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March 22, 1985

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James L. Kelley, Esquire, Chairman
Ms. Elizabeth B. Johnson
Mr. Glenn O. Bright
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Long Island Lighting Co.
(Shoreham Nuclear Power Plant);
Docket No. 50-322-OL-4

Dear Members of the Commission
and Members of the Kelley Licensing Board:

The purpose of this letter is to bring to your attention the need for clarification of safeguards requirements pertaining to Shoreham security matters. This need for clarification arises because LILCO has stated that, in its opinion, two recent filings by Suffolk County and the State of New York contained safeguards data, but were not so marked.^{1/}

^{1/} Suffolk County has received a March 20, 1985 "Memorandum" from Donald P. Irwin, counsel for LILCO, to the addresses of this letter and counsel for New York State and the NRC Staff. This "Memorandum" highlights the need for the

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I. Background to the Immediate Situation

On Friday, March 15, 1985, Suffolk County and the State of New York filed a pleading with the Kelley Licensing Board which addressed security issues which the Board had asked to be briefed.^{2/} Attached to this County/State pleading was an affidavit of Suffolk County police officers. On March 18, 1985, Suffolk County and the State of New York filed with the Commission a response to LILCO's Petition for Review of the security portions of ALAB-800.^{3/} Attached to that response was the same Suffolk County police affidavit, an affidavit of two New York State police officials, and other affidavits.

On March 19, 1985, Suffolk County's counsel received a telephone call from LILCO's counsel, who expressed the view that the affidavit attached to the March 15 pleading, several of the affidavits to the March 18 filing, and much of the March 18 filing itself contained safeguards information. LILCO's counsel suggested in particular that statements concerning the vulnerability of Shoreham's alternate AC power system to the Part 73 threat should have been safeguarded. Accordingly, LILCO's counsel asked us to restrict distribution of those pleadings to persons authorized to have access to safeguards data.

Suffolk County's counsel disagreed that any portions of the March 15 or March 18 County/State filings contained safeguards data. However, notwithstanding this disagreement, we felt that until the situation was clarified, it would be in all parties' interests that those materials were treated as safeguards data. Thus, on March 19, we orally requested the Commission (via Mr. Clements), the Licensing Board (via Judge Kelley's secretary), the Staff, the State of New York, and others authorized to have access to safeguards data, to treat both

(footnote continued from previous page)
clarification requested by Suffolk County.

^{2/} Suffolk County and State of New York Reply Memorandum to NRC Staff and LILCO Response Dated March 12, 1985.

^{3/} Response of Suffolk County and the State of New York to LILCO's Petition for Review of ALAB-800.

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filings as containing safeguards data. Other persons to whom these pleadings were sent were contacted and asked to return the documents without copying or reading them. We have had full cooperation and thus expect the "retrieval" effort to be 100 percent successful.^{4/}

II. The Need for Clarification

There is an immediate need for clarification of the safeguards rules which are to be applied in the Shoreham proceeding. LILCO's assertion that the March 15 and 18 filings contain safeguarded data is clearly wrong under existing NRC pronouncements.^{5/} Indeed, as set forth below, the Commission itself has released Shoreham data which contained much of the same information which was contained in the County/State filings.

Suffolk County does not argue for either more restrictive or less restrictive safeguards requirements. We ask only for a straight-forward, plainly understood clarification regarding application of the safeguards rules, so that persons

^{4/} Contrary to Mr. Irwin's statement (March 20 memorandum, at 2), all persons to whom the March 15 and 18 pleadings were sent, including Mr. Jay Dunkleburger, had been contacted as of March 20. This fact would have been made known to counsel for LILCO if counsel for the County had been given an opportunity to review LILCO's March 20 memorandum before its release.

^{5/} LILCO goes so far as to assert that the Affidavit of Gregory C. Minor, attached to the March 18 filing, contains safeguards data. See March 20 "Memorandum," at 2. Mr. Minor discusses only the location of the alternate AC power equipment and presents his technical reasons for believing such equipment falls within the Part 73 definition of "vital equipment." Given the findings made by the Miller Board, which are published as part of the Board's October 29, 1984 Initial Decision, the Appeal Board's discussion in ALAB-800, and the documents released by the NRC on February 7, 1985, it is frivolous for LILCO to assert that the Minor Affidavit contains safeguards data.

