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June 20, 1985 DOCKETED
USNRC

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BY HAND

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Nunzio J. Palladino, Chairman
Lando W. Zech, Jr.
James K. Asselstine
Frederick M. Bernthal
Thomas M. Roberts
U.S. Nuclear Regulatory Commission
1717 H Street, N.W., 11th Floor
Washington, D.C. 20555

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

Dear Mr. Chairman and Members of the Commission:

In accordance with ALAB-810, the State of New York and Suffolk County jointly submit the enclosed Motion for a Stay of a Phase III/IV License for Shoreham. We note the following:

1. The Commission voted yesterday not to supplement the Shoreham EIS. The Commission's rationale was not apparent from the discussion at yesterday's meeting and the Commission's Order was not made available to the County and State in time to be addressed in the enclosed stay motion (which must be filed by 5:00 p.m. to comply with ALAB-810). We will review the Commission's Order and, if necessary, will supplement the motion promptly to address this latest Commission statement.

2. The Commission is aware that the State and County have filed an Emergency Stay Motion with the United States Court of Appeals for the District of Columbia Circuit. We have, in effect, put that D.C. Circuit stay motion on "hold," by advising the Court not to rule until the NRC has had an opportunity to address the matters in the first instance. This is consistent with the Court of Appeals rules (Fed. R. App. P. 18) and exhaustion principles.

In the event the Commission denies the requested stay, the State and County intend immediately to activate their Court of

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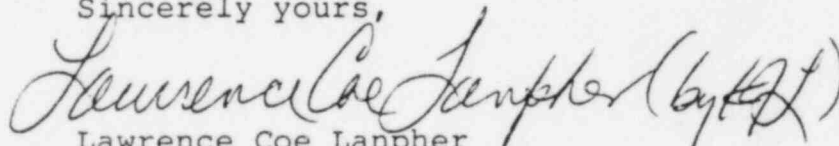
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Appeals Emergency Stay Motion. In order to avoid the necessity of the Court having to rule in an ex parte or emergency context, we request that should the Commission decide to deny our stay motion, it immediately notify undersigned counsel. We request, further, that even if the Commission denies our stay motion, it nonetheless, at a minimum, extend the interim stay announced by the Appeal Board until early July to provide sufficient time for the D.C. Circuit to obtain responding and reply briefs and to have several days thereafter to rule on our Emergency Stay Motion.

3. Finally, this morning the Appellate Division of the New York Supreme Court lifted the stay of the June 10 Order issued by Judge Doyle of the New York Supreme Court in In re the Town of Southampton v. Cohalan, No. 85-10520. A stay of that order had been in effect as a result of the Suffolk County Executive's appeal of Judge Doyle's decision. A copy of Judge Doyle's Order is attached. Accordingly, Judge Doyle's Order, which "rescinded, annulled and set aside" Mr. Cohalan's Executive Order 1-1985, and which enjoins Mr. Cohalan, the Suffolk County Executive, the Suffolk County Planning Department, and others acting in concert with them, "from taking any action whatsoever to enforce, implement or carry out the directions, policies or terms of Executive Order 1-1985," and "from modifying the policy and legal position of Suffolk County in any Shoreham-related proceedings as set forth in the [Suffolk County Legislature's] resolutions 262-1982, 456-1982, and 111-1983, and from communicating to the Nuclear Regulatory Commission . . . or to any federal or state judicial tribunal, administrative agency, department of government or official, either verbally or in writing directly or indirectly that such policy is other than as described in said resolutions or that such County policy has been changed," is in full force and effect.

Sincerely yours,


Lawrence Coe Lanpher
Attorney for Suffolk County

LCL:so
Enclosure
cc: Service List

At a Special Term, Part I, of
the Supreme Court of the State
of New York, Suffolk County,
held at the Courthouse,
Griffing Avenue, Riverhead, New
York, on the 10th day of June,
1985.

