

ORIGINAL

# UNITED STATES NUCLEAR REGULATORY COMMISSION

In the Matter of:

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear power )  
Station, Unit 1) )

Docket No.

50-322-OL-3

(Emergency Planning)

DATE: July 12, 1988

LOCATION: Bethesda, Maryland

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1 UNITED STATES NUCLEAR REGULATORY COMMISSION  
2 ATOMIC SAFETY AND LICENSING BOARD

3 In the Matter of: )

4 LONG ISLAND LIGHTING COMPANY )

5 (Shoreham Nuclear Power  
Station, Unit 1) )

) Docket No.

) 50-322-OL-3

) (Emergency Planning)

6 Tuesday,  
7 July 12, 1988

8 East-West Towers Building  
9 4350 East-West Highway  
Bethesda, Maryland

10 The above-entitled matter came on for hearing at  
11 11:00 a.m.

12 BEFORE: HON. JAMES GLEASON, Chairman of the Board

13 For the Board:

14 JUDGE JERRY KLINE  
15 JUDGE FRED SHON

16 APPEARANCES:

17 On Behalf of the Applicants:

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21 (Continued on next page.)  
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1  
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10 On behalf of the Nuclear Regulatory Commission:

11 LISA CLARK  
12 EDWIN REIS  
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13 NRC Staff Counsel  
Washington, D.C. 2055514 On behalf of the Federal Emergency Management  
15 Agency:16 WILLIAM R. CUMMING, ESQ.  
17 500 C Street  
Washington, D.C. 20472

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C O N T E N T S

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Richard Jones					
By Mr. Lanpher	21315				
By Mr. Spivey		21352			
By Ms. Clark		21425			
By Mr. Spivey				21432	
By Mr. Reis				21441	

E X H I B I T S

EXHIBITS:    IDENTIFIED    RECEIVED

COUNTY INTERVENOR  
Discovery:

No. 1                      21333                      21333

APPLICANT

27                      21360

28                      21360

LILCO

Discovery

29                      21396

30                      21396

31                      21424                      21424

33                      21436

1 P R O C E E D I N G S

2 JUDGE GLEASON: On the record.

3 I might say, Ms. Letsche, that things did not  
4 progress faster after you left yesterday. There weren't as  
5 many objections, but they were more lengthy, I think. So,  
6 we're glad to see you back.

7 Who has the opening statement?

8 MR. LANPHER: Wait. What does that mean?

9 JUDGE GLEASON: You can draw your own conclusions  
10 on that one.

11 MS. LETSCHE: I will make the opening statement,  
12 Judge Gleason.

13 The purpose of this hearing, as the Board stated  
14 on June 29th and earlier, was to look into the production of  
15 emergency plans and determine whether they should have been  
16 produced earlier and if they were not produced, what the  
17 circumstances were for their non-production.

18 In the evidence that the Suffolk County will  
19 present, it will be demonstrated that, in fact, in 1982, and  
20 in 1983, and again in 1988, Suffolk County produced in  
21 response to LILCO document request innumerable emergency  
22 plans, emergency procedures, including Suffolk County  
23 Emergency Operations Plan.

24 The Suffolk County witnesses and the evidence  
25 we'll present will demonstrate several things. First of

1 all, that sitting here today, it would be impossible for  
2 anyone to reconstruct an exact state of the Suffolk County  
3 Emergency Plan in 1982 or 1983. There are no -- prior  
4 versions are not retained. Pieces of it are removed as new  
5 pieces are made. Literally, there is no way to reconstruct  
6 exactly what condition it was in in 1982 or in 1983 or in  
7 any given time.

8 In addition, we cannot tell by the dates on the  
9 documents, on the individual pieces of that plan, precisely  
10 when they were, in fact, incorporated into that plan. The  
11 evidence will show that frequently documents are not  
12 approved or added to the plan or sent to be added to the  
13 plan until long after their listed date.

14 In fact, current versions of pieces of that plan  
15 frequently appear to be outdated. For example, the current  
16 version still has in it the 1979 basic state plan. So,  
17 looking at the document does not necessarily tell you how it  
18 is listed at any given time.

19 Most important fact that the evidence will show  
20 here is that LILCO, in fact, has acknowledged receiving  
21 practically all of the Suffolk County Emergency Plans,  
22 Emergency Operations Plan.

23 Yesterday, LILCO served on the Board and on all  
24 the parties a big stack of documents. Included in that  
25 stack of documents is two lengthy indices, which represent

1 LILCO's attorneys' listings of the documents which they  
2 received in 1982 and 1983.

3 In addition, they submitted several individual  
4 documents which LILCO believes are part of the county  
5 emergency operations plan. The others will show that is  
6 correct. That, in fact, all those documents which LILCO has  
7 attached were, in fact, and still are part of the Suffolk  
8 County Emergency Operations Plan.

9 LILCO did get what is called the basic plan. It  
10 is the county plan, the county disaster preparedness plan,  
11 dated 1981. There is no question about that. LILCO  
12 acknowledges they got it in 1982 and they got it again in  
13 1983, according to their indices.

14 LILCO got the police annex, which is Annex 8.  
15 LILCO got the Sheriff's Department annex, which is Annex 8-  
16 1. LILCO got the flood plan. LILCO got the entire annex  
17 concerning activation of the Suffolk County EOC, which is a  
18 lengthy portion of the plan.

19 LILCO got the Suffolk County Standard Operating  
20 Procedure for natural and manmade disasters, which is  
21 Appendix 4 in Annex A. LILCO got what apparently LILCO  
22 believes is a perusal portion of this plan, that is, listing  
23 the who-to-call. LILCO got the Suffolk County Department of  
24 Emergency Preparedness Emergency Directory, a lengthy  
25 listing of every one in the county who would be called in

1 the event of a nuclear or non-nuclear emergency. They got  
2 that. They acknowledged that. That's Annex A, Appendix 7.

3 LILCO got an earlier version of the basic plan,  
4 which now appears in Appendix 8 of the Suffolk County  
5 Emergency Operations Plan. LILCO got a hurricane plan,  
6 which is in Appendix 9 of the Suffolk County Emergency  
7 Operations Plan.

8 LILCO got the -- the indices indicate that LILCO  
9 received Fishers Island plan. LILCO received town plans  
10 from many, many towns within Suffolk County. LILCO received  
11 hurricane plans for many individual towns as well as the  
12 Suffolk County Emergency Operations Plan, which includes  
13 provisions for hurricanes.

14 LILCO got flood plans. Those that are in the  
15 Suffolk County Emergency Operations Plan as well as those  
16 retained by the individual towns. LILCO got communications  
17 plans, which are Annex D to the Suffolk County Emergency  
18 Operations Plan.

19 LILCO got police department plans from several  
20 different towns as well as from the Suffolk County Police  
21 Department. It cannot be denied and LILCO does not  
22 apparently purport to do so that LILCO got innumerable  
23 numbers of Suffolk County town plans and procedures back in  
24 1982 and 1983 and again in 1988.

25 The testimony of the Suffolk County witnesses will



1 also demonstrate that Suffolk County believes that it  
2 produced the emergency operations plan in its entirety as it  
3 existed in 1982 and in 1983, and, in fact, the documents  
4 which LILCO received, which were in the package served on  
5 the Board yesterday, many of them say right on the top,  
6 Suffolk County Emergency Operations Plan, Annex such and  
7 such. Right there in the things that LILCO got, and the  
8 suggestion that LILCO didn't know of the existence of that  
9 plan until May of 1988 is simply belied by the documents in  
10 LILCO's own possession.

11 In addition, the Suffolk County testimony will  
12 show, and this will be primarily the testimony of Mr. Jones,  
13 whom we had hoped to present first because in chronological  
14 order -- Mr. Frank Jones, the chronological order, he would  
15 present the things that happened earlier.

16 The testimony will show that in 1982 and prior to  
17 that and subsequent to that, LILCO was very knowledgeable  
18 about Suffolk County's plans and their planning efforts, in  
19 addition to all the documents that were given to them during  
20 the discovery in this proceeding.

21 Back in 1977 or thereabouts, Suffolk County  
22 recognized that the basic general plan, that is the  
23 Emergency Operation Plan, which had been in existence as a  
24 civil defense plan from way back in the sixties, was not  
25 sufficient to deal with the radiological emergency at a

1 nuclear power plant when the 1977 Shoreham plant was being  
2 built.

3 At that time, the Director of the Suffolk County  
4 Emergency Preparedness Division was Norman Kelly, who is now  
5 a LILCO employee. Mr. Kelly, while he was the Suffolk  
6 County Director of the Division of Emergency Preparedness,  
7 prepared a Suffolk County Emergency Plan for major radiation  
8 incidents, a lengthy document. He prepared one of those in  
9 1977. LILCO has that document.

10 It was revised in 1978. LILCO has that document.  
11 It was revised again in 1979. At that point, it turned into  
12 a Suffolk County Emergency Plan for a major radiation  
13 incident at the Shoreham plant and contained several  
14 individual annexes which roughly correspond to the annexes  
15 in Suffolk County Emergency Operations Plan. That is, there  
16 was an annex for the police department and an annex for the  
17 health department and an annex for the sheriff's department  
18 and so on. That was prepared by Mr. Kelly, LILCO's  
19 employee, and LILCO received copies of all those documents,  
20 all those plans.

21 Eventually, in approximately 1980 or '81, it  
22 became clear that that planning effort was not sufficient,  
23 and at that point, there was a cooperative effort involving  
24 both LILCO, Suffolk County and the State of New York to  
25 attempt to write a plan for the Shoreham plant, for an off-

1 site response.

2 That planning effort, in which LILCO was  
3 intimately involved, Mr. Nevario and many, many other LILCO  
4 employees, was conducted within Suffolk County primarily by  
5 the traffic division of the planning department, not the  
6 Emergency Preparedness Department, with which the witnesses  
7 appearing today are associated.

8 In any event, during a long course of a year or  
9 two, there were innumerable meetings between the state,  
10 county and LILCO, in which there were attempts to draft a  
11 Shoreham response plan. LILCO, of course, participated in  
12 all of those activities, had copies of all the  
13 correspondence and draft plans and draft procedures and  
14 everything else that was created during that time.

15 In addition, all of those documents and some that  
16 perhaps LILCO did not have access to during that time were  
17 produced to LILCO during the 1982 and 1983 discovery, and a  
18 review of the indices that LILCO served on the Board  
19 yesterday will reveal the huge amount of information which  
20 was sent to LILCO at that time.

21 As of March 1982, the county, having worked with  
22 LILCO, had produced a two-volume draft plan. March 1982.  
23 LILCO, of course, had that plan. Indeed, after that plan had  
24 been rejected by the county, when somebody other than the  
25 traffic division reviewed it and decided that it was

1 insufficient and inadequate, LILCO submitted that draft  
2 Suffolk County plan to the State Disaster Preparedness  
3 Committee. Clearly, LILCO knew all about that plan.

4 Subsequent to that, Suffolk County, after mounting  
5 an extensive effort, drafted another draft plan for  
6 responding to a storm emergency. That was a three-volume  
7 effort which, of course, LILCO received a copy of. That  
8 draft plan, which was then reviewed by the Suffolk County  
9 legislature, was found to be inadequate and unworkable and  
10 was rejected by the county.

11 The point of all of this is that the suggestion  
12 which gave rise to this proceeding in the first place, that  
13 LILCO suddenly learned that there was a Suffolk County  
14 Emergency Operations Plan in May of 1988, is absolutely and  
15 demonstrably false.

16 The other point is that the suggestion that any  
17 other plan or procedure in the possession of Suffolk County  
18 were withheld in document productions during this NRC  
19 Proceeding is false.

20 The documents LILCO itself has produced and the  
21 testimony of the Suffolk County witnesses will demonstrate  
22 the falsity of both of those propositions.

23 Thank you.

24 JUDGE GLEASON: Any opening statement?

25 MR. SPIVEY: Yes. Judge Gleason, I think the

1 point of all of that is that it's all irrelevant. The  
2 question is not what LILCO had back in the early eighties,  
3 not what planning it participated in, all the rest of it.

4 What is relevant is what was produced to us in  
5 response to our legitimate discovery request.

6 MR. IRWIN: Judge Gleason, let me amplify a little  
7 bit on a couple of aspects of what Ms. Letsche said.

8 One would get the impression from what she said  
9 that LILCO had the Suffolk County Emergency Operations Plan  
10 in 1982 and '83. The fact of the matter is that that  
11 integrated document was not turned over as an integrated  
12 document nor were all of its components turned over and,  
13 indeed, important components, such as the basic plan, were  
14 not turned over, Annex A, community control, was not turned  
15 over, lists in Annex A for various county departments were  
16 not turned over, Annex K, which is the radiological  
17 intelligence section, was not turned over, a communications  
18 annex was not turned over.

19 In addition, those parts which were turned over  
20 were turned over in isolated segments as Bate stamp numbers  
21 will reveal, and the imputation that LILCO has engaged in  
22 any kind of deceptive conduct is simply inaccurate.

23 That's Item 1. As Mr. Spivey said, the plans  
24 which Ms. Letsche went through during the '80-82 period were  
25 all of a specifically Shoreham-directed radiological nature,

1 all of them disowned by the county, and they are not an  
2 issue here. They have been talked about for years. We're  
3 talking about the Suffolk County Emergency Operations Plan.

4 JUDGE GLEASON: All right. Let me ask one  
5 question, Ms. Letsche, and perhaps you can clear it up.

6 There was some --

7 MS. LETSCHE: Can't hear you.

8 JUDGE GLEASON: Can you not hear me? Let me get  
9 organized here.

10 There was some affirmation that files at one point  
11 -- how long have you been with the Kirkpatrick firm, Ms.  
12 Letsche?