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attempting to comply with the rules can proceed confidently. We set forth below information pertinent to this request.

The County has consistently taken the position that the best course to follow in security-related matters is to treat all materials as containing safeguards information.^{6/} However, by Order dated February 7, 1985, the Commission ruled that almost all materials pertaining to security in the Miller Board proceeding were not to be accorded safeguards status. See NRC Order Directing Release of Materials Previously Categorized as Safeguards Information, February 7, 1985.^{7/} In light of this

^{6/} For example, in the spring of 1983, the County and LILCO exchanged letters pertaining to security issues. The County took the position that the letters contained safeguards information. LILCO disagreed, and elicited the Staff's support to "desafeguard" the letters. This situation compelled the County to file a "Request for Board Ruling Whether Documents are to be Treated as Safeguards Information," dated March 25, 1983. LILCO and the Staff argued against any finding that the documents contained safeguards information. See LILCO's Response to Suffolk County "Request for Board Ruling Whether Documents are to be Treated as Safeguards Information," March 30, 1983; NRC Staff's Response to Suffolk County "Request for Board Ruling Whether Documents are to be Treated as Safeguards Information," April 4, 1983.

Similarly, during the Miller Board proceeding, the County again took the position that all security-related matters were best treated as safeguards data. For example, at a September 14 conference before the Miller Board, the County questioned whether some non-safeguarded NRC Staff correspondence regarding security matters should have been safeguarded. The Board agreed with the County that the materials should have been safeguarded. See September 14 Tr. at S-253 thru S-256.

^{7/} Indeed, even the materials the Miller Board had expressly determined to contain safeguards data on September 14, 1984 (see note 6, supra) were released by the Commission on February 7.

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Commission action, it is clear that no part of the March 15 and 18 filings can possibly be considered to contain safeguards data.

By its February 7, Order, the Commission released many documents which had previously been treated as containing safeguards data. Indeed, the Commission released data which set forth the County and State position that the alternate AC power system at Shoreham was not adequately protected and was highly vulnerable to design basis attackers. For example, among the data released by the Commission were detailed information concerning the precise location of the alternate AC power equipment. See February 7 Order, Document 1, at 4-5, 12, 19. Further, the Commission released data from the County/State security contentions, including the following allegations of the County and State:

a) LILCO's security organization is inadequately staffed and trained to protect the alternate AC power equipment. (Contention 1).

b) The new AC power configuration adds new targets for potential sabotage, "the 69 KV switchyard and the gas turbine, the EMD diesels, the fueling truck for the EMD diesels, the power lines for the EMD diesels power and the gas turbine power, and the nonemergency switch gear room." (Contention 1).

c) "The new EMD diesels and gas turbine and the associated equipment represent new points of attack"

d) "The elements of the proposed AC power configuration are exposed, visible, and substantially more vulnerable to attack and destruction than the originally proposed sources of emergency AC power." (Contention 4).

e) "Under the new AC power configuration, the prior levels of protection are severely reduced. The security plan has not been revised to take into account such reduction, and therefore the probability of a sabotage-induced LOCA is much greater now than it was given the original plant configuration." (Contention 4).

f) "During low power operation of the Shoreham plant, the proposed alternate AC power system would be vulnerable to the design basis threat defined in 10 CFR § 73.1. The system could be rendered inoperable by external elements of the design

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basis threat (by use of such weapons as mortars and other accurate, highly destructive weapons which would be available to the design basis threat) without such elements even having to enter the protected area. In contrast, disabling the originally proposed onsite emergency AC power sources would require access to protected areas and to vital areas." (Contention 5).

g) Parts (b)(i)-(vii) of Contention 1 set forth various other security deficiencies, including: the lack of a protected area or isolation zone or detection equipment for the gas turbine; lack of alarm or card reader controls on doors of the nonemergency switch gear room; deficient protection for power lines; and lack of access controls for the EMD diesels, the gas turbine and their associated equipment.

