



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

PDR

February 11, 1986

The Honorable Daniel P. Moynihan  
United States Senate  
Washington, DC 20510

Dear Senator Moynihan:

We appreciate your comments on the Shoreham emergency planning exercise scheduled for February 13, 1986. We have carefully considered both your February 4, 1986 letter and your February 5, 1986 "Declaration and Remonstrance" on the advisability of the exercise.

We wish to assure you as clearly as we can that the purpose and ground rules for the exercise should raise no concerns about Federal-State relations.

Our regulations, consistent with statutory provisions in recent years, contemplate that NRC will give full consideration to the merits of a utility emergency plan if the state or local government does not prepare one. Accordingly, LILCO prepared a plan which is undergoing NRC review. We have made no decision on the acceptability of LILCO's plan, but an exercise will assist the Commission in assessing its adequacy under the circumstances. The exercise will assist the Commission in determining whether the plan is as good as LILCO claims it is, or as bad as the Shoreham opponents believe it is.

Your objections to the exercise appear to be based on your belief that the exercise will usurp traditional and legitimate state and local authority. We assure you categorically that we intend no such usurpation by this exercise.

It is the Commission's intention that no state or county functions will be performed by any Federal personnel during the exercise, and that no Federal personnel will interact with members of the public so as to lead anyone to believe that they are actually state or county officials. It is also the Commission's intention that no LILCO employee will be, or appear to be, performing any state or county functions during the exercise. Indeed, as the Commission emphasized when it requested FEMA to schedule and conduct the exercise, the upcoming exercise should comply with all state and county laws which limit the conduct of certain emergency response functions to state or county personnel. The exercise will not infringe on any legitimate police powers of the state or county.

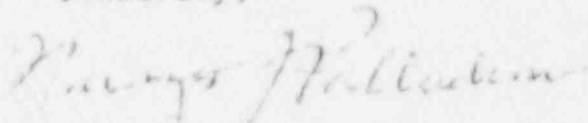
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A more complete exposition of the views of the Commission as to the exercise is set forth in the attached Commission order. My views and the views of Commissioner Asselstine, who both oppose conducting the exercise, are also enclosed.

The concerns which you expressed about the exercise are also raised by the defending parties in a lawsuit brought by the Department of Justice in the United States District Court for the Eastern District of New York. The purpose of the lawsuit is to resolve the constitutional legal validity of a recently enacted county law which seeks to make participation in the exercise a crime. Late yesterday, the Court issued an opinion and order which we understand enjoins the county from enforcing the new county law in a manner which would block the exercise. We will provide you with the Court's opinion as soon as we receive it.

Again, we appreciate receiving your views and we wish to assure you that we sincerely believe our efforts are in furtherance of our statutory duties. If you desire further information, we will provide it promptly.

Sincerely,



Nunzio J. Palladino

Enclosure:  
As Stated