

## NUCLEAR REGULATORY COMMISSION ATOMIC SAFETY AND LICENSING BOARD PANEL WASHINGTON, D.C. 20555

May 7, 1984

William McPherson, Editor The Washington Post 1150 15th Street, NW Washington, D.C. 20071

Dear Mr. McPherson:

This is to correct the false impression in that portion of the Post article on Shoreham (May 6, 1984 page 3) concerning the appointment of a critical facts:

- While you are correct that an NRC Licensing Board ruled on February 22 that the diesel generator issue would have to be resolved before LILCO could get a low-power license, you other means to resolve the need for emergency backup;
- Chairman Palladino's March 16 meeting with the Commission hearing schedule information the Chairman is required to furnish Congressman Bevill's subcommittee;
- On March 20, 1984, LILCO accepted the Board's suggestion and filed a motion seeking a low-power license using an emergency backup separate from the diesel generators; and
- 4. The Shoreham Licensing Board advised me they could not hear the motion because two members were committed to three months'

On March 30 because of items 3 and 4, above, I appointed a separate Board to decide the new LILCO motion to afford them the administrative due process owed any party to our proceedings. Appointment of additional Licensing Boards is but one of several routine administrative devices used to avoid delay caused by schedule conflicts arising from our Administrative Judges' heavy workloads.

In my judgment, a three-month delay in deciding whether LILCO could even have the motion heard, much less whether the answer was yes or no, would be a denial of due process. I did not (and would not) tell the new

8407310138 840713 PDR COMMS NRCC CORRESPONDENCE PDR Board how to proceed, nor would the members of that Board have done anything other than independently decide the matters before them in light of our statutory mandate to exercise fundamental fairness under the Administrative Procedure Act.

Sincerely,

B. Paul Cotter, Jn. Chief Administrative Judge

cc: Chairman N. J. Palladino Commissioner V. Gilinsky Commissioner J. K. Asselstine Commissioner F. M. Bernthal Commissioner T. M. Roberts

bcc: The Honorable Morris K. Udall The Honorable Edward J. Markey

## U.S. Trying to Revive A-Plant

By Dale Russakoff

Long Island's Shoreham nuclear power plant, one of the most imper-ded in the country because of financial and technological problems. has become the focus of an unusual resuscitation effort by the Reagan administration.

The intensive care takes on sigaificance because the administration firmly opposes the notion of federal rescues for faltering private compa-

it has not moved to save several other utilities facing bankruptcy because of troubled nuclear plants, induding Public Service Co. of New Hampshire, which recently abandoned the \$9 billion Seabrook pro-

And, in an election year, it pits an administration committed to states rights against the state of New York and Suffolk County, which are seeking to keep Shoreham from going into operation. State and county officials contend that it would be impossible to evacuate Long Island. which suffers from traffic gridlock on normal days, in the event of a nuclear accident.

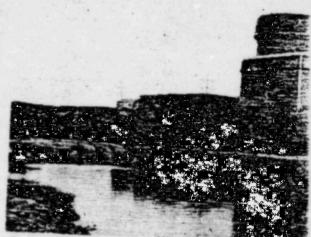
We're very concerned and aware of state and local duties. After all, President Reagan was a governor himself," said White House science adviser George A. Keyworth il. a key participant in the rescue effort.

\*But I think it would be an unusual government that would sit back and not be interested in a \$4 billion potential testimony to noncompetitiveness-to waste.

New York Gov. Mario Cuomo and other critics call the flurry of activity a desperation move by an administration that vowed to encourage nuclear power, and now faces the potential benkruptcy of several nuclear-dependent utilities.

This isn't rational planning." Cuomo said. Their tremors of activity now are because they find themselves in extremis. They are more concerned about the health of the utility than about the people. They're working to open the plant. not to make the people sare."

For more than a month, Key worth. Energy Secretary Donald P. Hodel, Federal Emergency Management Agency director Louis Ginffrida and their aides have been meeting and drafting proposals on save the plant from possible mothballing by its owner. Long Island Lighting Co., known as Lilco, which is threatened with pankrin



are succear power plant on Long Island, which caus

Construction of the \$4.1 billion facility is almost complete, but Shoreham's chance of receiving an operating license from the Nuclear Regulatory Commission is considered slim because its emergency diesel generators do not meet federal safety standards and hecause the. state of New York and Suffolk County have refused to participate in an emergency evacuation plan, a prerequisite to licensing.