In view of the materials released by the Commission on February 7, it is clear that the March 15 and 18 filings contain no safeguards information. Those pleadings contain no details of the security plan for the Shoreham site, and none of the information set forth in those filings was derived from having had access to any safeguarded information. Rather, the materials set forth in those pleadings rely solely upon: the location of the alternate AC power equipment, a matter which the NRC itself has declared not to be safeguarded; the vulnerability of the equipment to attackers who do not even need to enter the protected area, which again was material released by the Commission on February 7; and data pertaining to the existence of malevolent groups in the New York/Long Island area, which data were not derived at all from the Shoreham proceeding and which clearly are in the public domain.^{8/}

Suffolk County and the State of New York therefore request the Commission and/or the Kelley Board, as appropriate, to provide guidance regarding the treatment of security-related materials. As noted above, Suffolk County has taken the position in the past that it is appropriate to treat all matters related to security at the Shoreham plant as safeguards data. By such a blanket treatment, there is no chance that sensitive data will be released. Accordingly, we would not object to the imposition of such a rule. However, given the February 7 Order of the Commission, it is clear that a less rigorous standard has been

^{8/} See for example, the attached March 13, 1985 Newsday article about bombings in the Long Island area.

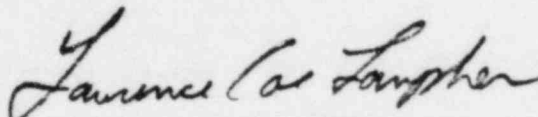
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adopted by the Commission. Without further guidance, the situation will remain confused, leading to the kind of disagreement which was experienced on March 19.

In view of the foregoing, we request the Commission and/or the Kelley Board to issue appropriate guidance at the earliest possible time.

Sincerely yours,


Lawrence Coe Lanpher

LCL:me

Enclosure

cc: *Fabian G. Palomino, Esq.

**William Clements

**Robert Perlis, Esq.

*Donald Irwin, Esq.

*Via Federal Express

**By Hand

7 Are Charged in Area Bombings

By Robert E. Kessler

Seven people, including five arrested in the Cleveland area last year, were charged yesterday with bombing 10 buildings in the metropolitan area and unsuccessfully attempting to bomb an 11th.

"These were acts of terrorism," Raymond Dearie, the U.S. Attorney for the Eastern District, said in announcing the indictments. "They were not impulsively committed, but were the product of careful planning by intelligent people who chose to send their message by the vehicles of dynamite, destruction and mayhem."

The seven were described as members of the United Freedom Front, a group that grew out of a New England prison-reform movement of the late 1960s but eventually turned to bank robberies to support its members and bombings to accomplish its political goals, according to sources familiar with its activities and court records.

Left at the scene of each bombing was a communique from the United Freedom Front stating that the bombs had been planted to protest U.S. involvement in Central America, the making of military equipment used in Central America or apartheid in South Africa.

