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FEB - 9 FILE NO. 1524566.3

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WASHINGTON, D. C.
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February 6, 1984

Richard J. Zahnleuter, Esq
Assistant to Special Counsel
to the Governor
State Capitol
Albany, New York 12224

DOCKET NUMBER
PROD. & UTIL. FAC.

50-32202-3

Dear Rick:

This formalizes the telephone request I made to you last Friday, February 3 concerning production of documents relating to the review of the Shoreham emergency plan by New York State. In our conversation you had asked that I put the request in writing.

As you know, at an informal meeting of the New York State Disaster Preparedness Commission on December 12, 1983 to consider proposed amendments to the DPC's Proposed Rules and Regulations, I requested copies of publicly filed comments on those proposed changes. Those comments were sent by you to Charles A. Daverio of Long Island Lighting Company on December 16 and forwarded subsequently to me. One of those comments consists of a letter dated August 23, 1983 from Mr. John F. Shea, counsel for the Town of Southampton, with attachments. One attachment to that letter is a partial copy (pages 5 through 9) of an inventory listing containing numerous documents apparently relating directly to review of the Shoreham offsite emergency plan by representatives of the New York State government, primarily in the Department of Health. It is enclosed.

I possess only those pages from this listing which are attached to Mr. Shea's letter. However, it appears to be a listing prepared as part of a response to a request under the New York State Freedom of Information Act; I infer from that listing itself that documents listed down to ¶ 3 toward the bottom of page 5 were released to Mr. Shea under the New York FOIA and that documents subsequent to that point were withheld. I also understand that you were the person who prepared this

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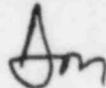
compilation. I have not seen these documents. I have no basis, however, on perusal of pages 5 through 9 of the inventory, to disagree with Mr. Shea's assertion that the inventory itself makes it "clear that the DPC has and is engaged in a substantive review of radiological emergency preparedness plans for the Shoreham Nuclear Power Station." (Town of Southampton comments at 2).

The State's review to date of the Shoreham emergency plan, in all of its manifestations, is obviously of central importance to understanding the State's intended testimony on that plan now. Since the documents relating to the Town of Southampton's New York Freedom of Information Act request have already been collected for review, this letter repeats my request of last Friday that you provide all of them forthwith to counsel for Long Island Lighting Company, along with a complete copy of the document listing.

Given the obvious importance of time in this case, including the importance of these documents in conducting the depositions of New York State witnesses, I request that you make these documents available immediately. If the logistic burden of copying is any problem, please let me know and I will arrange for them to be copied expeditiously. LILCO will, of course, be willing to pay reasonable copying charges.

The attached Request for Expedited Production of Documents and Motion to Compel Expedited Production of Documents, being filed herewith, also relate to this request in the event that New York State is inclined to continue to withhold various of the documents not released to the Town of Southampton.

Sincerely yours,



Donald P. Irwin

91/730
Enclosure

TWOMEY, LATHAM & SHEA

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August 23, 1983

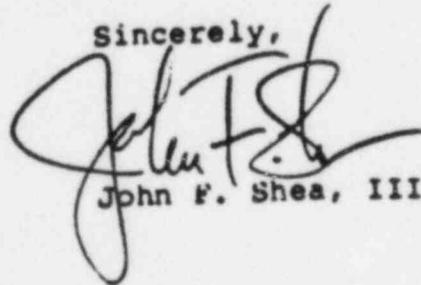
Mr. James A. Bertan
Department of Health
Bureau of Management Services
ESP Tower Building
Room 1009
Albany, New York 12237

Re: New York State Disaster Preparedness
Commission Rules and Procedures

Dear Mr. Bertan:

Our firm is special counsel to the Town of Southampton. On behalf of Southampton, we are submitting with this letter comments on the proposed rules and procedures for the Disaster Preparedness Commission, which were issued earlier this summer for public comment.

