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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Lawrence Brenner, Chairman  
Dr. George A. Ferguson  
Dr. Peter A. Morris

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In the Matter of  
LONG ISLAND LIGHTING COMPANY  
(Shoreham Nuclear Power Station,  
Unit 1)

Docket No. 50-322-OL

December 10, 1984

MEMORANDUM AND ORDER GRANTING SUFFOLK COUNTY'S  
MOTION TO COMPEL

Suffolk County's Motion to Compel, dated November 28, 1984, is granted over LILCO's objections. LILCO shall promptly make available to the County a section of a crack below the area reached by weld repairs in the cam gallery area of the original cylinder block of EDG 103. The section shall be suitable for the County to have the coating on the crack surface subjected to x-ray diffraction analysis to attempt to identify whether magnetite oxides of iron are present in amounts of 10-15% or greater of the entire oxides present.

The parties are encouraged to agree to the appropriate test procedures and evaluation criteria prior to the conduct of the test. Indeed, the Board does not understand why sufficient agreement could not

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be reached to permit one independent laboratory to conduct the testing under procedures satisfactory to all parties.

In the absence of such agreement, the County's motion is nevertheless granted as stated in the first paragraph of this order. The County may have the test conducted as it wishes, subject to not destroying a cam gallery crack section which LILCO believes must be preserved. If a dispute concerning unacceptable destruction of a specimen arises in the pre-test consultations among the parties, then the parties may return to the Board for a ruling.

The Board is surprised that the possibility of unacceptable destruction of a crack section has been raised as a problem. To be sure, at this stage, we are not burdened by knowledge of proper test procedures presented by experts. In our possible ignorance we assumed (even prior to receipt of the County's unauthorized reply of December 7, which has had no effect on our ruling)<sup>\*/</sup> that the appropriate way to

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<sup>\*/</sup> Over the lengthy course of this proceeding, despite many admonitions from the Board, the County has persisted in the unacceptable practice of filing unauthorized replies to answers simultaneously with its motion for leave to file such a further pleading. The County's practice is unfair to the other parties who play by the rules, and causes an increasing volume of papers which have little or no utility in resolving whatever matter is at hand. The County's flagrant disregard of the Board's previous admonitions compounds the offense significantly. In the rare instance where a party thoughtfully, rather than reflexively, believes a reply to an answer is truly needed, the party must request  
(Footnote Continued)

conduct an x-ray diffraction test of the coating was, in part, to scrape a relatively small portion of the coating from a sample crack section and to test these scrapings. We assume that such limited "destruction" under controlled conditions would not have a material effect on the stock of old EDG 103 cam gallery crack section samples, or on the validity of the test of the scrapings. However, as stated, if the possibility of destruction is a problem, the parties may seek a further ruling from the Board. If possible "destruction" deemed necessary by the County is not a problem among the parties, but the validity of a test of scrapings remains a point of argument, then it appears the test could be conducted by the back reflection method outlined in LILCO's December 15 answer, followed by the County's preferred destructive method of the same crack coating.

If LILCO desires, it may retain custody of the specimen. All parties shall be permitted to observe all tests, as suggested in LILCO's answer (at 5). This shall include any other tests, including any fabrication and testing of standards which a party wishes to use, and any other types of tests seeking to analyze the constituent oxides of the crack coating. (See LILCO answer, at 5 n.1.)

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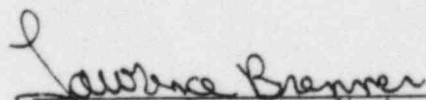
(Footnote Continued)

leave to do so in advance of tendering such an unauthorized pleading. The Board expects that this is the last time the County need be informed about proper practice, so that the need for stronger corrective measures in the future will not become necessary.

The NPC Staff's answer of December 5, while not opposing the motion to compel in principle, states that it does not waive its right to oppose later motions to reopen or supplement the record. As should be obvious by the granting of the motion to compel, the Board presently expects that it will receive evidence of the further tests of the composition of the cam gallery crack coating because the Board believes such evidence will be helpful to the decision on the merits of the cylinder block issue. This would be so even if the evidence is that the testing has been performed properly, but the results are inconclusive. Of course, further evidence could take many forms, including stipulations of fact. Parties also remain free to make any evidentiary objections. The schedule for proposed testimony on this subject shall be the same as that set forth in our December 4 order on LILCO's motion to reopen and supplement the record. The Board expects that laboratory reports of the testing will be provided to the Board and parties in advance of testimony filing dates.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

  
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Lawrence Brenner, Chairman  
ADMINISTRATIVE JUDGE

December 10, 1984  
Bethesda, Maryland



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COURTESY NOTIFICATION

As circumstances warrant from time to time, the Board will mail a copy of its memoranda and orders directly to each party, petitioner or other interested participant. This is intended solely as a courtesy and convenience to those served to provide extra time. Official service will be separate from the courtesy notification and will continue to be made by the Office of the Secretary of the Commission. Unless otherwise stated, time periods will be computed from the official service.

I hereby certify that I have today mailed copies of the Board's "Memorandum and Order Granting Suffolk County's Motion to Compel" to the persons designated on the attached Courtesy Notification List.

*Valarie M. Lane*

Valarie M. Lane

Secretary to Judge Lawrence Brenner  
Atomic Safety and Licensing Board

Bethesda, Maryland  
December 10, 1984

Attachment

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