13 MS. LETSCHE: My law firm? Since 1976.

14 JUDGE GLEASON: There was some statements to the  
15 effect that at one point, the firm, the firm had sent its  
16 files back to Suffolk County, and if I understood the  
17 information that was submitted by your law firm, there was  
18 an attempt to find out what happened to those files.

19 Now, ordinarily, I would assume that when files --  
20 well, not assume. I know when files are sent back to  
21 certainly a government entity, they are certainly not  
22 disposed of right away, particularly when litigation is  
23 still on-going.

24 And, secondly, that it would seem to me that if  
25 the firm then had subsequently established its relationship



1 again, why, those files would have been requested to be  
2 returned, and apparently that was not done.

3 MS. LETSCHE: This is what happened, Judge  
4 Gleason.

5 Back in 1985, the law firm was terminated for a  
6 period of time and the Suffolk County in turn requested the  
7 return of the files, and those files were packed up and  
8 shipped off, and there were hundreds of boxes of files that  
9 were returned to Suffolk County.

10 That included the pieces from '82 and '83. Once  
11 all these things got going here, we attempted to locate  
12 those files, and we went through and spent days in the  
13 archives of Suffolk County Government's archives files. We  
14 located some of those documents, some of those boxes. None  
15 of what we located, however, unfortunately, included these  
16 documents.

17 There is a large number of boxes that we have not  
18 found. I don't know that they've been destroyed, but they  
19 have not been located, and we have made a diligent search.

20 The best that we can do at this point in providing  
21 information to the Board is two things. Number one, there  
22 are people here who can tell you what they did to the best  
23 of their recollection.

24 Number two, we have LILCO's own indexes. Now, I'm  
25 not going to vouch for their accuracy, and I don't know how

1 accurate they are. I would believe my indexes would be more  
2 accurate, but, unfortunately, I don't have those.

3           However, a review of LILCO's own indices, if you  
4 look at the indices, will make very clear to the extent of  
5 the document production even if you were to rely on those  
6 and ignore the statements of the Suffolk County witnesses.

7           That's the facts. We just simply don't have those  
8 files.

9           JUDGE GLEASON: I don't think you answered the one  
10 question I had.

11           When the relationship was resumed, --

12           MS. LETSCHE: Yes.

13           JUDGE GLEASON: -- ordinarily, those files would  
14 be returned at that time. Why were they not returned at  
15 that time?

16           MS. LETSCHE: They were not returned because at  
17 that point, Judge Gleason, we did not believe that any of  
18 those documents were relevant. That was in phase one, 1982,  
19 the documents, and there was a phase two, which at that  
20 point we already had a decision by the licensing board, and  
21 the documents relating to discovery back then, we frankly  
22 just did not keep them. At that point, we did not request  
23 that they ship back those hundred boxes.

24           JUDGE SHON: I noticed one thing about the  
25 discussion that we've heard so far today. That is, you

1 allege that LILCO's own indexes show that, for example, they  
2 had the basic plan. Mr. Irwin says they did not.

3 MS. LETSCHE: I can clear that one up.

4 JUDGE SHON: Okay.

5 MS. LETSCHE: Okay. I don't know if you've looked  
6 at the plans. In the very beginning, there is something  
7 which is called the basic plan, which is dated 5/79, and  
8 then there's another piece, keep going and you come to  
9 another piece, that has, I believe, -- the first part, you  
10 go for awhile, it says "5/79", and then you come to the  
11 statutes --

12 MR. SPIVEY: Excuse me. We're talking about  
13 Exhibit 9 or 10?

14 MR. LANPHER: 10.

15 MS. LETSCHE: So, you have the first document,  
16 which says "General Basic Plan", dated 5/79, and you come to  
17 some dashes and then you come to the Command and Control,  
18 dated 12/75. Okay.

19 Now, that basic plan, that part of the basic plan,  
20 as I understand it, some of New York State got this, it was  
21 handed out to towns in the late seventies, and it's  
22 basically just a basic plan.

23 That's not what the county considers the basic  
24 plan. What the county and these witnesses are going to refer  
25 to is the basic plan, is what is called in this volume the

1 county plan, which, in fact, is Appendix 9. Okay. That is  
2 called the County of Suffolk Disaster Preparedness Plan,  
3 January 1, 1981.

4 JUDGE SHON: That's Appendix 9 to the annex?

5 MS. LETSCHE: It's Appendix 9, yes. That's  
6 correct. It's very confusing. It's very confusing.

7 But what these witnesses and what the county calls  
8 the basic plan, and I'm glad you brought it up because it  
9 will make the terminology easier, is the Suffolk County  
10 Disaster Preparedness Plan. This earlier stuff, and the  
11 witnesses will tell you, was sort of a form that the state  
12 sent out, sent out to everybody. You can see that in its  
13 earliest part, the Suffolk County had written in literally  
14 forms that said State of New York on the top, Emergency  
15 Operations Plan, stamp in your county's name.

16 JUDGE SHON: This is listed as the introduction  
17 prepared by the state.

18 MS. LETSCHE: That's correct. So, that -- I mean,  
19 -- excuse me.

20 JUDGE SHON: Okay. You were talking about two  
21 different things.

22 MS. LETSCHE: Yes.

23 JUDGE SHON: And the thing you were -- the thing  
24 that Mr. Irwin was talking about not having received is not  
25 the thing that you first see labelled Basic Plan, as you

1 start reading through there?

2 MS. LETSCHE: That's correct, and let me just make  
3 clear here, there's no dispute that LILCO received in 1982  
4 the county plan, which is the county disaster preparedness  
5 plan, which is Appendix 9 to Annex 8. There is no dispute  
6 about that. They got that back in '82, as well as many,  
7 many, many of the annexes as the list that they gave and the  
8 documents they provided yesterday.

9 MR. IRWIN: Judge, let me add something else. Ms.  
10 Letsche is correct in saying that there are two different  
11 documents which have the same nomenclature. There are a  
12 couple of other things that ought to be added.

13 One of them is that there was an integrated  
14 document back in that period and we didn't get it. That's  
15 the point.

16 The second point, which is different, is while I'm  
17 pretty confident that our document indices are accurate, a  
18 line item on an index does not indicate anything about the  
19 content of the document. That's possibly why there may be  
20 some confusion about two documents may have the same title,  
21 stemming from the indices.

22 We voluntarily turned over to Suffolk County every  
23 document from our indices which could arguably have been a  
24 component of that file. These are the best we could  
25 reconstruct it from our files, just to try to narrow the gap

1 of potential controversy here.

2           They had no answers for that. They didn't even ask  
3 us for our indices until Friday afternoon of last week. We  
4 thought it would be a good idea to turn that around  
5 overnight for them and to voluntarily provide them with all  
6 of the documents that related to it.

7           But as I say, we can't look at an index and  
8 automatically infer what the content of the document is, and  
9 we just did not get that integrated plan.

10           MS. LETSCHE: If I could make one clarifying --

11           JUDGE GLEASON: I really think we ought to get to  
12 the witnesses here. We're --

13           MS. LETSCHE: If I could clarify one thing in  
14 response to what Mr. Irwin just said about the integrated  
15 plan.

16           The problem here is, and the witnesses will make  
17 clear, sitting here today, nobody knows what the  
18 "integrated" plan was in '82 or '83. How many of these  
19 annexes, many of which are dated '85, if you go through the  
20 current version of the plan, how many of them even existed  
21 back in '82 and '83 or '81 or what they were called.

22           So that many of the documents that LILCO got may,  
23 in fact, have been in this plan. We can't say that. Mr.  
24 Irwin can't say that. I can't say it either.

25           The bottom line is that you can't be sure. You



1 can listen to the witnesses who will tell you what they did,  
2 and you can look at the list of documents and see what was  
3 turned over, but no one is going to be able to exactly  
4 recreate what there was in '82 or what there was in '83.

5 JUDGE SHON: I was saying as to it being an  
6 integrated plan, the only sense that I've noticed that it's  
7 truly integrated is that it's in black and white.

8 MS. LETSCHE: I think that's right. Exactly  
9 right.

10 JUDGE GLEASON: I think we better get on with the  
11 witnesses and stick to the evidence.

12 MS. YOUNG: I have a suggestion. This whole of  
13 line of argument is very good. Ms. Letsche has suggested  
14 that the Board peruse the formal index of LILCO's documents  
15 to see that they have allegations made on both sides that  
16 the documents were received or when the documents were  
17 produced, and that those documents pertain to the plan that  
18 did exist in the present form that was submitted back in May  
19 of this year.

20 It would appear to me that it would be much easier  
21 for the Board and the parties to understand the positions of  
22 the respective parties if Intervenor and LILCO could  
23 prepare some kind of index to LILCO's index which would  
24 indicate which documents Intervenor believes were turned  
25 over that are part of the current plan and LILCO could

1 identify which documents they believe they received.

2 JUDGE GLEASON: I think they've already done that.

3 MS. YOUNG: No. Right now, all we have is the  
4 index argument of counsel that certain things were done.

5 MR. IRWIN: No. We did that in the cover letter  
6 to Mr. Lanpher last Saturday morning.

7 JUDGE GLEASON: I think we're better off  
8 proceeding as we are. You know, the -- we let opening  
9 statements be made here, but I just think the witnesses are  
10 what we want to hear from and there are some overriding  
11 issues involved here which really have not been discussed in  
12 these documents.

13 I think we better get at that.

14 MR. CUMMING: Judge Gleason, may I make a brief  
15 comment?

16 JUDGE GLEASON: All right.

17 MR. CUMMING: I just want to point out to the  
18 Board the term "disaster preparedness plan" on 44 CFR  
19 Section 322 and the term "emergency operation plan" as  
20 defined in 44 CFR Section 302.3, Section -- well, it's the  
21 subsection paragraph (p), but the reason I point that out is  
22 it goes to Judge Show's comment that many state and local  
23 jurisdictions, despite the fact there are two separate  
24 definitions, the definitions do, to some extent, overlap.

25 Both the disaster preparedness plan and the

1 emergency operation plan are the same document. It's not the  
2 case that they would necessarily bifurcate and it might be  
3 helpful to the Board to bring that out as to whether there  
4 was or not such a bifurcation from the LILCO witnesses that  
5 are here this morning.

6 MR. LANPHER: Judge, do you want to swear all the  
7 witnesses? I believe all three witnesses are here.

8 JUDGE GLEASON: I want to swear all three. Which  
9 witness would you prefer to go first?

10 MR. LANPHER: We had spoken yesterday that there  
11 was a lot of talk about the emergency operations plan and  
12 which version was produced to SEMO and that kind of stuff.  
13 We were going to put Mr. Jones on first.

14 JUDGE GLEASON: Mr. Jones. How would you like the  
15 witnesses to be hear?

16 MR. SPIVEY: That's agreeable, Your Honor.

17 JUDGE GLEASON: All right. Let's bring them all  
18 in, please.

19 MR. LANPHER: Judge, as they're coming in, I'm  
20 going to do the direct or the foundation questions. Due to  
21 the lateness last night of getting out of here, Ms. Letsche  
22 has one short line of questions, then I will be interposing  
23 objections during cross examination.

24 JUDGE GLEASON: She will also ask questions or  
25 what?

1 MR. LANPHER: Just one brief line of questions.

2 It's just that I got back to the office very late last night  
3 as I'm sure you understand.

4 MR. SPIVEY: Your Honor, I'm a little new to these  
5 types of proceedings, and, so, on some sort of unfamiliar  
6 ground, but I would object to two lawyers questioning a  
7 witness.

8 JUDGE GLEASON: Well, it is unusual. We had  
9 indicated to them it is an unusual proceeding in a sense  
10 really, that if they wanted to put forth some foundation-  
11 type of statements with the witness, you know, they'd be  
12 free to do that just to lay the groundwork, not to go into  
13 it at length.

14 I don't know how just extensive Ms. Letsche  
15 intends to go.

16 MR. LANPHER: Ms. Letsche's questions will go only  
17 to the matters, the documents which were transmitted by  
18 LILCO's letter to me, dated July 9, 1988, the portions of  
19 the Emergency Operations Plan that LILCO found in its files.  
20 That's the only -- and you got a copy of this letter, Judge  
21 Gleason, I guess served yesterday by LILCO.

22 That's the only line of questions she's going to  
23 pursue.

24 JUDGE GLEASON: Do you have any objection to that?

25 MR. SPIVEY: No, sir. We withdraw the objection.

1 JUDGE GLEASON: All right. Gentlemen, if you would  
2 please raise your right hand?

3 Whereupon,

4 RICHARD W. JONES

5 having been first duly sworn, was called as a witness herein  
6 and was examined and testified as follows:

7 JUDGE GLEASON: Mr. Jones, please be seated.

8 I'd like to say to all three of you that the  
9 reason we are sequestering the witnesses is that we'd like  
10 to hear from the witnesses alone and the other witnesses not  
11 receive the benefit of that testimony, so that when you are  
12 through with this proceeding, you are enjoined not to talk  
13 about what happened in this proceeding to any of the other  
14 witnesses.

15 MR. SPIVEY: Judge Gleason, if I may, there has  
16 been a suggestion made that the witnesses who are seated in  
17 the ante room are able to hear the proceedings in here, and  
18 I would ask Your Honor to instruct these witnesses to remove  
19 themselves beyond earshot of these proceedings.

20 JUDGE GLEASON: I hadn't realized that.

21 MR. SPIVEY: I didn't realize it either, Your  
22 Honor, until this morning.

23 JUDGE GLEASON: Maybe people could go down to the  
24 cafeteria and we can come and get you there. Thank you so  
25 much.