HON. ROBERT W. DOYLE
Justice

-----X
In the Matter of the Application of)
THE TOWN OF SOUTHAMPTON, THE TOWN OF)
EAST HAMPTON, THE TOWN OF SOUTHOLD)
and THE TOWN OF RIVERHEAD,)
Petitioners,)
)
For a Judgment under Article 78 of)
the Civil Practice Laws and Rules,)
)
-against-)
)
PETER F. COHALAN, County Executive)
of the County of Suffolk,)
Respondent.)
-----X

ORDER
Index No.
85-10520

-----X
In the Matter of the Application of)
WAYNE PROSPECT, et al.,)
Petitioners,)
)
For a Judgment under Article 78 of)
the Civil Practice Laws and Rules,)
)
-against-)
)
PETER F. COHALAN, County Executive)
of the County of Suffolk,)
Respondent.)
-----X

Upon reading and filing the Petition of the Town

of Southampton, et al., sworn to the 5th day of June, 1985, the Petition of Wayne Prospect, et al., sworn to the 5th day of June, 1985, the Respondent's Notice of Motion to Dismiss the Petition and disqualify counsel, and upon all the papers and proceedings herein, it is hereby

ORDERED that respondent's Executive Order 1-1985 issued on the 30th day of May, 1985 is hereby rescinded, annulled and set aside, and it is further

ORDERED:

(a) that the respondent, his attorneys, agents, servants, employees and all persons acting in concert with them including but not limited to those of the Suffolk County Planning Department, Suffolk County Police Department and Suffolk County Attorney are enjoined from taking any action whatsoever to enforce, implement or carry out the directions, ~~policies~~ or terms of Executive Order 1-1985 issued by Respondent on May 30, 1985 or any directive or instruction relating

thereto; *nothing herein shall preclude the respondent and/or his attorney from taking such legal action as may be available to him,*
(b) that the respondent is enjoined from assigning *pursuant* or expending any funds or resources in contravention of *law;* Resolutions 262-1982, 456-1982 and 111-1983, or directing any County personnel to review, test or implement the LILCO plan or any Radiological Emergency

*Filed for
Town
of
A.R.
RWD
JSC*

Response Plan (RERP), for the Shoreham nuclear plant without ~~first presenting to the Suffolk County Legislature the need therefor~~ and securing a resolution adopted by the County Legislature and approved by the County Executive; ~~in accordance with the provisions of the Suffolk County Charter and applicable statutes, local laws and regulations;~~

(c) that the respondent and the persons hereinabove described are enjoined from modifying the policy and legal position of Suffolk County in any Shoreham related proceedings ~~(as established by the County (and its Special Counsel, Kirkpatrick and Lockhart, Esqs., and the County policy))~~ as set forth in the resolutions 262-1982, 456-1982 and 111-1983, and from communicating to the Nuclear Regulatory Commission (NRC), the Public Service Commission (PSC), or to any federal or state judicial tribunal, administrative agency, department of government or official, either verbally or in writing directly or indirectly that such policy is other than ~~as~~ described in said resolutions or that such County policy has been changed ~~(from that of being opposed to the operation of Shoreham);~~

(d) that the respondent is enjoined from withdrawing ^{or modifying} the County's opposition to the issuance by

FS
for Towns
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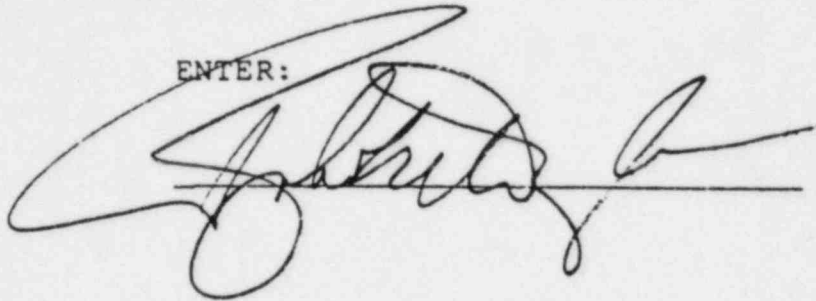
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the NRC to LILCO of a low power operating license for
Shoreham.

ENTER:

A handwritten signature in black ink, written over a horizontal line. The signature is highly stylized and cursive, with a large initial 'J' and a long horizontal stroke extending to the right.