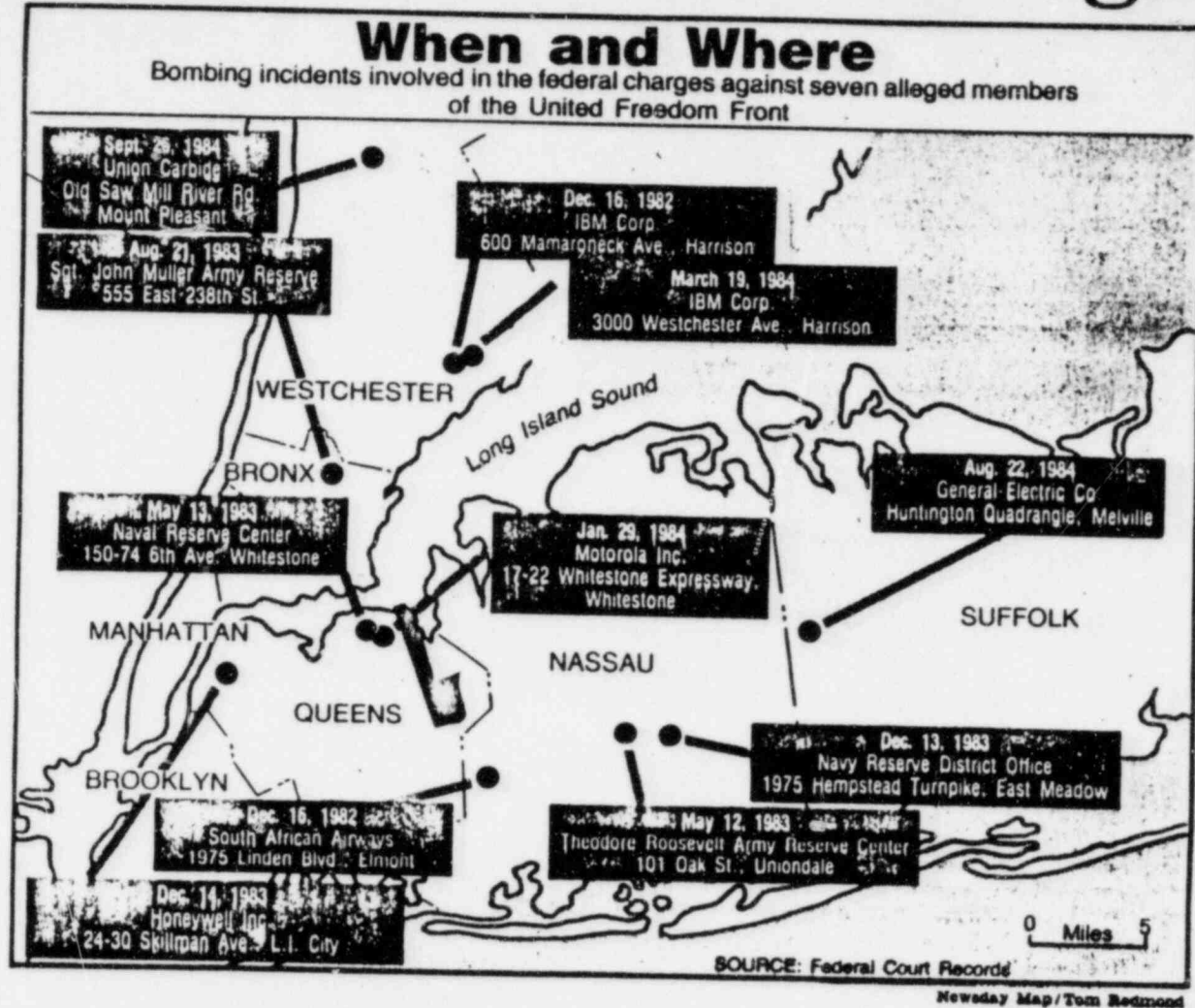
The buildings that were extensively damaged by blasts that occurred between December, 1982, and September, 1984, were Navy offices in East Meadow and Whitestone, Army offices in Uniondale and the Bronx, a South African Airways office in Elmont, a General Electric Co. aeronautical research office in Melville, a Motorola Inc. office in Whitestone, and 2 IBM offices and a Union Carbide Corp. office in Westchester. The bomb that failed to explode was found at a Honeywell Inc. office in Long Island City.

Kenneth Walton, deputy assistant director in charge of the New York FBI office, said that "it was only by the grace of God" that people were not injured at some of the bombings. In the East Meadow bombing, for example, he said, a warning call gave only 20 minutes to evacuate a crowded building at noon.

Walton said there was no evidence linking the seven to any other bombings, but he said there was a similarity in the language of the communique left by the United Freedom Front and three other groups that took responsibility for bombings on the East Coast.

Dearie said that the key information leading to the indictments came through the decoding by FBI agents of extensive secret diaries that the accused kept.

Sources familiar with the case said that when FBI agents arrested the five, they seized 1,060 pages of written material detailing the group's activities.



including the casing of buildings, the planting of bombs and self-criticism sessions at which the the success or the failure of the action was discussed.

The codes were not sophisticated but did require much unraveling, the sources said. For example, events in the diaries were, at times, dated as occurring "b.j.d." or "a.j.d." This stood for "before Jackson's death" or "after Jackson's death," according to the sources.

Several of those indicted had previously belonged to a group called the Sam Melville-Jonathan Jackson unit. Melville was a radical killed during the Attica prison rebellion, and Jackson was killed by police in California in August, 1970, while trying to kidnap a judge as part

of plot to free his brother, George, from prison.

Each of the seven was indicted on one count of conspiracy and 11 counts in connection with a bombing or an attempted bombing. They face up to 115 years in prison, if convicted.