1 All right, Ms. Letsche or Mr. Lanpher.

2 MR. LANPHER: Thank you, sir.

3 DIRECT EXAMINATION

4 BY MR. LANPHER:

5 Q Mr. Jones, would you please state your full name?

6 A Richard W. Jones.

7 Q And by whom are you employed, sir?

8 A By the County of Suffolk, and I work in the --  
9 under the FRES Commission, Division of Emergency  
10 Preparedness.

11 Q What is the FRES Commission?

12 A Fire, Rescue and Emergency Services, and we're a  
13 division of the FRES Commission.

14 Q And how long have you been employed by the  
15 Emergency Preparedness Division?

16 A Since September '82.

17 Q And what is your job title?

18 A My principal title is radiological defense  
19 officer.

20 Q And what are your duties as radiological defense  
21 officer, sir?

22 A Well, I maintain an annex to the plant, called  
23 Radiological Annex, Annex K, and it's a civil defense-type  
24 effort towards coping with a nuclear attack fall-out  
25 situation.



1 Q Now, could you please briefly describe for the  
2 Board, Mr. Jones, what the Suffolk County Emergency  
3 Preparedness Division is?

4 A Well, it's an organization staffed by right now  
5 four people. We're a little low on help. We are responsible  
6 for maintaining, formulating and maintaining and updating a  
7 plan, a county plan to react to a natural or manmade  
8 disaster.

9 Q Now, are you familiar with a document which is  
10 entitled "Suffolk County Emergency Operations Plan"?

11 A Yes, sir.

12 Q Now, what is that document, generally? Could you  
13 briefly summarize what it is?

14 A Well, briefly stated, it's a basic plan, and  
15 within basic plan, attached to the basic plan are what we  
16 call annexes. An annex exists wherein a county agency, like  
17 a department of health, a department of public works,  
18 maintain an annex and this spells out their duties in the  
19 event of a disaster when the plan is being exercised.

20 Q Sir, did you finish?

21 A Yes.

22 Q You referred to a basic plan. Is there a portion  
23 of the Suffolk County Emergency Operations Plan that you  
24 consider the basic plan?

25 A Yes, sir. It's found within the Annex A of

1 Appendix 9, and the basic plan spells out authorities for a  
2 plan and the reasons for a plan.

3 Q I'm showing you a copy of LILCO Discovery Exhibit  
4 10, and is that basic plan that you were just referring to  
5 entitled "The County of Suffolk Disaster Preparedness Plan"?

6 A Yes, sir.

7 Q And that's what you consider to be the basic plan?

8 A Yes.

9 Q Now, have you had any -- do you have any duties  
10 with respect to the maintenance of the Suffolk County  
11 Emergency Operations Plan?

12 A Yes. In 1984, the real plans and training officer  
13 retired and he was never replaced on staff, and I was asked  
14 to take over his responsibilities. Yes, I maintain it,  
15 update it, make changes as necessary. It's a constant  
16 affair.

17 Q Now, in what form do you maintain the Suffolk  
18 County Emergency Operations Plan? Is it in a bound volume  
19 or is it a loose-leaf notebook or can you describe how you  
20 maintain it?

21 A It's a large loose-leaf binder, similar to this,  
22 black in color, and large loose-leaf rings for ease of  
23 removal and replacement, and it's black in color, and it's  
24 identified on the back, what do you call it, the back bone  
25 portion as the County Emergency Operations Plan.

1 MR. LANPHER: Judge Gleason, for the record, when  
2 he was referring to this, I have provided to him LILCO  
3 Exhibit 10, bound in a three-ring spiral binder.

4 BY MR. LANPHER:

5 Q Mr. Jones, do you recall a time during 1983 when  
6 the Emergency Operations Division was requested to gather  
7 documents in response to LILCO Discovery Request?

8 A Yes.

9 Q Who asked you to gather documents?

10 A Well, my director at the time through our deputy  
11 director, and they just came out into the bunker, we call  
12 the operations center the bunker, and said that we need to  
13 make a massive search for certain and all documents that  
14 have been requested by the county exec's office.

15 Q Now, who was your director at the time?

16 A Mr. William Reagan.

17 Q And who was your, I think you said, associate  
18 director at the time?

19 A Mr. Bilello.

20 Q And they were the gentlemen who directly asked you  
21 to gather documents?

22 A Myself and others, yes.

23 Q And who was it, if you know, from the county  
24 executive's office who had requested that you gather  
25 documents?

1 A The then chief deputy county exec, Frank Jones.

2 Q And do you recall, again turning your attention to  
3 the 1983 time frame, what kind of documents you were asked  
4 to gather?

5 A Any and all effort towards plans, responding to  
6 natural and manmade disasters, including nuclear events, any  
7 correspondence relating to plans, any emergency operations  
8 plans at all, anything of an emergency nature, any planning  
9 efforts that took place towards that.

10 Q Now, you received this directive or request from  
11 Mr. Bilello and Mr. Reagan to gather documents. What did  
12 you do in terms of gathering documents?

13 A Well, we physically went to various files that we  
14 have in the area and searched and pulled out those documents  
15 we thought were necessary to be furnished.

16 Q And what did you do with those documents once you  
17 had pulled them out?

18 A When they're all gathered up, they were put in  
19 carrying cases, I guess you'd call them, the type of  
20 cardboard container, somewhat similar to the one on the  
21 floor over there, two or three boxes full.

22 Q And what was done with those two or three boxes?

23 A They were taken up to the ninth floor of the  
24 Dennison Building, to the county exec's office.

25 Q Do you recall specifically whether the County of

1 Suffolk Emergency Operations Plan was among the documents  
2 which were included in those boxes that were taken over to  
3 the county executive's office?

4 A Yes, I'm sure it was. It was a plan and that's  
5 what the county exec wanted. I see no reason to believe  
6 that it wasn't sent.

7 Q But you have a specific recollection of seeing  
8 that document or a copy of that document put into those  
9 boxes?

10 A No.

11 Q Does the -- does your division, the Emergency  
12 Preparedness Division, have a copy of the County Emergency  
13 Operations Plan in the form that it existed back in 1982 or  
14 1983?

15 A No.

16 Q Why is that?

17 A Well, the plan is in constant change, updates,  
18 pages that were updated in '82 and '83 would be discarded  
19 and replaced with the new revised editions.

20 Q So, for example, are you able to state whether the  
21 current version of Annex D, which is dated July 1983, was  
22 part of the Suffolk County Emergency Operations Plan in  
23 August of '83?

24 A Annex D?

25 Q Yes.

1 A Delta?

2 Q D as in Delta.

3 A No, I couldn't say that.

4 Q Sir, turning your attention to 1988, do you recall  
5 another request that the Emergency Preparedness Division  
6 searched its files for plans and procedures which needed to  
7 be produced to the Long Island Lighting Company?

8 A Yes.

9 Q Who made that request to you?

10 A That request was made by Deputy County Executive  
11 Assistant Petrone, Frank Petrone.

12 Q And what did you do pursuant to his request?

13 A Similar search that was conducted in '83. Went  
14 through the files, looking for anything and everything  
15 relating to planning, natural or manmade disasters,  
16 including nuclear.

17 Q Did you conduct the search completely by yourself?

18 A No. We were in the midst of it, gathering the  
19 information up and I had the help of some of our --  
20 Kirkpatrick and Lockhart's assistance. They went through the  
21 place with a fine-tooth comb.

22 Q Now, in 1988, in that time frame, do you recall  
23 whether the County Emergency Operations Plan was among the  
24 documents that was gathered?

25 A Yes.



1 Q Who did you give that document to, if you recall?

2 A That was given to Mr. Petrone.

3 Q Now, the copy that you gave to Mr. Petrone, do you  
4 recall approximately when that was that you gave him that  
5 copy?

6 A The exact date was early this year. Maybe April  
7 or May.

8 Q The copy that you initially gave to Mr. Petrone,  
9 was that the most recent version of the plan?

10 A Yes. I made -- when I started to fill in for the  
11 plans and training officer in '84, in '85, late '85  
12 actually, I made ten copies of this back-to-back, and as I  
13 was updating annexes, I would give an annex to someone to  
14 update. It's identical to what Mr. Petrone has as what was  
15 submitted to everyone else, because there were ten of them,  
16 and that was one of the last of the ten.

17 Q Mr. Jones, I just put a document in front of you.  
18 What color is the binder?

19 A Dark blue.

20 Q Dark blue binder. And does that appear to be the  
21 document that you gave to Mr. Petrone?

22 A Minus the binder, I didn't give it to him in a  
23 binder, the binder was probably put on later, yes.

24 MR. LANPHER: I will represent for the record,  
25 Judge Gleason, that the copy of the document that I've just

1 showed to Mr. Jones is a copy that we used, Kirkpatrick and  
2 Lockhart used to xerox from when we initially served this  
3 document, I believe pursuant to Mr. Sisk's representations  
4 yesterday, the document which has been marked for  
5 identification as LILCO Discovery Exhibit 9, is LILCO's copy  
6 of that same document that was initially served on LILCO in  
7 late May.

8 BY MR. LANPHER:

9 Q Did there come a time, Mr. Jones, when you met  
10 with counsel and discovered a somewhat more up-to-date  
11 version of that plan, of the county operations plan?

12 A Yes. The original EOC copy, the one that never  
13 leaves the building, as I said before, is constantly being  
14 updated, and there was a little more updated than what you  
15 folks had gotten or Mr. Petrone had gotten than this one  
16 because this was reproduced in '85.

17 Q You say this one was reproduced in 1985. Is that  
18 the one you initially gave to Mr. Petrone?

19 A Yes.

20 Q And, so, was a copy made of the, I'll call it,  
21 master copy that you maintain in the EOC?

22 A Yes.

23 MR. LANPHER: Judge Gleason, I will represent for  
24 the record that the document that we sent by Federal Express  
25 to LILCO last Friday, which they received on Saturday, which

1 we served on the Board yesterday, is the copy of the other  
2 version or master version of the plan which we obtained last  
3 week at the bunker, as he put it.

4 BY MR. LANPHER:

5 Q Looking at the Table of --

6 MR. SPIVEY: Excuse me. May I have a verification  
7 just for the record? Is he now referring to Exhibit 10?

8 MR. LANPHER: Yes. Yes. Exhibit 10. I'm sorry.

9 JUDGE GLEASON: Go ahead.

10 BY MR. LANPHER:

11 Q You have in front of you Exhibit 10, Mr. Jones.  
12 Would you turn to the Table of Contents?

13 A Okay.

14 Q Go to the front of the whole thing. The Table of  
15 Contents that are at the very front of the whole thing, and  
16 look at the last page and there's a reference to a "Crisis  
17 Relocation Plan".

18 Do you see that at the bottom of the page?

19 A Yes.

20 Q Does Suffolk County have a crisis relocation plan?

21 A No.

22 Q Now, did there come a time, Mr. Jones, when you  
23 provided a copy of the County Emergency Operations Plan to  
24 the State of New York or to a representative of the State of  
25 New York?

1 A Very recently, in May. Let's see. No. It was  
2 later than that. It was May, early May.

3 Q Early May. And who was it you gave it to?

4 A Jerry Horton, Mr. Jerry Horton. He's from the  
5 SEMO, State Emergency Management Office, and he represents  
6 the planning section.

7 Q Do you recall ever having given him or anyone else  
8 in the state a copy of that plan prior to May?

9 A No.

10 Q And the version of the plan which you gave to Mr.  
11 Horton in early May, was it the same version as you had  
12 given to Mr. Petrone?

13 A Yes, sir.

14 Q And that's Exhibit 9, this document that I showed  
15 you before?

16 A Yes.

17 Q Which has been marked as Exhibit -- LILCO  
18 Discovery Exhibit 9? You've got to answer. You can't nod.

19 A Yes.

20 Q Mr. Jones, do you know a gentleman named Norman  
21 Kelly?

22 A Yes, sir.

23 Q Do you know by whom he is employed?

24 A Presently, I believe he's employed by Long Island  
25 Lighting Company.

1 Q Do you know in what capacity?

2 A He has to do with their organization, be it  
3 planning or training, but he's active in that area.

4 Q Do you know whether Mr. Kelly was ever employed by  
5 Suffolk County?

6 A Yes, he was.

7 Q In what capacity, if you know?

8 A He was a former director of the Division of  
9 Emergency Preparedness.

10 Q Do you know approximately when he left that  
11 position?

12 A Probably in 1980, he was replaced by Mr. Reagan.

13 Q Had he been the director for just a short period  
14 prior to that or for several years?

15 A Going on twelve years.

16 Q Do you know approximately when Mr. Kelly began to  
17 work for LILCO?

18 A No. I think he's been with them for about three  
19 and a half years. I heard him mention it one day.

20 Q Mr. Kelly mentioned that to you one day?

21 A No. In a conversation with someone else.

22 Q Now, after Mr. Kelly began to work for LILCO, was  
23 he ever present at the Suffolk County Emergency Preparedness  
24 Division in the Out Bank?

25 A Yes, sir. On several occasions, he came to visit.

1 There were a bunch of old friends down there, and he tried  
2 to stay in touch and keep an ear tuned out for what's new in  
3 emergency management.

4 Q Well, Mr. Jones, was Mr. Kelly aware of the  
5 existence of the county's emergency operations plan?

6 A I'm sure he was. He had to do it for twelve  
7 years, when he was the director of the Division of Emergency  
8 Preparedness. That's one of his prime responsibilities, is  
9 the maintenance and formulation of that plan.