Sincerely,



John F. Shea, III

JFS:lam
Enclosure

EXPRESS MAIL

RECEIVED

AUG 26 1983

BUREAU OF MANAGEMENT SERVICES
NYS DEPT. OF HEALTH

6/8/82	letter to Cordaro from Hennessy with attachment (review of Shoreham plan)
6/11/82	letter to Trunzo from Davidoff with attachment (letter of 5/17/82 to Davidoff from Trunzo)
various dates	letters from McQueen to various persons
7/29/82	letter to Pachman from Hennessy
6/1/82	"Analysis of Shoreham Offsite Emergency Plan"
undated	"Summary of Comments on Sections A, C, and J of the Shoreham-Suffolk County Off-site Plan"
5/26/82	letter from Hennessy to Wolosin
5/17 and 19/82	legislative contact reports
5/17/82	letter to Cordaro from Hennessy with attachments (letter of 5/10/82 from Cordaro to Hennessy)
5/17/82	memo to Stasiuk from Davidoff
5/14/82	handwritten notes
4/19/83 and 5/16/83	press release, statement by Governor Cuomo

3) The following materials may be responsive documents, but they are being withheld on the grounds specified. The New York State Disaster Preparedness Commission and/or the New York State Department of Health reserve the right to amend or expand the grounds for withholding documents which are protected by privileges, exemptions or objections. Mr. Millock, Mr. Phillips and Mr. Zahnleuter are attorneys employed by the State who function as attorneys. The following privileges, exemptions or objections are referenced by the following code system:

- 1) "A" refers to inter-agency materials which are not:
 - (i) statistical or factual tabulations or data;
 - (ii) instructions to staff that affect the public, or
 - (iii) final agency policy or determinations;

- 2) "B" refers to intra-agency material which are not:
 - (i) statistical or factual tabulations or data;
 - (ii) instructions to staff that affect the public, or
 - (iii) final agency policy or determinations;
- 3) "C" refers to material prepared for litigation;
- 4) "D" refers to attorney work product;
- 5) "E" refers to materials protected by attorney-client privilege.

<u>DATE</u>	<u>DOCUMENT</u>
4/26/83	transmittal slip to Axelrod/DPC from Davidoff/DPC with two attachments ("suggested questions for consideration by the Shoreham panel" and a handwritten note from Stasiuk/DOH to Axelrod/DPC concerning questions which should be emphasized): these materials contain preliminary suggestions, recommendations, opinions, conjecture and deliberations pertaining to the consequences of radioactive materials releases, A, B.
4/26/83	document is being released but portion containing opinion, conjecture and beliefs concerning possible Atomic Safety and Licensing Board decisions is being redacted, A, B.
undated	non-final, draft, working copy of essay headed by "this memorandum summarizes the recent events concerning the Shoreham Nuclear Power Station.", A, B.
stamped received 3/11/83	non-final, draft, working copies of a letter to the New York Times concerning a 2/27/83 editorial re: Shoreham, A, B.
3/4/83	memo to Millock/DOH from Davidoff/DPC concerning a draft reply to Brenner's 3/28/83 memo, with attachment (draft, non-final response dated 3/3/83); this is deliberative material, A, B, E.
3/7/83	memo to Axelrod/DPC from Millock/DOH concerning resolution of <u>Cohalan v. New York State Disaster Preparedness Commission</u> with attachments (draft, non-final working copy of a stipulation of discontinuance) A, B, C, D, E.

2/23/83 memo from Millock/DOH to Axelrod/DPC concerning events pertaining to Shoreham, A, B, C, D, E.

1/19/83 memo to Castellano/DPC from Davidoff/DPC is being released but portion pertaining to interpretation and opinion of the hearing and news coverage is being redacted, A, B.

2/16/83 memo to Axelrod/DPC from Millock/DOH concerning failure of Suffolk County to prepare a response plan, A, B, C, D, E.

2/11/83 memo from Slocum/DOH to Axelrod/DPC concerning an editorial written by M. Patterson in Newsday on 2/7/83; this memo contains opinions, conjecture, evaluations, recommendations and deliberative material, A, B.

