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June 21, 1985

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USNRC

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BY HAND

Chairman Nunzio J. Palladino
United States Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

OFFICE OF THE
DOCKETING CLERK
BRANCH

Re: Docket No. 50-322-OL

Dear Commissioner Palladino:

We are in receipt of Mr. Ashare's letter to you dated June 20, 1985. As Mr. Ashare stated, the purported change in County position which on June 4 and subsequently he has attempted to put forward on behalf of Suffolk County, has been declared null and void. See Order of New York State Supreme Court, Judge Doyle, dated June 10, 1985. We agree with Mr. Ashare that pending resolution by the New York courts of the dispute concerning representation of the County, the wisest course is for the Commission (and its adjudicatory boards) to defer consideration of all Shoreham-related matters. To do so, the Commission would have to extend the Appeal Board's stay of the June 14 ASLB decision authorizing a low power license beyond its current expiration time of 5:00 p.m., June 24, 1985, unless the Commission decides in the interim to grant on the merits the stay motion filed by New York and Suffolk County yesterday.

We must correct one statement contained in Mr. Ashare's letter, however, regarding the scope of the State Supreme Court Order which restrains his conduct. That Order states, among other things, the following:

ORDERED:

(d) that the respondent is enjoined from withdrawing or modifying the County's opposition to the issuance by the NRC to LILCO of a low power operating license for Shoreham.

Order at 3-4 (emphasis added). The Court's order is unambiguous and categorical: no modification of the County's position in

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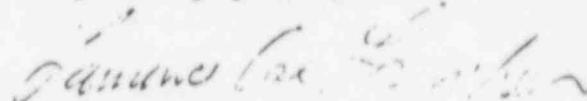
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opposition to the issuance of a low power license is permitted. The County Attorney's view that on behalf of the County he can withdraw the argument that the NRC's violation of NEPA (a) requires a stay of the June 14 ASLB decision authorizing a low power license, and (b) requires denial of that license on the merits unless and until the NRC has complied with NEPA, is contrary to the explicit language of the order prohibiting modification of the County's position. As the Commission is aware, since June 1983, the County has consistently and repeatedly urged that the NRC's violation of NEPA requires denial of a low power license. All the positions and arguments put forward by the County prior to June 4th, and all actions taken by this firm on behalf of the County subsequent to that date, constitute the sole position of Suffolk County as mandated by the Court's Order.

Enclosed herewith is a Supplement to Suffolk County and State of New York Stay Motion, which addresses CLI-85-12.

Very truly yours,


Lawrence Coe Lanpher

LCL:so

Enclosure

cc: Commissioner James K. Asselstine
Commissioner Thomas M. Roberts
Commissioner Frederick M. Bernthal
Commissioner Lando W. Zech, Jr.
Service List