10 Q So, he would have been aware, in your opinion, he  
11 would have been aware of the existence of that?

12 A Yes, sir.

13 Q Did there come a time when you provided Mr. Kelly  
14 with a copy of the Emergency Operations Plan?

15 MR. SPIVEY: Objection, Your Honor. For the  
16 record, Judge Gleason, what he is attempting to do now is to  
17 engraft on LILCO knowledge that Mr. Kelly had when he was a  
18 Suffolk County employee, and as I understand the focus of  
19 this inquiry is not collateral sources of information that  
20 LILCO may have had, but responses to the discovery that has  
21 been found here.

22 And, so, for that reason, I would submit that the  
23 inquiry is irrelevant.

24 MR. LANPHER: Judge Gleason, I'm asking him  
25 whether there came a time while Mr. -- let me rephrase the



1 question.

2 BY MR. LANPHER:

3 Q Did there come a time while Mr. Kelly was a Long  
4 Island Lighting Company employee that he requested a copy of  
5 the County Emergency Operations Plan from you?

6 MR. SPIVEY: Same objection, Your Honor. It's  
7 irrelevant.

8 MR. LANPHER: How can it be irrelevant, Judge,  
9 that LILCO has announced that it never had a copy of this  
10 plan until May 1988, and that if it had had a copy, it would  
11 have "proved realism" long ago? The Board is obviously  
12 interested in this matter. It has already indicated that it  
13 intends to call Mr. Kelly as a witness on Thursday of this  
14 week.

15 We are certainly entitled to lay a foundation for  
16 the fact that Mr. Kelly received a copy of the County  
17 Emergency Operations Plan in 1985.

18 JUDGE GLEASON: The objection is denied. The  
19 witness will respond to the question.

20 MR. LANPHER: Let me repeat the question.

21 BY MR. LANPHER:

22 Q Did there come a time, Mr. Jones, when Mr. Kelly  
23 requested a copy of the County Emergency Operations Plan  
24 from you?

25 A Yes, sir.

1 Q Do you recall approximately when that was?

2 A It was somewhere -- I can't really pin a date down  
3 because he was there so often. Somewhere during 1985.

4 Q And did you give him a copy of that plan?

5 A Yes, sir.

6 Q And was the copy of the plan which you gave to Mr.  
7 Kelly the same as the copy which you gave to Mr. Petrone in  
8 May of this year?

9 A Yes, sir. One of those ten that I had reproduced.

10 Q And at the time you gave him that copy, he was  
11 employed by LILCO, is that correct?

12 A Yes.

13 Q Why did you give Mr. Kelly a copy?

14 A Well, he's got a great background in emergency  
15 management, professional courtesy if nothing else. I  
16 thought he might be one to use some of the terminologies in  
17 there to put together a LERO plan that I thought he was  
18 working on. There wasn't any reason to assume he was going  
19 to use it for any other purposes, but to help him put a plan  
20 together.

21 Q Mr. Jones, are you familiar with hurricane  
22 conferences that are held by the Suffolk County Emergency  
23 Preparedness Division?

24 A Yes, sir. Very much.

25 Q How often are they held?

1 A Once a year.

2 Q Is the Suffolk County Emergency Operations plan  
3 discussed at these conferences?

4 A In detail. We ask the people in attendance who are  
5 usually representatives who have annexes in the plan, the  
6 ten towns in Suffolk County, have a person called their  
7 civil defense coordinator, they are asked to review the  
8 plans and look them over, get ready for a hurricane, and one  
9 year we had a post-hurricane conference and they were asked  
10 to look at their plans now and see if it worked, and if it  
11 didn't, let's change them and get it to where it is a  
12 functioning thing.

13 Q Does Long Island Lighting Company send a  
14 representative to the annual hurricane conference?

15 A Yes, sir.

16 Q Were you at the County EOC during Hurricane  
17 Gloria?

18 A Yes, sir.

19 Q That was in the fall of 1985, correct?

20 A Yes.

21 Q Were LILCO representatives at the County EOC  
22 during that period?

23 A Periodically, yes.

24 Q Was the County Emergency Operations Plan used  
25 during the response to that emergency?

1           A     Definitely, yes.

2           Q     Are you familiar with the Milstone Nuclear Power  
3 Plant, sir?

4           A     Yes, sir.

5           Q     Does Suffolk County have a plan for responding to  
6 a radiological emergency at the Milstone plant?

7           A     No.

8           Q     Does the Suffolk County Emergency Preparedness  
9 Division have any involvement with the Milstone plant?

10          A     Yes. We take part in their notification system,  
11 tests of it. Once monthly, first Wednesday of every month,  
12 they put out a tone on their monitor pager device that we  
13 have in the bunker. There's a requirement on our part to  
14 notify four locations in Suffolk County that there's been a  
15 test of the system.

16                I'll go through it, if you wish, or if you'd just  
17 rather --

18          Q     Please identify the four locations. What do you  
19 do when that pager or that notification goes off?

20          A     All right. This is a nuclear -- this is the  
21 Milstone Nuclear Power Station. This is a test. We're  
22 announcing a drill. Call in for further information. You  
23 call a Connecticut number. It's a tape at Northeast  
24 Utilities, and it tells you what the event is, what actions  
25 are being taken, fire/police been notified, and there will

1 or will not be a further report given, and you're logging  
2 this on the incident report form.

3 Q Now, --

4 A The requirement that we have is to notify four  
5 locations in the county. Fisher Island, Plume Island, the  
6 Animal Disease Control Center, and we notify the South  
7 Holden P.D. as a back-up, and we also notify one person in  
8 the county health department.

9 Q Is that person Mr. Shepherd?

10 A Mr. Who?

11 Q Shepherd.

12 A Yes.

13 Q And what do you tell these individuals or these  
14 entities, Fisher Island, Plume Island, South Holden and Mr.  
15 Shepherd, when you get them on the phone?

16 A We remind them that there has been a drill  
17 announced and what the contents of the message were, was,  
18 but they also have a requirement to call that tape. If none  
19 of these four locations call that tape, Northeast Utilities  
20 will be calling the bunker back and say we haven't heard  
21 from Fisher Island, we haven't heard from Plume Island, we  
22 haven't heard from them. They have to answer that tape,  
23 too.

24 So, this is just a back-up to see that the  
25 notification system did function well in Suffolk County, and

1 that's --

2 MR. LANPHER: Judge Gleason, except for the brief  
3 line of questions by Ms. Letsche, that completes my direct.

4 MS. LETSCHE: What I have done and I'm going to  
5 ask to have marked as an exhibit, which would be Suffolk  
6 County Discovery Exhibit Number 1, is the filing or the  
7 submission that Hunton and Williams made yesterday to the  
8 Board.

9 This is for everyone's convenience. It's a two-  
10 inch thick stack of documents, beginning with the cover  
11 letter from Hunton and Williams, followed by two indices of  
12 documents produced, followed by several other documents with  
13 the reference in the cover letter.

14 JUDGE GLEASON: All right. It will be designated  
15 as Intervenor's Discovery Exhibit Number 1.

16 MR. ZAHNLEUTER: Judge Gleason, it might be better  
17 to call it County Discovery Exhibit 1.

18 JUDGE GLEASON: Okay. County Intervenor Discovery  
19 Exhibit Number 1.

20 (The document referred to was  
21 marked for identification as  
22 County Intervenor Discovery  
23 Exhibit Number 1.

24 BY MS. LETSCHE:

25 Q Mr. Jones, have you been given a copy of what has



1 been marked as County Discovery Exhibit Number 1?

2 A Yes, ma'am.

3 Q I'd like you to go to the fourth document in that  
4 file, go past the cover letter and the two indices. No. Go  
5 back one document.

6 You have a document there which is entitled  
7 "County of Suffolk Disaster Preparedness Plan, January 1,  
8 1981"?

9 A Yes.

10 Q Now, Mr. Jones, is that document the document  
11 which you referred to earlier as the basic plan?

12 A Yes, ma'am.

13 Q And is that document a part of the Suffolk County  
14 Emergency Operations Plan?

15 A Yes, ma'am.

16 Q Would you turn to the next -- I didn't know if you  
17 were ready up there. Okay.

18 Would you turn to the next document, Mr. Jones?  
19 The one that has on it "Flood Disaster Plan for Richards  
20 Inlet Area". Do you have that document?

21 A Yes.

22 Q Now, if you would turn to the fourth page of that  
23 document, it says on the top "Emergency Operations Plan  
24 Annex A Appendix I", is that correct?

25 A Yes.

1 Q Is this document, and you can flip through it if  
2 you'd like, a part of the Suffolk County Emergency  
3 Operations Plan?

4 A Yes, ma'am.

5 Q Would you turn to the next document, please? The  
6 one that has at the top "Emergency Operations Plan Annex A  
7 Act 10 Activation of the County Emergency Operating Center".  
8 Do you have that document?

9 A Yes.

10 Q Is that document a part of the Suffolk County  
11 Operations, Emergency Operations Plan?

12 A Yes, ma'am.

13 Q Would you flip through that document to the page  
14 that has a Bates number on the bottom, 000873? It's about  
15 halfway through that document. Do you have that page?

16 A Yes, ma'am.

17 Q It says on the top, "Emergency Operating Plan  
18 Annex A Appendix 11", is that correct?

19 A Yes, ma'am.

20 Q Is that document a part of the Suffolk County  
21 Emergency Operations Plan?

22 A Yes.

23 Q Would you turn to the next document, please? The  
24 document that begins with the letter, dated June 22, 1978,  
25 to William Rogers, Clerk of Legislature. Do you have that?

1 A Yes, ma'am.

2 Q Now, that letter refers -- includes in the first  
3 paragraph, does it not, a request for an updated copy of the  
4 current emergency operations plan, is that correct?

5 A Yes.

6 Q Going through the remainder of that document, is  
7 that a version of Annex 8-1 from the Suffolk County  
8 Emergency Operations Plan?

9 A This is the beginnings of the Sheriff's Annex.  
10 It's progressed into a larger document, but it's part of the  
11 plan and its title is H-1.

12 MR. SPIVEY: Excuse me. I'm lost. Could I have a  
13 Bates stamp reference, please?

14 MS. LETSCHE: I'm sorry. We're on the document,  
15 the first number of which is 000938. That's the cover memo.  
16 And we are discussing the attachment to that memo, which  
17 begins with 000939, Emergency Preparedness Emergency  
18 Operations Plan for Suffolk County Sheriff's Office.

19 BY MS. LETSCHE:

20 Q Would you go to the next document, please, Mr.  
21 Jones? The one that has at the top, "Emergency Operations  
22 Plan Annex A Appendix 9 Attachment E", entitled "Hurricane  
23 Disaster Plan Fire Island, New York, Fire Service". Do you  
24 have that document?

25 A Yes, ma'am.

1 Q Is that document a part of the Suffolk County  
2 Emergency Operations Plan?

3 A It still is. It has been expounded on, but it's  
4 the beginnings of the fire service annex in response to a  
5 hurricane.

6 Q Okay. Could you go to the next document, please?  
7 This is the one that begins with a memo, dated 1 October  
8 1981, to Carl Ulinger from Police Department, County of  
9 Suffolk, New York, stationary.

10 Do you have that document?

11 A Yes, ma'am.

12 Q Now, that covering memorandum refers to an updated  
13 standard operating procedure police service annex staff line  
14 succession organizational chart and recent equipment and  
15 resource inventory, is that correct?

16 A Yes, ma'am. Annex H-1, H, the police annex, the  
17 police and sheriff annexes share H.

18 Q So, this -- the attachment to these covering memos  
19 is a part of the Suffolk County Emergency Operations Plan,  
20 is that correct?

21 A Yes, ma'am.

22 Q And, in fact, that attachment has the words  
23 "Emergency Operations Plan" in the upper left-hand corner of  
24 the document, does it not?

25 A Yes, ma'am.

1           Q     Mr. Jones, would you turn for me to the second  
2 page of this document? It's the memo, dated 18 September  
3 1981, to Edmund M. Erickson.

4                     Do you have that page?

5           A     Yes, ma'am.

6           Q     Would you look down to the bottom of that page?

7                     MS. LETSCHE: This is Bates Number 000091, Mr.  
8 Spivey, if you're looking for it.

9                     BY MS. LETSCHE:

10          Q     At the bottom of that page, there's a sentence  
11 beginning "Primarily". Do you see that sentence?

12          A     I reviewed the various emergency plans?

13          Q     Yes. After that, there's a sentence which begins  
14 "Primarily". Would you read that, the next couple of  
15 sentences after that one, please?

16          A     "Primarily, we have one major plan. The Suffolk  
17 County Emergency Operations Plan. This plan is maintained  
18 by Emergency Preparedness Department and is continuously  
19 being updated. The contents of this plan consisted of  
20 general functional overview from county agencies."

21          Q     Keep going.

22          A     Keep going?

23          Q     Yes.

24          A     "This plan is not available to the public. In  
25 front of this book is the Suffolk County Disaster

1 Preparedness Plan printed January '81. This plan and  
2 overview also is available to the general public."

3 Q That's fine. Thank you.

4 To the best of your knowledge, that was a true  
5 statement back in 1981, is that correct?

6 A Yes, ma'am.

7 Q All right. Mr. Jones, would you turn to the next  
8 document, please? It's another one on Police Department  
9 County of Suffolk letterhead. This is Bates Number 000173.  
10 That's the local number, not the county number.

11 Mr. Jones, the third -- I'm sorry. Would you turn  
12 to the third page of that document? That's another police  
13 department memo, dated May 13, 1980. Do you have that? A  
14 short memo.

15 A Yes, ma'am.

16 Q And the memo says, "Attached hereto is a draft  
17 copy of the basic plan for Suffolk County and its towns and  
18 villages." Is that right?

19 A Yes.

20 Q Now, would you look at the attachment to that  
21 document, headed "State of New York County of Suffolk  
22 Emergency Operations Plan, Basic Plan for Suffolk County and  
23 Its Villages"?