1/30/82 memo to DPC members from Davidoff/DPC transmitting DPC's staff's review of the adequacy of LILCO's plan; this memo contains non-final, opinions, conclusions, evaluations and recommendations by staff which have not been acted upon the the DPC members; these documents constitute deliberative materials; attachments are an excerpt from NUREG-0654 and a completed review sheet, A, B.

undated non-final, draft working copy of a DPC resolution pertaining to Shoreham and associated planning, A, B.

12/6/82 non-final, draft, working copy of a DPC press release concerning proposed 12/8/82 DPC meeting, A, B.

various dates drafts of Hennessy's letter of 11/29/82 to Cohalan, A, B.

11/24/82 memo from Czech/DPC to Davidoff/DPC containing non-final, preliminary advisory comments, opinions, evaluations, beliefs, conjecture and deliberative material pertaining to the adequacy of LILCO's plan, A, B.

11/23/82 memo from Czech/DPC to Davidoff/DPC containing same subject matter as described directly above, A, B.

11/19/83 memo to Czech/DPC from Clemente/DPC containing same subject matter as described directly above for 11/24/82 memo A, B.

11/15/82 memo to "Larry"/DPC from "Jim P. "/DPC containing same subject matter as described above for 11/24/82 memo, A, B.

11/9/82 draft, non-final working copies of letter to Cohalan from Hennessy, A, B.

10/25/82 memo to Czech/DPC from Lowery/DPC containing same subject matter as described directly above for 11/24/82 memo, A, B.

9/16/82 memo to Czech/DPC from Clemente, same as 11/24/82 memo A, B.

9/15/82 memo to Dillenbeck/DPC from Albertin/DOH, same as 11/24/82 memo, A, B.

9/13/82 memo to Davidoff/DPC from Czech/DPC, same as 11/24/82 memo, A, B.

9/8/82 memo to Czech/DPC from Popile/DPC, same as 11/24/82 memo, A, B.

7/23/83 draft, non-final letter from Hennessy to Pachman.

5/18/82 memo from Phillips/DOH to Millock/DOH concerning legal issues pertaining to LILCO's plan, A, B, D, E.

5/17/82 memo to "REPG Staff" from Davidoff concerning assignments for Shoreham plan review, A, B.

11/30/82 memo to DPC members from Davidoff/DPC containing non-final, preliminary advisory comments, opinions, evaluations, beliefs, conjecture and deliberative material pertaining to the adequacy of LILCO's plan, A, B.

7/18/83 memo to Davidoff/DPC from Zahnleuter/DOH advising of the applicable comment period for regulations, A, B, D, E.

- 7/1/83 memo to Abernathy/DOH from Duncan/DOH circulating for internal review proposed, draft, regulations and regulatory impact statement, this is deliberative material, A, B.
- 6/27/83 memo to Taylor/DOH from Millock/DOH transmitting a revised, proposed regulation transmittal form for further internal review, this is deliberative material, A, B, D, E.
- 6/20/83 memo to Millock/DOH from Zahnleuter/DOH with attachments (rating sheet for "Shoreham Offsite Emergency Plan" and pages 31-79 of an unidentified document) circulating non-final, draft, proposed regulation transmittal form for internal review, this is deliberative material, A, B, D, E.
- 5/17/83 memo to Millock/DOH from Zahnleuter/DOH discussing and identifying several possible modifications of proposed regulation transmittal form, this is deliberative material, A, B, D, E.
- 5/11/83 slip from Slocum/DOH to Duncan/DOH expressing comments on proposed regulation transmittal form, this is part of the internal review process and is deliberative material, A, B.
- 4/29/83 memo to Millock/DOH from Zahnleuter/DOH requesting comments and opinions concerning draft proposed regulation transmittal form, this is part of the internal review process and is deliberative material, A, B, D, E.
- 4/29/83 same as memo directly above, but containing handwritten comments, A, B, D, E.
- 5/18/83 memo to Duncan/DOH from Holohean/DOH expressing comments on proposed regulation transmittal form, this is part of the internal review process and is deliberative material, A, B.
- undated handwritten memo from Millock/DOH to Axelrod/DPC/DOH concerning possible contents of the proposed draft regulations, this is deliberative material and part of the internal review process, A, B, D, E.