One proposal under review by the administration is a federally financed drill, estimated to cost up to \$2 million, to test a Lilco plan for evacuating the area.

Another calls for FEMA and DOE to exercise police powers in place of local officials in the event of an emergency, an arrangement questioned for its legality by the Congressional Research Service in a report released Friday.

On another front, Hodel recently offered to loan his general counsel to the Nuclear Regulatory Commission to help the agency respond to a federal court order striking down a pro-Lilco ruling by an NRC licensing board. NRC chairman Nunzio J. Palladino reported the contact to fellow commissioners in an April 26

Rep. Edward J. Markey (D. Mass.), chairman of the House subcommittee that oversees the NRC and who obtained a copy of the how the federal government could, memo, said he believes this contact as well as an earlier meeting between Palladino and Giuffrida have comnonminal the VRC

\*Because these agencies repre the administration, to which you subordinate in your role as ct man, your contact with them cre the reasonable inference that have been influenced by them in inappropriate manner." wrote in a letter to Palladino on

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Palladino did not return a reper's phone calls. Aides to Hodel s he was out of town and unavaila for comment.

The administration's efforts Lilco's behalf follow a series of war ings from the Lilco chairman W liam J. Catacosinos that the util will be forced to scrap Shoreha unless the government intervenes.

The company pays \$1.5 million day in interest on the plant's coand ay run out of money by fa with the an infusion of cash, Cataci sinc. has said.

Wall Street analysts say cred markets are not likely come t Lilco's rescue if it has an idle, mu. tibillion-dollar plant.

"At this point, the Street is sti skeptical," said Mark Luftig, chie utilities analyst for Salomon Broth ers in New York. "Investors need to know that the plant is going to op

Specifically, Catacosinos asked the administration to help Lilco imple ment its own emergency evacuation plan, bypassing the state and local officials.

Keyworth. Hodel and other administration officials have called Shoreham unique among troubled

i mile Seahrook and the \$2.5

## t State, County Believe Is Dying



10x-evacuation plan, opposed by New York state and Suffolk County, is prepared

iillion Marble Hill plant in Indiana, unich ran out of money in midroject. Shoreham is almost conlete. And it has not been found to
ave aerious technical defects, as at
he \$1.6 billion Zimmer plant in
hio and the \$3.4 billion Midland
iant in Michigan.

Until problems surfaced in Snoream's emergency diesel generators, thich are needed to operate safety dulpment in the event of a blackor, the only bar to its license was ne lack of an approved evacuation

Hodel wrote in a 1983 memo that he case could "establish a precedent hat will complicate licensing power hants in other states," posing a "poential threat to the viability of the luclear power industry."

"I felt as secretary of energy I simly could not stand by and permit ne closure or nonoperation of a sant on a technicality when it apears that the plant has been contructed adequately," Hodel told sewsday, the Long Island daily pa-

The requirement for an emergenevacuation plan around nuclear
ants is one of the chief legacies of
1979 Three Mile Island nuclear
ower plant accident in Pennsylvain which more than 140,000 peotried to evacuate, causing consion. Congress and the NRC
oppted the requirement in the wake
the TMI accident.

toomo wrote Hodel after the ewsday interview was problished to ne did not consider the lack of evacuation plan a "mere techni-

"It's not that we're unwilling to evacuate." said Suffolk County deputy executive Frank Jones. "It's that it simply can't be done. We spent one year and \$600.000 studying this. The Long Island Expressway is jammed right this minute. If we had an accident, we'd have 1.5 million people on a five-road network fleeing into New York City. It'd be absolute, total, complete chaos."

There are 2.6 million people living on Long Island.

Administration officials said that public safety is the top concern as they examine possible aid to Lilco, but Markey, Cuomo and Suffolk County officials have charged that financial concerns appear to be guiding the government even more.

Notes of an April 4 interagency meeting obtained by Markey's sub-committee from DOE and handwritten by a DOE employe state that Hodel and Giuffrida were scheduled to meet soon on the subject of emergency preparedness, adding: "Important for Lilco to know this so they don't throw in the towel. April 27 line of credit due."

The line of credit refers to a loan on which Lilco was in danger of defaulting, but creditors recently agreed to extend the due date to May 28.