24 Do you recognize that document?

25 A Yes. That's the beginnings of the basic plan,



1 which is a part of the plan as it exists today.

2 Q Part of the Suffolk County Emergency Operations  
3 Plan?

4 A Yes, ma'am.

5 Q There's a portion of this document which I'd like  
6 to direct your attention to, but I have to find it first.

7 (Pause)

8 BY MS. LETSCHE:

9 Q It's the one with the Bates Number in the lower  
10 right-hand corner, 000181. Can you find that? It's about  
11 halfway through the document.

12 A I have it.

13 Q You have that. Now, is that portion of this  
14 document what appears in Appendix 8 of the Suffolk County  
15 Emergency Operations Plan?

16 A It would show, but there's some name changes here.  
17 It's still part of the plan, but it's been updated. They  
18 don't use some of the terminology anymore.

19 Q Thank you.

20 Would you turn to the next document, please?

21 That's the one that has -- called "Standard Operating  
22 Procedure, Procedure for Use in the Event of Natural  
23 Disasters, Manmade Disasters or Nuclear Attack". Do you have  
24 that?

25 A Yes, ma'am.

1 Q Is that document a part of the Suffolk County  
2 Emergency Operations Plan?

3 A Yes. It would be found in the basic plan as part  
4 of the authority line.

5 Q Would you turn to the next document, please? This  
6 is the one headed "Suffolk County Department of Emergency  
7 Preparedness, Emergency Directory". Do you have that one?

8 A Yes, ma'am.

9 Q The second page of that document states that it  
10 was revised July 1982. Now, is this document a part of the  
11 Suffolk County Emergency Operations Plan?

12 A Yes, ma'am.

13 Q And this copy, which was provided to LILCO does  
14 not have any information redacted from it, does it? Nothing  
15 has been crossed out or concealed, is that right?

16 A No.

17 MS. LETSCHE: Judge Gleason, at this time, I would  
18 move the admission of County Discovery Exhibit Number 1 into  
19 evidence.

20 JUDGE GLEASON: Objection?

21 MR. SPIVEY: No objection.

22 JUDGE GLEASON: Hearing none, -- do you have --

23 MR. SPIVEY: Excuse me, Judge. Did I understand  
24 this includes the letter also?

25 MS. LETSCHE: Yes. That would include the entire

1 package. We'll be discussing the indices and things later.

2 MR. SPIVEY: We have no objection.

3 MS. YOUNG: I understand yesterday that there was  
4 some concern about home addresses.

5 MS. LETSCHE: This is the document which LILCO  
6 received back in 1982. The directory has been updated since  
7 then.

8 MS. YOUNG: Once it goes into the record, -- the  
9 staff has no objection.

10 JUDGE GLEASON: Without objection, the document is  
11 received into evidence.

12 (The document referred to, having  
13 been previously marked for identi-  
14 fication as County Intervenor  
15 Discovery Exhibit Number 1, was  
16 received in evidence.)

17 MR. LANPHER: Judge, this witness is available for  
18 the Board's questioning.

19 JUDGE GLEASON: Let's take a five-minute break, if  
20 you don't mind.

21 MR. LANPHER: Okay.

22 (Whereupon, a recess was taken.)

23 JUDGE GLEASON: We will resume.

24 MR. LANPHER: We are completed, Judge Gleason.

25 JUDGE GLEASON: Mr. Jones, first of all, have you

1 had any discussions with anybody concerning the --

2 THE WITNESS: I'm sorry, sir. I can't hear. I've  
3 got a bad left ear.

4 JUDGE GLEASON: Have you had any discussions with  
5 anyone concerning the events of yesterday's hearing?

6 THE WITNESS: Events of yesterday's hearing?

7 JUDGE GLEASON: Yes.

8 THE WITNESS: No, sir.

9 JUDGE GLEASON: Fine. I want to explore a little  
10 bit this -- your responsibilities as far as the development  
11 of the emergency plans.

12 What are the responsibilities that you have, if  
13 any, concerning that phase of your operations?

14 THE WITNESS: Responsibilities in developing a  
15 plan, sir?

16 JUDGE GLEASON: Plans. These many years.

17 THE WITNESS: All the plans I deal with have been  
18 developed already as the plan existed before I came on board  
19 and acted as the planning and training officer.

20 I've been involved in developing one other plan, a  
21 hazardous materials response plan, chemical incident  
22 responses and things of that nature, but that was just a  
23 fill-in-the-blanks thing that the state furnished.

24 JUDGE GLEASON: Have you ever been a witness in  
25 any proceeding, Shoreham proceedings before?

1 THE WITNESS: No, sir.

2 JUDGE GLEASON: Have you ever been a participant  
3 in discussions about the capability of Suffolk County to  
4 respond in the event of an emergency at Shoreham in the  
5 event that Shoreham were licensed?

6 Do you understand the question? I did a little  
7 convoluting there, but --

8 THE WITNESS: No.

9 JUDGE GLEASON: Have you had any discussions as to  
10 whether there were any capabilities -- what the capabilities  
11 of Suffolk County were to respond to an emergency, what they  
12 would do?

13 MR. LANPHER: Judge Gleason, I'm going to  
14 interpose a standing objection.

15 JUDGE GLEASON: Yes, I understand that. I  
16 understand that. If you would do it that way, it would be  
17 greatly appreciated because we can really save some time.

18 MR. LANPHER: I will do my best. I have to  
19 protect my client's rights.

20 JUDGE GLEASON: I didn't get the answer to that  
21 question.

22 MR. LANPHER: His answer was no.

23 JUDGE GLEASON: Let him answer because I said I  
24 didn't hear the witness answer. So, let him answer.

25 THE WITNESS: No, sir. I've never been privy to

1 any conversations involving planning for Shoreham.

2 JUDGE GLEASON: Are you familiar with the  
3 emergency plans for the Brookhaven National Laboratory?

4 THE WITNESS: I know that one exists and we have a  
5 copy of it. We have no function in their plan. They just  
6 notify us. They do their own thing. They're a federal agency  
7 and they write and conduct their own planning.

8 Out of courtesy, they would -- at one time, their  
9 plan required them to notify us that they were evacuating  
10 their site, but they had their own trapper controls and  
11 things like that. They just out of courtesy would tell us,  
12 but they don't do it anymore, not since I've been there.

13 JUDGE GLEASON: Are you familiar with the  
14 emergency plan of the Indian Point Nuclear facility?

15 MR. LANPHER: I object. Irrelevant.

16 JUDGE GLEASON: You aware of the fact that Suffolk  
17 County is within the fifty-mile pathway of Indian Point?

18 THE WITNESS: Yes, sir. The ingestion pathway.

19 JUDGE GLEASON: Yes.

20 THE WITNESS: Yes, sir.

21 JUDGE GLEASON: When you were asked in May, or I  
22 think it was May of this year, by Mr. Petrone, I believe you  
23 indicated, to search your files for any emergency  
24 preparedness plans for Suffolk County, was it to do a  
25 complete search? I mean, you had already testified that you



1 had -- copies had been furnished before or that there were  
2 plans before, and were you asked just to do something that  
3 had not been given to them before?

4 THE WITNESS: No.

5 JUDGE GLEASON: What were you asked specifically  
6 to do?

7 THE WITNESS: Any plans or correspondence relating  
8 to plans involving any natural or manmade disaster,  
9 including nuclear incidents.

10 JUDGE GLEASON: Even if, in fact, they had been  
11 given up before? Was that added to the request?

12 THE WITNESS: No. That statement wasn't made.  
13 They just wanted plans and correspondence relating to the  
14 plans, any and all plans.

15 JUDGE GLEASON: Did you kind of have a feeling of  
16 deja vu, that you had already done this once?

17 THE WITNESS: Yes. You know what the hell. Not  
18 again. But we did the search and found the stuff.

19 JUDGE GLEASON: What is the extent of your  
20 relationship with the state emergency people?

21 THE WITNESS: Well, we all have our counterparts  
22 upstate. My counterpart at the state level is the SEMO  
23 technical resources section. They have to do with things  
24 radiological. In the plans and the training area, you deal  
25 with people like Mr. Horton. You might want to contact him



1 from time to time on the phone and ask for guidance or  
2 looking for certain documentation that would help you put a  
3 plan together.

4 They enforce FEMA regulations and we abide by what  
5 the state says.

6 JUDGE GLEASON: Do you have any relationship with  
7 the radiological emergency response group, RERG, or whatever  
8 it's called?

9 THE WITNESS: No, sir.

10 JUDGE GLEASON: Do you know the individuals?

11 THE WITNESS: I know of the existence of RERG,  
12 yes.

13 JUDGE GLEASON: Do you know the people that work  
14 there?

15 THE WITNESS: I know -- not on a personal basis,  
16 but I went to a planning course up in -- oh, Stevensville.  
17 Anyway, Dr. Corinne Remwawe was there. He had a lot to say  
18 about the radiological emergency response plan that the  
19 state had.

20 I think he represents RERG out of the health  
21 department.

22 JUDGE GLEASON: Have you ever read the state plan?

23 MR. LANPHER: I object to the question. It's  
24 vague. I don't know what state plan means.

25 JUDGE GLEASON: Have you read the state disaster

1 plan? Let's start there.

2 THE WITNESS: We have a copy of it. Yes, sir. We  
3 use it for reference. They have many plans. They have a  
4 406 plan, a mitigation plan, and they have the real state  
5 emergency operations plan. It's a model that we look at and  
6 steal some of its thunder.

7 JUDGE GLEASON: Are you familiar or are you aware  
8 of the LILCO emergency plan?

9 THE WITNESS: Yes, sir.

10 JUDGE GLEASON: Have you ever been involved with  
11 any meetings, any sessions at which the production of  
12 documents for this litigation was discussed, at which the  
13 issue was whether certain documents should be produced or  
14 should not be produced?

15 THE WITNESS: No. We were asked to produce  
16 whatever we had, and we screened them specifically for  
17 content and this is what they wanted, this is what they got.

18 We didn't try to hide anything if that's what  
19 you're getting at.

20 JUDGE GLEASON: Let me ask you a couple of  
21 questions about your testimony about Mr. Kelly.

22 You indicated, I believe, in your testimony that  
23 some time in 1985, that Mr. Kelly was given a copy of the  
24 Suffolk County Emergency Operating Plan, which was one of  
25 the ten copies that you had duplicated and made of the plan,

1 is that correct?

2 THE WITNESS: Yes, sir.

3 JUDGE GLEASON: And could you tell us the  
4 circumstances under which that plan was given to him?

5 THE WITNESS: It was one of his little visits.  
6 Everybody was happy to see him. They talked about different  
7 things, old times, how you doing. He asked if I had some  
8 guidance that he could be furnished on NAWAS, the federal  
9 regulations governing the acquisition and the installation  
10 of an NAWAS warning line, and I told him I'd look for it and  
11 we have a library in there and found him a copy of that, and  
12 it was helpful because they have a NAWAS hotline apparently  
13 where they notify the state that they had an event at  
14 Shoreham.

15 Then, he said, "Dick, you know what I could use,  
16 if you've got one, could I get a copy of the County  
17 Emergency Operations Plan?" I said, "Yes, sure." I figured  
18 he was going to use it for doing his LERO thing or whatever  
19 he had been doing for LILCO.

20 JUDGE GLEASON: Did he state what purpose he  
21 intended to put it?

22 THE WITNESS: No, I didn't ask him. I figured --  
23 I assumed that that's what he would need it for,  
24 terminologies.

25 JUDGE GLEASON: And you gave this to him

1 personally?

2 THE WITNESS: Yes, sir.

3 JUDGE GLEASON: Who else was present at the time?

4 THE WITNESS: Different members of the staff,  
5 resources management officer was there, chewing the fat with  
6 him, our operations officer was there. I walked up and  
7 handed it to him. He said, "Thank you." Professional  
8 courtesy thing. I didn't think it was going to be anything  
9 detrimental about giving it to him.

10 JUDGE GLEASON: I'm not saying there is anything  
11 detrimental about giving it to him.

12 THE WITNESS: No.

13 JUDGE GLEASON: I don't mean to suggest that. I'm  
14 just trying to verify the fact that he was given the  
15 information, and I'm asking you who else saw you give him  
16 the information.

17 THE WITNESS: A couple of other people on the  
18 staff.

19 JUDGE GLEASON: They knew that it was that  
20 information that you were giving to him?

21 THE WITNESS: Yes.

22 JUDGE GLEASON: Who were those people?

23 THE WITNESS: I think our operations officer was  
24 there.

25 JUDGE GLEASON: Who is that?

1 THE WITNESS: Mr. Berkley Bennett.

2 JUDGE GLEASON: Pardon?

3 THE WITNESS: Berkley Bennett was our operations  
4 officer.

5 JUDGE GLEASON: Berkley Bennett?

6 THE WITNESS: Yes.

7 JUDGE GLEASON: Who else?

8 THE WITNESS: And I'm quite sure Dick Boughton,  
9 the resources officer, was there, too.

10 JUDGE GLEASON: Dick Boughton?

11 THE WITNESS: Boughton, B-O-U-G-H-T-O-N.

12 JUDGE GLEASON: Is that all you can remember?

13 THE WITNESS: Yes. I can't really remember the  
14 exact date, and I'm sure those two folks were there, too.

15 JUDGE GLEASON: That was in 1985 that you  
16 recollect?

17 THE WITNESS: That's where I'm not too sure about.  
18 It had to be '85 or '86.

19 JUDGE GLEASON: Could have been '86, too?

20 THE WITNESS: Because he's in quite often, and I  
21 couldn't pinpoint when I gave him the plan.

22 JUDGE GLEASON: How often is he in the office?

23 THE WITNESS: Two-three times a year, usually.

24 He's been ill recently and everybody was concerned about him  
25 and he was in during his illness. He just come out of the

1 hospital with an intestinal thing and he's back in the  
2 hospital, now he's back out. Everybody is concerned about  
3 him. He's an old friend down there.