Five of those indicted were in custody yesterday. They were: Richard Charles Williams, 37, who is awaiting trial for the murder of New Jersey State trooper Philip Lamonaco; Raymond Luc Levasseur, 38, who is in prison in Maine, awaiting trial on bank robbery charges; Patricia Helen Gros, 30, Levasseur's wife, who is in a Cleveland jail, awaiting sentencing after conviction for harboring a fugitive, her husband; Jaan Karl Laaman, 36, who is in jail in

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Newsday / Alan Rait

Pastor Richard Reifsnnyder inside First Presbyterian Church, built in 1873

has been a stalwart symbol of continuity for Oyster Bay. And if the church elders have their way, the structure, which is on the National Register of Historic Places, will be preserved for another century or more. The congregation has started a drive to raise the money to repair and restore the building.

"We're delighted to restore a building representing one of the few remaining examples of Stick architecture," the pastor, Richard Reifsnnyder, said, "but we're really doing this to make sure that a community of worshippers can continue here."

At \$175,000, the project will cost 109 times more than the original price for the whole church, \$1,600. According to Robert MacKay, chairman of the Town of Oyster Bay Landmarks Commission, that was an extravagant sum for a 19th Century church.

"In the 1870s, Long Island was a pretty sleepy, backward place, nothing more than a rural agrarian stretch," MacKay said. "To find a church like this, in the latest vogue, the latest style, you have to wonder why they did it."

The church was designed by J. Cleveland Cady, one of the foremost exponents of the Stick style, notable for its exposed beams. Cady also designed the Metropolitan Opera House and the American Museum of Natural History.

The Stick style was short-lived, lasting only through the end of the 1870s when a new interest in more rounded shapes and shingles developed, MacKay said. "Architectural styles were like a series of fast-moving weather fronts at that time," he said. "The Stick style was a reaction to the Renaissance revival of architecture and part of the 'truth in architecture' movement. The movement believed in buildings expressing themselves right through their skins."

Originally, the church was festooned with dozens of finials, elaborately carved wooden decorations which dotted the rooftop. Only two or three remain, and the church plans to restore as many as possible, said Walter Rabe, a parishioner involved in the project.

Seven Are Charged in Area Bombings

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Massachusetts awaiting trial in the attempted murder of Massachusetts state troopers; and Barbara Curzi, 27, Laaman's wife, who is in a Cleveland jail, awaiting trial on charges of harboring a fugitive, her husband.

Two are fugitives. They are Thomas Manning, 38, who is also being sought in Lamonaco's death, and his wife, Carol Ann Manning, 29, who is wanted for bank robbery.

An attorney for Levasseur, James Bushell, called the FBI's interpretation of the seized written material "ridiculous" and said he had filed motions to forbid its use in court on grounds that it was seized under a defective search warrant.

An attorney for Williams, Lynn Stewart, said she had not seen the indictment yet but said that one of the counts involved the bombing of a Union Carbide building that "caused no loss of life. Compare that with Bhopal. Who are the real terrorists?"

U.S.: Plans Detail Melville Bombing

The seven persons indicted yesterday kept carefully detailed records of their activities, according to federal authorities.

Copies of the records, which were obtained by Newsday, detail, for example, the layout of the Huntington Quadrangle in Melville and a

notation that "it looks possible for sure."

A powerful bomb inside a briefcase exploded Aug. 22, causing extensive damage to the office building minutes after more than 200 people were evacuated.

No one was injured in the 11:25 a.m. explosion in a second-floor stairwell of the four-story building on Route 110 that houses an office of General Electric Co.'s aeronautical research group.

One notebook entry, dated Aug. 1, read: "GE at end of pretty short corridor — straight out of elevator . . . looks good, better place would be right in staircase-unlocked drs [doors] all around — right against GE wall — this office is aerospace strategic plan-

ning and aircraft and aerospace ctr [center]."

The material also contained descriptions of roads, banks and phone booths in the area and the notation, "33 minutes to Whitestone Bridge."

Other pages contained descriptions of IBM Corp. plants in upstate Harrison, detailing road systems, parking lots, lighting, entrances, security measures and shrubbery that could be used for "concealment."

One notebook section is titled "general procedure" and includes 17 steps on how to make a bomb. On the page of typed bomb instructions is the handwritten notation: "Don't rush, don't work when fatigued-tired."