Markey also has raised questions about a change in an NRC board's ruling on the issue of Lilco's defective back-up diesel generators.

An NRC licensing board ruled on Feb. 22 that, under NRC regulations. Lilco could not receive a license until questions about the generators were resolved. Hearings were scheduled to last into September, by which time Catacosinos had warned Lilco might run out of cash.

But six weeks later, NRC chief administrative law judge B. Paul Cotter Jr. appointed a new licensing board that ruled that Shoreham could be started under certain circumstances, and set an "expedited" hearing in 17 days to resolve the question.

The switch came after Palladino held a meeting with Cotter and the NRC staff, in which he expressed concern about "licensing delays" at Shoreham, and suggested expediting the hearings, according to a memo by Palladino on the session.

Palladino said he had committed no improprieties, but has come under fire for the move by two of the other four commissioners. Also, U.S. District Judge Norma Johnson halted the new hearing, saying the hasty schedule appeared to compromise the plaintiffs' rights to due process.

The full commission has since voted to take control of the case, and is scheduled to hear arguments to-morrow.

That decision marks the first setback for Lilco since the administration began trying to assist the company.

Since then, other pitfalls have emerged. FEMA general counsel George Jett said a federal role remains only a "concept," and will not become a reality unless Lilco corrects more than 30 defects found by FEMA in its evacuation plan.

Meanwhile, opposition in Suffolk County appears to be hardening

A group of 450 Long Island business people last week began running anti-Lilco radio acis, warning that electricity rates will soar if Shoreham is licensed, a move that would allow the company to bill consumers for much of the construction cost of the power plant.

"Lilco is at it again, looking for favors for the federal government," a man's voice savs disapprovingly in the ad."... Look Lilco, you don't pay for our mistakes. We don't wanna pay for your."

"We're basically a conservative Republican community," said Suftolk County deputy executive Jones.
"We're not a bunch of left-wing pinkos. I've been a Republican committeeman for 20 years. I voted for Nixon twice. I'm voting for Reagan again. Shoreham for us is not a cause it's a case."

ENCLOSURE 4

## EP and Shoreham Correspondence

- 1/9/84 Letter, Jordan to L. Joe Deal, Acting Director, Radiological Controls Division, DOE re Dose Assessments & Interagency Exchange of Info
- 1/10/84 Memo, Winkle, FEMA to Jordan re Federal Assistance with Emergency Planning
- \*1/11/84 Memo, Jordan to Richard W. Krimm, Assistant Associate Director,
  Office of Natural and Technological Hazards Programs, FEMA re FEMA
  Review of LILCO Transition Plan for the Shoreham Nuclear Power Plant
  - Attachments 12/28/83 Memo, Jordan to Krimm re FEMA Support for the NRC Licensing of Shoreham Nuclear Station
    - 12/21/83 Letter, Stuart M. Glass, Regional Counsel, FEMA Region II to Donald Erwin, Hunton & Williams re Confirming Telecon re LILCO Transition Plan
    - 12/22/83 Memo, Krimm to Jordan re RAC Review of LILCO Transition Plan for the Shoreham Nuclear Power Station
- 1/11/84 Note, DeYoung to Dircks enclosing Governor Cuomo's emergency response proposals (letter of 6/16/83 to Members of Congress)
- 1/12/84 Memo, Dircks to Commission, Federal Field Exercise, enclosing memo Joe Winkle, FEMA to Members of the Subcommittee on Federal Response, FRPCC, i.e., Invitation of Visitors to the FRERP Field Exercise
- 1/13/84 Letter, Perkins to Deal, DOE re Meeting on Intercomparisons of Dose Assessment Models
- \*1/13/84 Memo, Krimm, FEMA, to Jordan, NRC, Regional Assistance Committee (RAC) Review of Long Island Lighting Company (LILCO) Transition Plan for the Shoreham Nuclear Power Station
- 1/17/84 Letter to Aubrey V. Godwin, Director, Bureau of Radiological Health, State of Alabama
- 1/17/84 Memo, B. Weiss to Glen Woodard, FEMA re Supplies Needed for March FFE
- 1/19/84 Memo, Jordan, NRC and Jones, FEMA to Principal FFE Participants re FFE
- 1/22/84 Draft joint Letter (NRC/FEMA) to Governor Cuomo Regarding Federal Role

