool with off-site consequences. Of course, the mere assumption of increased risk of theft also gives rise to an increased risk of diversion to weapons or terrorist purposes. And the possibility of creating panic on Long Island with ensuing personal health and property damage risk as a result of such theft or sabotage, regardless of instant actual radiological risk, cannot be ignored. (The risk from all of these scenarios

to the represented employee is only enhanced by the elimination of Emergency Preparedness requirements.)

If it has been determined that "the expansion of the capacity of a spent fuel pool" creates "an obvious potential for offsite consequences" (January 8 Order at 13) where it is presumed that full NRC safety systems are in effect and are functioning, there is unavoidable inference that a reduction in the measures against radiological sabotage (which would significantly increase the vulnerability of approximately 90 tonnes of enriched fuel to such sabotage) must also involve "an obvious potential for offsite consequences."

WHEREFORE, Petitioner renews its request for the remedies noted in the original petition, contends that the injuries resulting from the action which is the subject of this proceeding are likely to be remedied by a favorable decision granting the relief sought (including such other relief as the ASLB deems appropriate), and requests that the action be set down for hearing after a pre-hearing conference and appropriate discovery.

Respectfully submitted,



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Shoreham-Wading River Central  
School District

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. )  
Docket No. 50-322, Shoreham Nuclear )  
Power Station, Unit 1, )  
Suffolk County, New York )  
(Amendment to Physical Security Plan) )  
(55 Fed. Reg. 10528, 10540 )  
March 21, 1990) )

) Docket No. 50-322-OLA

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

AFFIDAVIT OF ALBERT G. PRODELL

Albert G. ProdeLL, being duly sworn, says as follows:

1. I, Albert G. ProdeLL, reside at Remsen Road, Wading-River, New York 11792 which is about two miles from the Shoreham Nuclear Power Station ("Shoreham Plant"). I have owned this property for thirty years. Thus, I live within the 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 sailboat moored at Brewer Yacht Yard in Greenport which is about thirty-three miles from the Shoreham



Plant and is, therefore, also within the geographical zone of interest.

3. I have been employed as a Physicist for over thirty years at Brookhaven National Laboratory, Upton, New York 11786, located about eight miles from the Shoreham Plant. I received my A.B., M.A., and Ph.D. in physics from Columbia University in New York and taught physics at Columbia University and Barnard College before taking a position at Brookhaven. I presently work in the Accelerator Development Department at Brookhaven. I have served on the committee which worked in cooperation with the Long Island Lighting Company ("LILCO") to study and develop emergency evacuation procedures and routes for the School District's students and employees to follow in the event of an emergency at the Shoreham Plant. My training and experience as a Physicist has given me a thorough understanding of nuclear radiation. I am familiar with both the benefits and risks of nuclear power plants. I strongly support the use of nuclear power to meet the energy needs of the Long Island area, and the Nation as a whole, in a safe, economical, and environmentally benign manner.

4. The Shoreham-Wading River Central School District ("School District") covers an area of about twelve square miles and the Shoreham Plant is within the boundaries of the School District. Thus, both I and the School District's students and employees regularly spend a considerable amount of time within the geographical zone utilized by NRC to determine whether a party is sufficiently threatened by the accidental release of



fission products and/or the adverse environmental effects of the proposal to establish the requisite interest and standing for intervention as of right.

5. I am presently the President of the Board of Education of the School District. I have held this position for sixteen years. As President, I am among those responsible not only for determining, but also for taking, action in accordance with the School District's position on matters affecting both its general interests and the specific health, safety and environmental interests of the students and employees for whom it is responsible during work and school hours.

6. The Board of Education for the School District has determined that it is in the best interest of the District, its students and its employees, to see Shoreham operate, and operate safely. As an employee of the District, who both lives and works in close proximity to the plant, I authorize the School District to represent my interests, as described herein, in any proceedings to be held in connection with the Long Island Lighting Company's ("LILCO") proposed license amendment allowing changes in the Physical Security Plan for the Shoreham plant, announced by the NRC on March 21, 1990. The license amendment would allow reductions in the security force and would also permit LILCO to reduce its safeguard commitments by reclassifying certain areas and equipment which are presently designated "vital."

7. I am concerned that the proposed amendment constitutes another step in the decommissioning process presently underway at Shoreham in violation of my rights under the National Environmental Policy Act ("NEPA"). I do not believe that any steps in furtherance of Shoreham's decommissioning should be implemented until a Final Environmental Impact Statement ("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. If the NRC allows steps which are clearly in furtherance of decommissioning, and have no necessary independent utility, to be implemented at Shoreham 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. The proposed amendment allowing changes to the Physical Security Plan presupposes that decommissioning is a foregone conclusion. Despite the fact that NEPA mandates maintenance of the status quo pending preparation of an FEIS and a final decision so that alternatives to the proposed action are not prematurely foreclosed, the proposed amendment represents a further retreat from the requirements of LIHCO's full-power operating license prior to any environmental review of the proposed decommissioning.

8. The proposed amendment 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. The proposed amendment which allows reductions in the security force and the reclassification of "vital" equipment and areas as "non-vital," increases the probability of radiological sabotage and the concomitant increase in the radiological hazard to me and the School District's students and other employees that could directly and/or indirectly result from such sabotage.

9. As a Long Island resident, I am interested in actions which will have a direct effect on the availability of reliable electricity 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 demands of the area. Thus, either Shoreham 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 Shoreham. These plants, in turn, will emit pollution lowering air quality in the region and contributing to global warming and acid rain. These effects of Shoreham'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.

10. I am also concerned about the adverse economic consequences which will automatically follow from the decommissioning of the Shoreham Plant. Under the terms of the existing Agreement between LILCO and the State of New York, the cost of electric energy will probably double over the next ten years. These outrageous rates combined with a drastic reduction in tax levies (the taxes levied on the Shoreham Plant constitute approximately 90% of the District's tax base) will cause a precipitous decline in the quality of education offered to school children in the District in addition to huge tax increases for District residents.

11. 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").

12. I understand that School District has been joined by Scientists and Engineers for Secure Energy, Inc. ("SE<sub>2</sub>") in seeking to intervene in the hearing to be held not only on the proposed amendment allowing changes to the Physical Security Plan, but also in hearings to consider the implications of the immediately effective Confirmatory Order issued by the NRC on March 29, 1990 and LILCO's license amendment request affecting 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 constitutes another step in

the decommissioning process underway at Shoreham. I would favor the consolidation of these three proceedings to consider the issues raised by the School District and SE<sub>2</sub>. Consolidation would be the most efficient and expeditious way to proceed for all concerned.

Alford D. Procell

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

BILLIE B. BRIGGS  
NOTARY PUBLIC, State of New York  
No. 5448850  
Qualified in Suffolk County  
Commission Expires April 30, 1992

Billie B. Briggs  
Notary Public

My Commission expires: 4/30/92

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before Administrative Judges:

'91 FEB -6 P2 52

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

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,  
Unit 1

) Docket No. 50-322-OLA

) ASLBP No. 91-621-01-OLA

) (Physical Security Plan  
) Amendment)

CERTIFICATE OF SERVICE

I hereby certify that copies of the Amendment to Its Request for Hearing and Petition to Intervene and affidavit of Dr. Albert G. Prodell, in the above-captioned matter by Shoreham-Wading River Central School District were served upon the following by first-class mail, postage prepaid on this 4th day of February, 1991:

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U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Jerry R. Kline

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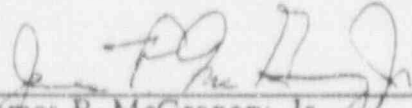
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February 4, 1991

  
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