4 JUDGE GLEASON: Okay. Thank you.

5 I will turn the questioning over to Mr. Sisk or  
6 who's going to be --

7 MR. SPIVEY: I am, Your Honor.

8 JUDGE GLEASON: Mr. Spivey.

9 CROSS EXAMINATION

10 BY MR. SPIVEY:

11 Q Mr. Jones, Judge Gleason asked you if there were  
12 any -- you had any discussion of the events of yesterday.

13 Specifically, did anyone discuss with you the  
14 testimony that was given by any of the witnesses yesterday?

15 A No, sir.

16 Q Do you know the substance of the testimony that  
17 was given by the witnesses yesterday?

18 A No.

19 Q Mr. Jones, would you describe for me, please, sir,  
20 your educational background?

21 A I have a high school education, two years GED  
22 level college education, gotten while I was in the service,  
23 in Madison, Wisconsin.

24 Q When was that?

25 A I guess I finished the GED probably in 1955.



1 Q And when were you in the military service? For  
2 what years?

3 A From 1944 to 1964. I retired after twenty.

4 Q What branch of service were you in?

5 A The Infantry and Combat Engineers.

6 Q Where were you stationed when you retired?

7 A In downtown New York City. The Vincent Q. Kelly  
8 U.S. Army Reserve Center. I was an advisor to an engineer  
9 unit. My terminal assignment was supposed to be choice  
10 assignment, but you get up at four o'clock in the morning  
11 and be at work by eight on the Long Island Railroad, it's  
12 not too choice.

13 Q What was your rank at retirement?

14 A First Sergeant. Sergeant Major. E-8.

15 Q And that was in what year?

16 A 1964.

17 Q All right, sir. Now, what employment did you  
18 follow after that?

19 A After I retired, I was on terminal leave for  
20 thirty days before I retired. I was working for Brookhaven  
21 Lab, safety, environmental health and safety department. I  
22 worked there for six years.

23 Q Did you have any prior experience or training that  
24 qualified you to work in that job?

25 A Yeah.

1 Q Describe that, please.

2 A Well, there's a lot of safety background we're  
3 talking about here.

4 Q Mr. Jones, if I could say to you, sir, this lady  
5 is trying to get down everything that you are saying and it  
6 makes it a little difficult when you have your hand around  
7 your mouth.

8 A The mike?

9 Q Yes, sir. And take your hand away from your mouth,  
10 if you would.

11 A Okay. Predominantly, as an instructor in the  
12 military, you preach safety. I taught such things as mines  
13 and demolitions, use of explosives. At one point, most of  
14 it was classified. I had to do with the transportation of  
15 and the monitoring of a device that we had in Europe, which  
16 involved atomic demolitions. So, I started to get a  
17 background in things nuclear there.

18 At the Brookhaven Lab, I wrote their EDM plan,  
19 they called it at that time. It was the Emergency Disaster  
20 Mobilization Plan. It dealt with any emergency at the lab,  
21 who does what and where does anyone go.

22 I excelled in things that --

23 Q Let me ask you a question at this point. Was that  
24 document ever put into a final form and utilized by the  
25 laboratory?

1 A Yes.

2 Q It was?

A Yes, sir.

4 Q When was that?

5 A Well, it had to be '66.

6 Q All right.

7 A I think it was finalized in '66. And a lot of my  
8 experience --

9 Q During a thirty-day period, you were there?

10 A Say again.

11 Q You were there for a six-year period?

12 A Six years.

13 Q I'm sorry.

14 A I forgot what I was going to say.

15 Q Well, I think we were exploring your background.

16 A The background in the military. I was primarily  
17 intelligence and operations, had to do a lot with planning  
18 and operations. Graduated many schools on intelligence.  
19 Probably the work fell in the area of the S-2/S-3 area, if  
20 you're familiar with military structure, intelligence and  
21 operations.

22 All in combat units. So, everybody moves fast and  
23 you've got a precise plan and you move.

24 Q All right, sir. Were you involved in safety the  
25 entire time you were employed at the Brookhaven Laboratory?

1           A     In the department, I was the safety engineer.

2     That was the title.

3           Q     And did you stay in that position the entire time?

4           A     Yes.

5           Q     All right, sir. Where did you go when you left  
6     Brookhaven?

7           A     I took a leave of absence and went to St. Louis,  
8     where I took employment with the Hartford Insurance Group as  
9     a loss prevention engineer. Again, safety. That was up and  
10    down lead mine shafts, thousand feet vertical shafts. Up  
11    and down the Mississippi River, on barges that we had  
12    insured.

13                One of my accounts was the Budweiser Brewery.  
14    That was always a great visit. A lot of granaries and the  
15    storage facilities. I forget what we called them at the  
16    time, but silos. Silo safety. A silo can blow up  
17    instantaneously if it's not kept dust free and explosion-  
18    proof, electrical motors and stuff like that.

19                They would put in for claims, like a barge would  
20    sink, and they would put a claim in. You have to go find the  
21    barge and determine that it had holes in it.

22           Q     Well, was this a body of law safety  
23    responsibility?

24           A     Loss prevention and engineering. A lot of safety.

25                MR. LANPHER: I object to this line of

1 questioning. We're going to be here all day.

2 JUDGE GLEASON: Mr. Spivey, what is the relevance  
3 of this?

4 MR. SPIVEY: I'm simply trying to place the  
5 witness, Your Honor.

6 JUDGE GLEASON: Well, I know, but the question is  
7 to what degree. If you really placed him, I'd say we could  
8 get on with the questions that we're really here to explore.  
9 We would appreciate it.

10 MR. SPIVEY: All right, sir. I'll bring him up  
11 then to his employment with Suffolk County.

12 BY MR. SPIVEY:

13 Q Mr. Jones, when did you first go to work for  
14 Suffolk County?

15 A September '82. First of September.

16 Q Was that immediately after leaving the Hartford?

17 A No. Now, if you want a laugh, I left employment  
18 as their golf club repairman and I made custom golf clubs.

19 Q All right.

20 A I did that for six years. Good with my hands.

21 Q What was your first employment with Suffolk  
22 County?

23 A As the radiological defense officer.

24 Q By whom were you hired?

25 A It's the civil service job. You apply for it. You

1 take an . You're placed on a list in order of the score  
2 you attain, and you get veterans points credits, and when  
3 the vacancy exists, if you're on top of the list, you're  
4 called in for an interview.

5 I was interviewed and accepted and was on  
6 probation for a year after taking the test.

7 Q And what year was that?

8 A September '82.

9 Q And your title at that time was radiological  
10 defense officer?

11 A Yes, sir.

12 Q And I take it you've remained in that position  
13 ever since?

14 A Yes, sir. With additional duties as the plans and  
15 training person.

16 Q When did you take on those additional duties? I  
17 know you told us, but I --

18 A It was shortly after the plans and training  
19 officer retired, and I think it was early '84, he retired in  
20 '83. So, into April-May '84, I was asked to ride herd on  
21 the plans and operations because they hadn't hired --  
22 couldn't get it into the budget to hire another plans and  
23 training officer.

24 Q And that's still the case?

25 A Yes.



1           Q     Mr. Jones, where were you living when you were  
2 hired by the county?

3           MR. LANPHER: I object.

4           THE WITNESS: Living?

5           MR. LANPHER: I'm not sure this witness  
6 understands when an objection is interposed, he should stop  
7 answering.

8           But I object. This is irrelevant. We're going to  
9 be here all day with these witnesses that you've scheduled.

10          JUDGE GLEASON: Mr. Spivey, you could have pursued  
11 the golf issue. I was interested in that. But since you  
12 bypassed that, I really think you ought to get to his  
13 knowledge of his plans and so on. Where he lived is really  
14 not of interest to us.

15          MR. SPIVEY: Judge, I'm trying to lay a little  
16 foundation to find out something about his knowledge.

17          JUDGE GLEASON: I really think you ought to press  
18 forward.

19          MR. LANPHER: Judge, we have no objection to him  
20 asking questions if we set a time limit. If he wants to use  
21 his time for these purposes, --

22          JUDGE GLEASON: We may be approaching that, but  
23 we're not there yet.

24          MR. LANPHER: Thank you.

25          MR. SPIVEY: Judge Gleason, I want to have my

1 associate hand out two documents that I'd like marked for  
2 identification. It has to do with the discovery in this  
3 matter.

4 The first one will be a letter, dated June 29,  
5 1983, from Justine Monaghan of our office to Ms. Letsche.  
6 The caption is "Informal Discovery Request" and the second  
7 one is a letter, dated July 21, 1983, from Justine Monaghan  
8 to Mr. -- is it Birkenheier of the Kirkpatrick law firm.  
9 That, too, is entitled "Informal Discovery Request".

10 JUDGE GLEASON: The last number I see around here  
11 is 21. Is that it? 26?

12 MR. SPIVEY: I believe we're up to 26, Your Honor.

13 JUDGE GLEASON: The first one will be 27. So, the  
14 first letter is from Ms. Monaghan to Karla Letsche, and that  
15 will be 27. The second letter is from Justine Monaghan to  
16 John Birkenheier, and that will be LILCO Discovery Exhibit  
17 Number 28.

18 (The documents referred to were  
19 marked for identification as  
20 Applicant Exhibits Number 27 and  
21 28.)

22 JUDGE GLEASON: Did you say there was a third one?

23 MR. SPIVEY: No, sir. Just two.

24 JUDGE GLEASON: Just two. All right.

25 Proceed.

1 BY MR. SPIVEY:

2 Q Mr. Jones, I've handed you two documents that have  
3 been marked -- strike that question.

4 Mr. Jones, when was -- strike that question.

5 Mr. Jones, are you familiar with the phrase  
6 "discovery" as it's being used in these proceedings?

7 A No. I mean, I have -- what its intentions are for  
8 the word discovery. You discovered something that you need  
9 to have in your files, and you're asking someone else to  
10 find it, discover it for you.

11 Q Yes, sir.

12 A Okay.

13 Q All right.

14 A Now I understand.

15 Q You are aware, are you not, that there has been an  
16 on-going discovery process in this proceeding? Each side  
17 requesting material from the other side, are you not? You  
18 have to answer, sir, so this lady --

19 A Yes.

20 Q It's a common mistake. She just has a hard time  
21 getting down these nods sometimes.

22 JUDGE GLEASON: He can nod as long as he answers  
23 as well.

24 BY MR. SPIVEY:

25 Q When is the first time, to your knowledge, Mr.

1 Jones, that you ever had any involvement in this discovery  
2 process?

3 A The first time was in -- probably back in '83,  
4 when the deputy county exec, Frank Jones, asked for loads of  
5 documents which he got.

6 Q Incidentally, are you kin to Mr. Frank Jones?

7 A Yes, sir.

8 Q What's your relationship?

9 A He's my brother. My younger brother.

10 Q When you talked to Mr. Jones in 1983, how did that  
11 communication come to you?

12 A I didn't talk to him about this gathering of  
13 documents. He sent that down as a memorandum and my  
14 director directed me and the others on the staff to gather  
15 up these instruments.

16 Q All right, sir. Now, I ask you to look at what  
17 have been marked for identification Discovery Exhibits 27  
18 and 28, and ask you if, in 1983, you were shown copies of  
19 those two documents?

20 A I wouldn't have necessarily had to been shown  
21 these documents. I would think my director and the deputy  
22 director would have had these documents if this was the  
23 formal request and they just spelled out verbally to us find  
24 what they're looking for on this list.

25 Q My question to --

1 A This was never handed to me, no.

2 Q -- you is have you ever seen either one of those  
3 documents before this day?

4 A No. I wouldn't have a need to see them because  
5 our director would have been picking out what he wanted us  
6 to get verbally.

7 MR. LANPHER: Judge Gleason, if I could have the  
8 witness just answer Mr. Spivey's questions, we'll -- just  
9 answer the questions, Mr. Jones, okay?

10 THE WITNESS: Okay. I'm getting to be the bad guy  
11 here.

12 JUDGE GLEASON: Both sides.

13 BY MR. SPIVEY:

14 Q Mr. Jones, in 1983, who was your boss that you  
15 said made this request to gather these documents?

16 A Mr. William Reagan.

17 Q Do you recall what sort of communication you had  
18 with Mr. Reagan?

19 A Verbal.

20 Q Was it on the telephone or face-to-face?

21 A Eyeball.

22 Q Face-to-face?

23 A Yes, sir.

24 Q And what did Mr. Reagan tell you on that occasion?

25 A Find any and all documents relating to any and he

1 went on with this list. Get it to your brother immediately,  
2 words to that effect. When Frankie spoke, everybody jumped.

3 Q When you had that conversation with Mr. Reagan,  
4 did he, in addition, present you with a list of what he  
5 wanted?

6 A No.

7 Q Did he present you with any writing at that time?

8 A No.

9 Q Did you take any notes of what he wanted?

10 A No.

11 Q Tell us, please, sir, what your present  
12 recollection is of what you were looking for in 1983.

13 A Any documentation relating to planning for a  
14 natural and/or manmade disaster, including nuclear  
15 incidents, and any correspondence relating thereto, and we  
16 had a lot of it, and he got it.