<sup>\*</sup>Shoreham Correspondence

Memo, Jordan to Krimm re Review of Public Safety Information Borchures 1/24/84 \*1/25/84 Letter, Speck, FEMA to Dircks re NRC-Requested Review of the LILCO Plan by FEMA \*1/26/84 Letter, Dircks to Speck re Requesting that FEMA Continue its Review of the LILCO Plan 1/27/84 Memo, Jordan to Krimm re Review of the Radiological Emergencies Training Package 1/27/84 Memo, Winkle, FEMA to Federal Response Subcommittee Members re Meetings of the Federal Response Subcommittee Memo, Jordan to Krimm re Agenda for NRC/FEMA Steering Committee Meeting 2/6/84 Memo, Perkins to L. Joe Deal, DOE; Marvin Rosenstien, HHS; David 2/7/84 Jones, EPA; George Bickerton, USDA; William F. Jones, FEMA re Meeting to Formalize Interface Arrangements at the NRC Operations Center 2/7/84 Memo, Winkle to Federal Response Subcommittee Members Participating in the FFE re Identification of FFE Participants 2/8/84 Memo, Davis, FEMA Region VIII to B. Weiss re FFE Dry-Run 2/9/84 Letter, Jordan to Winkle, FEMA re Procedure for Emergency Response for Handling a Second Event During the FFE 2/9/84 Memo, Winkle to FFE Participants re Managing Exercise Scenario During Complicating Real World Events 2/10/84 Comment Paper, FEMA, "Unresolved Exercise Frequency Issues" 2/14/84 Memo, Winkle, FEMA to Federal Response Subcommittee Members re Minutes of Meeting, February 1, 1984 2/15/84 Letter, Perkins to Deborah Schilling, FEMA re Visitors at the FFE 2/15/84 Memo, B. Weiss to Members, National Emergency Preparedness Policy Development Work Group re NRC Role in the Continuity of Government Enclosures - Letters Palladino to Secretaries of Energy, State, Defense, Director of FEMA and Assistant to the President for National

Security Affairs

<sup>\*</sup>Shoreham Correspondence

- 2/16/84 Memo, B. Weiss to Glenn Woodard, FEMA re Logistics Requirements for March FFE
- 2/16/84 Memo, Sjoblom, EPA to NRC, DOE FEMA re March 1984 Exercise of the Federal Radiological Emergency Response Plan
- 2/17/84 Letter, B. Weiss to John Heard, FEMA Region IV re Attendees at FFE
- 2/22/84 Letter, DeYoung to Bernard A. Maguire, FEMA re Review of Federal Prenaredness Circular 6
- 2/22/84 Memo, Winkle to FFE Exercise Management Group re FFE Exercise
- 2/23/84 Letter, Speck, FEMA to Dircks re FRERP and FFE
- 2/23/84 Memo, B. Weiss to Dick Michener, White House re Federal Field Exercise March 6, 7 and 8, 1984
- 2/27/84 Memo, Winkle, FEMA to FFE Participating Organization re Players Material for the FFE
- 2/29/84 Letter, Vernon Adler, FEMA to B. Weiss re FFE Scenario
- 3/1/84 Memo, Jordan to Krimm re Guidance Memorandum 21 "Acceptance Criteria for Evacuation Plans," Guidance Memorandum 23 "The Ingestion Pathway," and Guidance Memorandum 24 "Radiological Emergency Preparedness for Handicapped Persons"
- 3/8/84 Letter, Krimm to Jordan re FEMA travel funds
- 3/12/84 Memo, Winkle, FEMA to Members of the Subcommittee on Federal Response Subcommittee Meeting on March 20, 1984
- 3/13/84 Memo, Winkle, FEMA to FFE Management Group re Final Meeting of the FFE Management Group
- 3/13/84 Memo, B. Weiss to Scenario Development and Control and Evaluation Work Group re Success of the FFE
- \*3/15/84 Letter, Speck, FEMA to Dircks re FEMA Findings on LILCO Transition Plan for Shoreham
- 3/29/84 Letter, Jordan to Krimm re FEMA travel funds
- 4/6/84 Letter, B. Weiss to Stephen S. Trott, Dept. of Justice re Handling of Resource Compilation Data

<sup>\*</sup>Shoreham Correspondence

Letter, Perkins to Cecil G. Goal, Dept. of the Army re Designation of 4/9/84 Contact for Water Resource Responsibilities in a National Emergency 4/10/84 Letter, Perkins to William Jones, FEMA re Review of the National Contingency Plan for Consequences of an Extraordinary Situation at Special Events 4/11/84 Memo, B. Weiss to Scenario Development and Control and Evaluation Work Group re Report of Work Group Lessons Learned 4/16/84 Letter, Jordan to Glen L. Sjoblom, EPA re Review of Proposal Revisions to the Inhalation Exposure Pathway Portions of the EPA PAG Manual (EPA-520/1-75-001, Revised June 1980) 4/20/84 Letter K. Perkins to Duane S. Cooley, NOAA re Distribution List for Technical Procedures Bulletins Memo, Winkle, FEMA to Members of the Subcommittee on Federal Response 4/23/84 re Minutes of the March 20, 1984 Meeting 4/23/84 Memo, Winkle, FEMA to Members of the Subcommittee on Federal Response 4/24/84 Memo, DeYoung to Speck, FEMA re Emergency Preparedness Exercises re Minutes of the March 20, 1984 Meeting 4/26/84 Letter, DeYoung to Speck, FEMA re Success of FFE 4/26/84 Memo, Krimm, FEMA to Jordan re NRC/FEMA Steering Committee Meeting Agenda 4/27/84 Memo, B. Weiss to Members, National Emergency Preparedness Policy Development work Group re NRC Role in the Continuity of Government Enclosing letters from White House, State, Defense, FEMA, Energy Memo, Winkle, FEMA to Federal Response Subcommittee re FRERP Comments, 4/30/84 Senior Officers Nuclear Accident Course 4/30/84 Letter, Perkins to Vernon Adler, FEMA re NRC Participation in FRERP Training Sessions 5/2/84 Memo, Jordan to Krimm re NRC Agenda Items for NRC/FEMA Steering Committee Meeting 5/3/84 Letter, Jordan to Winkle, FEMA re NRC Impressions and Comments Related to the FFE

Memo, Speck, FEMA to Executive Board Members of the Conference of Radiation Control Program Directors re Seminars on Federal Emergency

5/4/84

Response

5/7/84	Letter, Perkins to Hugh Richardson, FEMA re Comments on Federal Radiological Emergency Response Plan (FREFP)
5/7/84	Letter, Dircks to Rep. William J. Hughes re Prompt Public Notification Systems
5/9/84	Memo, Winkle, FEMA to FFE Management Group and Subcommittee on Federal Response re Draft FFE Evaluation Report
5/9/84	Letter, DeYoung to Bernard A. Maguire, FEMA re Review of Federal Preparedness Circulars 7, 11, 22, 41 and 46
5/10/84	Letter, Jordan to Winkle, FEMA re Comments on FRERP
*5/11/84	Memo, Jordan to NRC/FEMA Steering Committee Members re Wighlights of May 2, 1984 NRC/FEMA Steering Committee Meeting
5/15/84	Letter, B. Weiss to James C. Williams, FEMA Special Facility re Access to Area B - May 16, 1984

<sup>\*</sup>Shoreham Correspondence

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The Honorable Mario N. Cuomo Governor of New York Albany, New York 12224 de deaft joint lette from

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Thanks Ken Perkin

Dear Governor Cuomo:

We recognize that for some time you have been concerned about the appropriate response of Federal agencies in a nuclear power plant accident. We are that last spring you made several proposals to members of Congress which you believed would provide a more appropriate role for the Federal government in a nuclear reactor emergency. We believe that some aspects of your proposals are currently planned for in a Federal radiological response, although they may not be well advertised. There are other aspects of your proposal that we are less comfortable with, but we recognize the concerns which prompted all of your proposals.

We would like first to describe those aspects of your proposals that we believe are currently addressed in Federal plans for radiological emergency response.

Under these Federal plans there are extensive resources which would be available to support the State and local authorities in response to any major radiological emergency.

FEMA

FEMA has the responsibility for assuring that the Federal response is coordinated under an "umbrella" response plan, i.e., a plan which provides the outline of Federal responsibilities, notifications, deployment of personnel to the site, functions of various facilities, etc. The current plan is the Master Plan (Enclosure 1) which is expected to be superseded in 1984 by the Federal Radiological Emergency Response Plan (FRERP). The FRERP is an expansion of the Master Plan to include guidance for a Federal response to all types of civil radiological emergencies, including nuclear weapons and transportation accidents.