17 Q Mr. Jones, how is it in 1988 you are able to  
18 remember in such detail what was told to you in 1983?

19 A Because I'm a good listener. My brain hasn't gone  
20 dead yet. I have a lot of good memories up here.

21 Q Had you ever been involved in any discovery  
22 request before?

23 A No.

24 Q This was the first time?

25 A The '83 one, yes, sir.



1 Q Had you been involved in any subsequent, other  
2 than the one in 1988, you described?

3 A Well, Mr. Petrone's, which led on to the recent  
4 one, but the first one from Frank Jones was the first one I  
5 was involved in.

6 Q In 1983, tell me what you did to conduct this  
7 search that had been asked for by Mr. Reagan.

8 A Well, I have a file set up --

9 Q Reagan.

10 A R-E-A-G-A-N. No relation. I have the file set  
11 up, planning, training and so on. So, we just went  
12 progressively through all these files.

13 Q When you say we, were you involved in that  
14 process?

15 A Yes. The first one, in '83?

16 Q Yes, sir.

17 A Yes, sir.

18 Q Did anyone assist you?

19 A People on the staff, some of the secretaries,  
20 everybody pitched in to help because it was quite a task. We  
21 gathered up a lot of documents.

22 Q Do you recall any of the people who were involved?

23 A Well, Mr. Bennett, the operations officer, took  
24 part. Probably Mr. Boughton, resources officer.

25 Q Do you remember Mr. Boughton taking part?

1           A     No, but I'm sure if he was there, he would have  
2 taken part because it was documents he might have had to  
3 furnish, too. The resources manual, probably.

4           Q     Well, how did these people know what they were  
5 looking for?

6           A     They were told by Mr. Reagan verbally what to get.  
7 He probably had this list in his hand.

8           Q     Well, Mr. Reagan told all these people that  
9 assisted you in the search rather than you telling them  
10 after Mr. Reagan had told you?

11          A     Reagan called us all as a group, like at a staff  
12 meeting, and said this is what we've got to do. Get at it.  
13 This is what we've got to have. I knew where to look for  
14 the things that I thought they wanted. Bennett probably knew  
15 where he had to look for what he wanted, thought they  
16 wanted, and everybody knew where their records were and they  
17 went to their files and dug all this information out.

18          Q     All right, sir. How long did it take --

19          A     I had the greatest volume of it because it was all  
20 plans and training.

21          Q     How long did it take for your people to gather  
22 this information?

23          A     To my recollection, we probably spent the best  
24 part of a day doing it. Gathering it up.

25          Q     Was it done in the course of one day or over

1 several days?

2 MR. LANPHER: I object. Irrelevance.

3 JUDGE GLEASON: Please proceed. Answer the  
4 question.

5 THE WITNESS: Answer the question?

6 BY MR. SPIVEY:

7 Q Yes, sir.

8 A It was done over the course of one full day. We  
9 just scattered to the winds, went to our various areas, and  
10 dug the stuff out, compiled it, gathered it up, and this is  
11 what he's looking for, this is what he's looking for, yeah,  
12 yeah, make sure he gets that and so on.

13 Q Were you consulting with people as they went  
14 through?

15 A I?

16 Q Yes, sir.

17 A I didn't lead the parade. I just contributed to  
18 the boxes.

19 Q Well, was anyone leading the parade?

20 A Mr. Reagan was monitoring what was being gathered  
21 up. Yeah, this is what he wants.

22 Q Was he present while this search was going on?

23 A Yeah. He was in his office and available for  
24 questions if need be.

25 Q Do you have a specific recollection of whether

1 anyone asked him whether or not a document should be  
2 included?

3 A I did on several occasions.

4 Q Do you know if anyone else did?

5 A Do you want this, do you want that, yes, give him  
6 all that.

7 Q Do you recall, do you know if anyone else  
8 consulted him?

9 A They probably did. I don't recall anybody running  
10 in to his office, other than me, but --

11 Q You have no specific recollection --

12 A -- I was busy doing my thing and I couldn't be  
13 watching what those other folks were doing.

14 Q So, the answer is you don't know whether they did  
15 or not, isn't that correct?

16 A They contributed to the three boxes. So, they did  
17 something.

18 Q No, sir. My question is do you know specifically  
19 whether or not they consulted with Mr. Reagan?

20 A I'm sure they did, but I didn't observe them going  
21 in there because I was busy on my own knees looking through  
22 my own files to get this stuff out.

23 Q You assumed they did, but you don't know, isn't  
24 that correct?

25 A If they had questions, they should have went in

1 and asked him, and they always do. They're not a bunch of  
2 clones down there. They know how to act on their own. If  
3 they have a question, they'll walk in and ask Mr. Reagan.

4 Q Mr. Jones, --

5 A I didn't physically see them go in and say, Mr.  
6 Reagan, should I give him this. No.

7 Q All right, sir. On the occasions that you  
8 consulted with Mr. Reagan, did he ever tell you that what  
9 you had pulled was not responsive and to put it back?

10 A No. I gave him everything he wanted and then some.  
11 He didn't reject any of the things that I pulled out because  
12 I thought it was all relevant to what Frank Jones wanted.

13 Q The answer to my question, I assume, is that he  
14 did not reject anything that you presented him as to the  
15 question of whether or not it should be included, is that  
16 correct?

17 MR. LANPHER: I object to the question. The  
18 witness answered the previous question. It was clear. I  
19 think this is getting repetitive.

20 JUDGE GLEASON: The objection is granted.

21 Please proceed.

22 BY MR. SPIVEY:

23 Q Mr. Jones, did you have to compile a list of the  
24 materials that was gathered by your people?

25 A No, sir.

1 Q Do you know if anyone within the Suffolk County  
2 organization compiled a list of what was gathered?

3 A I don't know that either, sir. I know there was a  
4 great move to get that up to the county exec's office post  
5 haste, and if there was a list made up, I didn't compile the  
6 list. Maybe some compiled the list and got a receipt for it  
7 or something.

8 Q Have you ever heard that such a list was compiled?

9 A Yes. But knowing Frank Jones, he probably made up  
10 his own inventory list. He's pretty concise.

11 Q Again, you're assuming something, but I want to  
12 know if you have any basis for that assumption.

13 A I have no knowledge of a list.

14 MR. SPIVEY: May I have just a moment, Your Honor?

15 (Pause)

16 BY MR. SPIVEY:

17 Q Mr. Jones, in 1983, who would have had custody of  
18 what has been referred to here as the Suffolk County  
19 Emergency Operating Plan?

20 A No. Let's go up to '84. That's when I assumed the  
21 plans and training duties in '84. Plans and training fellow  
22 retired in '83, and in April-May '84 is when I got into the  
23 plans and training thing, particularly the plans.

24 Q In 1984, would you have had custody of the Suffolk  
25 County Emergency Operating Plan?



1 A Yes, sir.

2 Q Who would have had custody of it in 1983?

3 A The previous plans and training officer. It is  
4 physically on a shelf in the bunker and stays there all the  
5 time. It's never removed from the EOC. It would have been  
6 in his custody in 1983.

7 Q Who was that?

8 A The previous plans and training officer?

9 Q Yes.

10 A Donald Terrell.

11 JUDGE GLEASON: What was his name?

12 MR. SPIVEY: Donald Terrell.

13 THE WITNESS: Donald Terrell, T-E-R-R-E-L-L.

14 BY MR. SPIVEY:

15 Q Mr. Jones, in this search you have described for  
16 documents in 1983, do you know if Mr. Terrell participated?

17 A Yes.

18 Q Do you know if, in 1983, the Suffolk County  
19 Emergency Plan was one of the documents that was forwarded  
20 to Frank Jones?

21 A Yes.

22 Q What's your basis of that knowledge?

23 A Because it's something he asked for. He asked for  
24 all plans, and the county emergency operations plan is the  
25 plan for the county that deals with natural and manmade

1 disasters.

2 Q Would Mr. Terrell have been the person in 1983 to  
3 have gotten the emergency operating plan during that search?

4 A He would have contributed to the box with that  
5 plan in it, yes.

6 Q Would it have been, do you think, part of his  
7 responsibilities in 1983 to have secured that plan and put  
8 it in the box?

9 A Yes.

10 Q Do you know, in fact, if he did that?

11 A No.

12 Q I take it you did not do that?

13 A No.

14 Q No?

15 A No. I didn't.

16 Q All right, sir.

17 A You can also assume that the county exec's office  
18 or --

19 Q I didn't ask you to assume anything now, Mr.  
20 Jones. Just wait for my question, please.

21 A I believe --

22 Q No, sir. I want you to wait and answer my  
23 question.

24 MR. LANPHER: I think the witness can supplement  
25 his answer. I think he should be allowed to do that.

1 JUDGE GLEASON: No. He ought to do that at the  
2 time. I think that he ought to respond to the questions. In  
3 fact, you've told him yourself to respond to the questions  
4 only. So, let's proceed in that fashion.

5 BY MR. SPIVEY:

6 Q Mr. Jones, --

7 MR. SPIVEY: May I have a moment, please?

8 (Pause)

9 BY MR. SPIVEY:

10 Q Mr. Jones, do I correctly understand that when you  
11 became, in addition to your other duties, the planning and  
12 training officer in 1984, was when you first had custody of  
13 the emergency operating plan, is that correct?

14 A If you want to use the word custody, yes.

15 JUDGE GLEASON: How are we using the word custody?

16 THE WITNESS: It's a document that's -- it's the  
17 original, Your Honor, and it never moved from the EOC.  
18 Custody means that it's across the room on a shelf and when  
19 I need to update it, I go to the shelf, take it to my desk  
20 and do the thing, take the pages out.

21 JUDGE GLEASON: Can anybody else take it?

22 THE WITNESS: I don't lock this thing on my own  
23 with a pair of handcuffs and carry it around. I don't have  
24 custody of it. I use it as part of my daily work.

25 JUDGE GLEASON: Can anybody else go over there and

1 take the document out and peruse it and piddle around with  
2 it?

3 THE WITNESS: No. Not if they're going to make  
4 any changes. I am sole keeper of the keys to that document.  
5 Nothing -- no one touches it but me. If there was someone  
6 taking a look at it, I'll go down with them and we'll sit  
7 with it and he can peruse the original.

8 JUDGE GLEASON: All right.

9 THE WITNESS: Yeah. I would have been the  
10 custodian in 1984, if you want to use that word.

11 BY MR. SPIVEY:

12 Q All right, sir. Do you have any way to tell us,  
13 Mr. Jones, what the contents of that emergency operating  
14 plan were in 1984?

15 A It is basically sectionalized. The contents  
16 consist of the introduction, the basic plan, which is the  
17 thicker part up front, and then we get into the annexes. The  
18 annexes are county agencies who have a part in the emergency  
19 operations planning, they have a function, like department  
20 of public works, the health department, the police  
21 department.

22 They write their specific annex. We give them  
23 guidance on what to do. They use their resources, pool their  
24 resources and they spell out what everyone in that  
25 department can or will do or is going to do during an

1 emergency, and that's all coordinated through the EOC.

2 Q Let me ask you the next question and it may  
3 clarify a little bit for you.

4 I believe you told us that in 1985, you xeroxed  
5 the then-existing plan.

6 A Yes.

7 Q Are you able to tell us whether the contents of  
8 the plan, when you first assumed custody of it in 1984, were  
9 the same as when you xeroxed it for the first time in 1985?

10 MR. LANPHER: I'd like a clarification. Does he  
11 mean precisely the same or generally the same?

12 JUDGE GLEASON: Which do you mean?

13 MR. SPIVEY: I mean precisely the same.

14 MR. LANPHER: Do you understand the question?

15 JUDGE GLEASON: Were there any changes made at all  
16 in the plan in that one-year period?

17 THE WITNESS: Between '83 and '84?

18 JUDGE GLEASON: '84 and '85.

19 THE WITNESS: Yes, sir. There's changes made  
20 weekly, daily. One big change that took place in '83 was we  
21 had a consolidation here. They consolidated the people  
22 across the street and made it a commission, fire, rescue and  
23 emergency services commission, and we became a division of  
24 this commission.

25 JUDGE GLEASON: I believe, Mr. Jones, he's

1 referring to the period between '84 and '85, at which time  
2 you duplicated the copies and sent them to the --

3 THE WITNESS: At that time, there was a need to  
4 make some changes in the plan because the department of  
5 emergency preparedness no longer existed. We're now a  
6 division. So, you would see white-out deleting department  
7 and put division in here. Where it showed fireomatics, the  
8 new commissioner on board, the names have changed, and  
9 titles change, and it's a constant thing.

10 Right now, it's a political upheaval in Suffolk  
11 County. We have missing names for lines of succession,  
12 which is an annex in the thing. So, it's constant updating.  
13 So, to say what exists in '85, did that exist in '82, no.  
14 What wasn't there for '82 is out of the book. It now exists  
15 as a change or an update. So, it wouldn't be precisely the  
16 same plan that you're looking for.

17 BY MR. SPIVEY:

18 Q Well, Mr. Jones, I am just trying to understand if  
19 you can tell us what the differences were between the plan  
20 as it existed in 1984 when you took custody of it and as it  
21 existed in 1985 when you xeroxed it and as it sits before  
22 you there on the table as Exhibit 9.

23 A There are a few changes, names, dates and places.  
24 We had a change in the county exec. His name might have  
25 been changed. Some folks had updated their annexes. So,



1 there's an update. An annex might have changed, but there  
2 were very few changes because I was getting into now my  
3 responsibility of updating the thing.

4           There were a lot of updating that had to be done,  
5 and that's when it started in '85 in earnest. That's why I  
6 made ten copies of this plan, because I would give a  
7 department their annex. I'd say, here, you need to update  
8 it because we had a change in commissioners. Instead of ten  
9 dump trucks, now they've got fifteen. That has to be  
10 changed. We get his annex. Now, I have an incomplete plan.  
11 I cannot put it aside because it's not a viable full copy.