Under both of these plans, significant Federal resources have been committed to provide assistance to support State and local authorities. As you are aware, the Federal government has a broad range of resources. The Federal government is prepared, upon State request, to bring a significant portion of these resources to bear to help protect the public health and safety. Some of the major functions which the Federal government is ready to provide to the State and local authorities are:

Radiological Monitoring Assistance - The Department of Energy (DOE) has a mandate to provide radiological assistance to State and local authorities to monitor the offsite effects and evaluate the radiological impacts.

This is done by providing radiological assistance teams from the National laboratories plus the specialized DOE response teams such as the Nuclear Emergency Search Team (NEST) and the Aerial Measurements System (AMS).

The Environmental Protective Agency (EPA) and other Federal agencies will also provide similar assistance. These resources include field radiological survey teams, sample collectors, analytical capability, aerial surveillance,

communications equipment, and means for consolidating, collating, and distributing the data and evaluations to offsite authorities and the other Federal agencies. At THE Three Mile Island emergency, there were in excess of 150 technicians at the scene performing this function. This was a small portion of the total Federal resources that could have been made available to this effort.

Technical Assistance - The NRC has developed a comprehensive incident response program in which the NRC will independently evaluate the status of the reactor core and containment, estimate potential offsite impacts. and develop an independent assessment of utility protective action recommendations. This is accomplished by a continuous exchange of data between NRC and the utility and evaluation of that data by MRC technical expertise with some consultation with other Federal agencies, as necessary. These evaluations and assessments are continually discussed with State officials in an effort to assure that the protective action decisionmaker is provided with the assessment of the major participants in an appropriate context.

Military Assistance - After declaration of a Presidential Disaster, Public Law 92-288 authorizes FEMA to assist the State when their resources have been fully committed by an emergency of extraordinary portions. FEMA can give mission assignments to other Federal agencies, including the Department of Defense (DOD), to lend their resources to this effort. However, Scul & Continue of the type that would be necessary in the event of an accident

at a nuclear power plant. These powers reside with the State and local governments. Prior to the declaration of a Presidential Disaster, FEMA can request support from DOD. In accordance with the Federal response plan, DOD has agreed to provide resources in a major radiological emergency. At TMI, which was not a Declared Disaster, the DOD provided a significant amount of support in transporting emergency supplies and samples, providing communications support, and locating needed equipment. DOD radiological expertise was available but not needed.

Other Assistance - Each of the Federal agencies who have a role, i.e., either technical response, logistical support, or recovery, have delineated the actions and support they will provide to State and local authorities in the FRERP. This assistance will be coordinated by FEMA and includes tasks as diverse as:

- o use of Federal assets and e pertise in meeting communications requirements
- providing guidance and planning assistance for acceptable levels of radiation for the reentry of an evacuated population
- assist in planning for and placing evacuated individuals in available housing
- essist in providing livestock feed

A more complete listing of the assistance that can be provided by the various Federal agencies is provided in Enclosure 2.

We would also like to point out that FEMA conducts a comprehensive and wellrespected program of training to State and local officials on radiological
emergency response operations at its National Emergency Training Center in
Emmitsburg, Maryland.

This outline of potential Federal support is rather brief. However, we wanted to bring to your attention that the Federal government has an extensive plan to assist State and local authorities in a major radiological emergency and is prepared to bring these extensive resources and capabilities to bear on the problem in a coordinated and timely manner. We are vitally interested in your views on the support that the Federal government is prepared to provide, and what additional support the Federal government should consider providing.

Further, senior management of FEMA and NRC would be pleased to meet with you or your representatives to discuss the question of Federal support if you feel that such a meeting would be useful. We would appreciate receiving your views on Federal support and the possibility of a meeting at your earliest convenience.

Sincerely,

Louis O. Giuffrida

Director

Federal Emergency Management Agency

Nunzio J. Palladino

Chairman

U.S. Nuclear Regulatory Commission

Document Name: LETTER TO GOVERNOR CUOMO

Requestor's ID:

Author's Name: Bernie Weiss

Document Comments: EDO-13932 response