12           So, I ran out of those ten copies, giving them  
13 away to different people.

14       Q     All right, sir. Now, if I understand you  
15 correctly, the changes made between '84 and '85 would  
16 reflect updating of annexes and name changes because of a  
17 change in the name of your department, is that correct?

18       A     In some areas, yes.

19       Q     All right, sir. Can you recall any other changes,  
20 other than the updating and those administrative changes that  
21 were made to reflect name changes?

22       A     No.

23       Q     All right, sir. Did the basic structure of the  
24 plan change between '84 and '85?

25       A     No.

1 Q Did the basic contents of the plan change between  
2 '84 and '85?

3 MR. LANPHER: I object. That's a vague question.

4 JUDGE GLEASON: It's clear to me.

5 MR. LANPHER: Basic content?

6 JUDGE GLEASON: Well, he means the basic plan  
7 itse... the fundamentals of the plan, not names and not  
8 names of organizations. I presume that's it.

9 MR. SPIVEY: The witness seemed to understand it.  
10 He nodded his head no. So.

11 THE WITNESS: By way of clarification for what I  
12 just said, FEMA, who is our guiding light for planning  
13 activities, has recently changed policy and format on how  
14 you do planning. So, most people with plans now in other  
15 counties and other states, all over the United States, are  
16 into bringing their plans into compliance with new FEMA  
17 guidance. So, you'll see more changes coming up.

18 BY MR. SPIVEY:

19 Q Are you talking currently?

20 A Yes.

21 Q As between '84 and '85, when you xeroxed the plan,  
22 I understand there were no basic changes in the structure of  
23 the plan, is that correct?

24 A You see a few name changes and department head  
25 changes, phone numbers, which are constantly being changed.

1           Q     But is the answer to my question, that is correct,  
2 there was a very few changes, other than these administerial  
3 charges and updatings? Correct?

4           JUDGE GLEASON: You have to answer.

THE WITNESS: Yes.

MR. SPIVEY: Excuse me just a minute, Your Honor.

7           (Pause)

8           BY MR. SPIVEY:

9           Q     Mr. Jones, how was it that you came to xerox this  
10 plan in 1985?

11          MR. LANPHER: I object. How is that possibly  
12 relevant?

13          JUDGE GLEASON: Well, I'm not sure. So, let's  
14 pursue it and see where he goes.

15          MR. LANPHER: Shouldn't the question on its face  
16 bear some relevance?

17          JUDGE GLEASON: It doesn't sound like it's  
18 relevant, but let's see why. I think he's already answered  
19 it, but, Mr. Jones, can you respond to the question?

20          THE WITNESS: Yes, s'r. I saw fit to make ten  
21 copies of it because I figured that's what I would need to  
22 do a good job of updating it. If you look at the amount of  
23 annexes in there, you'd need that many copies, full complete  
24 copies of the plan, to coordinate the changing of all the  
25 annexes.

1           They change almost every year. Department  
2 structures change and so on. So, I made ten back-to-back  
3 copies, not single-paged copies, of the plan. It's usually  
4 that thick and it boils down to that thick, for convenience.  
5 Now, I'll use this for my work copy. I give it to the  
6 typist. She types it out as an original and then it gets  
7 thrown away. So, it was just working copies that I could  
8 use for my updating purposes, keyed in on changing annexes.

9           JUDGE GLEASON: Mr. Spivey?

10          MR. SPIVEY: Yes, sir?

11          JUDGE GLEASON: I would like to conclude with this  
12 witness by lunch time.

13          MR. SPIVEY: Well, Your Honor, I'm going to do the  
14 best I can.

15          JUDGE GLEASON: Perhaps you could ask questions  
16 that are much more leading than some of those you've been  
17 asking him.

18          MR. SPIVEY: Judge, I don't mean to be  
19 recalcitrant, but I think it's important for us to go over  
20 in detail so we can understand what was going on in the  
21 county.

22          Mr. Lanpher has given it a broad brush, and I want  
23 to try to present details, Your Honor, so we can understand  
24 exactly what was going on with this plan and the posture and  
25 the status that it took during these years, so we can see

1 what was responsive and what was not responsive to our  
2 discovery request.

3 JUDGE GLEASON: Well, I don't want to deny that  
4 opportunity to you. The only thing that just occurred to me  
5 is that I would hope that you would make your questions much  
6 more pointed so we could get that understanding in the  
7 record at a more rapid pace than we're accomplishing  
8 currently.

9 MR. SPIVEY: All right, sir. I'll try to move  
10 along.

11 BY MR. SPIVEY:

12 Q Mr. Jones, did you intend to tell members of this  
13 Board that the Emergency Operating Plan that you gave to Mr.  
14 Kelly in either 1985 or 1986 was identical to Exhibit 9,  
15 which is the first one you produced here?

16 MR. LANPHER: I object to the question unless it's  
17 clarified that the Exhibit 9 is -- as I told you during a  
18 break, the witness has not gone through what is physically  
19 marked as Exhibit 9.

20 I represented that Exhibit 9, I understand from  
21 what the LILCO witness's attorney said yesterday, is a copy  
22 of exactly what I sent to Mr. Sisk in late May.

23 BY MR. SPIVEY:

24 Q Mr. Jones, would it help you if I would tell you  
25 that Exhibit 9 was a copy that was turned over to the county

1 attorneys in late May?

2 MR. LANPHER: To Mr. Petrone.

3 THE WITNESS: Mr. Petrone.

4 BY MR. SPIVEY:

5 Q All right, sir. Now, is the document that was  
6 turned over to Mr. Petrone in late May of this year  
7 identical to the document that you gave to Mr. Kelly?

8 A Yes, sir. Yes, sir.

9 Q When -- were there no changes between the time you  
10 xeroxed this document in 1985 and '86, '85 and when you gave  
11 it to Mr. Kelly?

12 A The few remaining of the ten copies I made, there  
13 were no changes made to those at all. If there were any  
14 changes made, it would have been made to the master plan,  
15 which then would have been xeroxed and that wasn't done.

16 Q All right, sir.

17 A He got a copy of exactly what Mr. Petrone got.

18 Q What was the plan that you were using in 1986 just  
19 prior to giving it to Mr. Kelly?

20 MR. LANPHER: I object to the question. It  
21 assumes that it was 1986. It's the witness's recollection  
22 that it was most likely 1985.

23 MS. YOUNG: Judge Gleason, I believe said both.

24 JUDGE GLEASON: Can you respond to the question?

25 If you want him to repeat the question, --



1 THE WITNESS: Yes. Would you try it again?

2 BY MR. SPIVEY:

3 Q All right. I'm trying to find out, Mr. Jones, if  
4 there were any changes in the plan between the time you  
5 first xeroxed it, whenever that was, and the time you gave  
6 it to Mr. Kelly, whenever that was.

7 A There were hanges to the master plan, but not to  
8 any of those ten copies of the plan.

9 Q All right, sir. So, then, is it fair to say that  
10 the plan you gave to Mr. Kelly was not then the current plan  
11 in use by Suffolk County?

12 A It was current as of 1984 or '83, and on back.  
13 It's one of those ten that I made in '85. Same content and  
14 that one that we gave Norm Kelly, as was turned over to  
15 counsel for Mr. Petrone.

16 Q And that was pretty much the one that was in use  
17 in '83 and '82? Correct?

18 A Yes. Excuse me.

19 MR. SPIVEY: If I could have a just a moment, Your  
20 Honor?

21 (Pause)

22

23

24

25

1 BY MR. SPIVY:

2 Q Mr. Jones, do you have a copy of County Exhibit #1?

3 MR. LANPHER: We will give him a copy.

4 (Pause)

5 BY MR. SPIVY:

6 Q My question to you sir is have you had an  
7 opportunity to review that document before you were taken  
8 through it by Ms. Letsche on Direct Examination? I'm talking  
9 about the entire stack of documents in front of you.

10 MR. LANPHER: Are you including the indices?

11 MR. SPIVY: Everything.

12 MR. LANPHER: So the question is did you review  
13 every page in that document?

14 BY MR. SPIVY:

15 Q My question to you, sir, is have you reviewed that  
16 document prior to today?

17 MR. LANPHER: I object to the question, then. I  
18 think it's vague and I think he has to be more precise on what  
19 he means by review.

20 JUDGE GLEASON: You do not understand what the term  
21 review means?

22 MR. LANPHER: I don't understand what he means by  
23 that question, whether he means going through every single  
24 page of this document, it's almost two inches thick.

25 JUDGE GLEASON: Do you understand the question, Mr.

1 Jones?

2 THE WITNESS: Not really, sir.

3 JUDGE GLEASON: You don't understand the question  
4 have you reviewed this document before?

5 THE WITNESS: This list of documents?

6 JUDGE GLEASON: Have you reviewed this document  
7 before, is the question.

8 THE WITNESS: No I haven't.

9 MR. LANPHER: The witness is holding up one of the  
10 indices, Judge Gleason. I'm not sure he understood your  
11 question.

12 JUDGE GLEASON: The question was asked with respect  
13 to the whole document which is marked County Discovery Exhibit  
14 #1. The question was have you reviewed that document before.

15 THE WITNESS: This document?

16 JUDGE GLEASON: Would you mind going down and  
17 showing the witness what the document is?

18 MS. LETSCHE: The question is, have you reviewed  
19 this entire document consisting of all of these separate  
20 documents. Have you reviewed this whole thing? Every single  
21 piece of it.

22 JUDGE GLEASON: Thank you, Ms. Letsche.

23 THE WITNESS: No. I haven't.

24 BY MR. SPIVY:

25 Q Now, if you would remove the first two pieces of

1 paper, the letter and the following index, two indexes, the  
2 next one also.

3 Now you have in front of you a reduced stack of  
4 papers. Have you reviewed that stack of papers before today?

5 A Yes I have. This is the County basic claim. We've  
6 been through this earlier today, identifying these.

7 Q My question to you is, had you been through it prior  
8 to today when Ms. Letsche took you through it?

9 A No.

10 Q Are you able to tell the members of this Board if  
11 the contents of that document you have in front of you now in  
12 your hands are the same contents as are contained in the 1985  
13 plan that you xeroxed?

14 A Yes it is.

15 Q Are they identical?

16 A Yes, because you familiarize yourself with this,  
17 this has been signed by Mr. Reagan in 1981, is when he took  
18 over. That's the cover page of, cover letter, introductory  
19 letter to the basic plan itself. Yes, this is in those.

20 Q Is everything that is in the 1985 plan that you  
21 xeroxed in that sheaf of papers you have in front of you?

22 A Yes. Some of it is contained in another format.  
23 They've adopted some of it and put it in as other annexes, but  
24 this information still exists in the plan as it is today.

25 Q My question to you is, Mr. Jones, and listen to me,

1 is the contents of the 1985 plan that you xeroxed identical in  
2 its entirety to what you have in front of you?

3 A Yes.

4 Q Is there anything included in the 1985 plan that is  
5 not in that sheaf of papers in front of you?

6 A Let me look.

7 (Pause)

8 A All these documents still exist in the plan as it  
9 exists today. In other forms, but they're part of the plan.

10 An example, this Annex H was the police beginning  
11 for their annex when they were getting information gathered  
12 together. Annex H still exists in the plan but you wouldn't  
13 see the same terminologies in this letter here.

14 MR. SPIVY: It will speak for itself, Your Honor.  
15 I'll move on.

16 JUDGE GLEASON: Mr. Jones, I really don't want to  
17 get this record more confused than it is. Your attorney will  
18 have a chance to clear up some problems later if he wants to.  
19 You've already testified that every year there are changes  
20 made on these plans, as we all know. Yet you're testifying  
21 now that these documents are the same, and somehow those don't  
22 seem to match to me. Do they match?

23 THE WITNESS: Let's go back to that Annex H if you  
24 will. I'll try to explain what happens when we update.

25 JUDGE GLEASON: Which one of those is that?



1 MR. LANPHER: Mr. Jones, if you can read the number  
2 in the lower right hand corner it might help the Judge find  
3 it.

4 THE WITNESS: The document is numbered 000173.

5 MR. LANPHER: Do you want to ask a question, Judge  
6 Gleason?

7 JUDGE GLEASON: Well he's explaining, I think,  
8 something, and I don't know the question to ask or I would.  
9 But he was about to make an effort to explain changes I  
10 believe.

11 THE WITNESS: This document here was the beginning  
12 on behalf of the Police Department of Suffolk County to  
13 formulate an annex to the county emergency operations plan. We  
14 have a person that works in the bunker with us, a sergeant  
15 actually, they are police liaison, and they perform the  
16 function of maintaining their annex to the county emergency  
17 operations plan. This goes way back, and it's the beginning  
18 for the Police Department's response to a request to put  
19 together your Annex H for this county emergency operations  
20 plan. There's a similar letter in here for the sheriff.  
21 These are beginnings of the police and sheriff annex. This  
22 terminology that you see here doesn't exist in the plan, but  
23 Annex H and H-1 does. They just re-wrote their annexes using  
24 the background information they received by virtue of these  
25 letters.



1           So this information on this document wouldn't  
2 necessarily be word for word found as Annex H. Some of the  
3 thunder from this document might have been added to the new  
4 annex, and the same is true for the sheriff's annex and the  
5 same is true for any other department's annex. The exact  
6 precise word for word documentation here wouldn't be found in  
7 today's plan because this goes back to '81, '82, or further  
8 back. Some of these annexes were formulated in 1975.

9           JUDGE GLEASON: See, I'm not sure that illuminates  
10 things for me, but --

11           THE WITNESS: It's all part of the updating process,  
12 Your Honor. Things change and the old stuff is removed from  
13 an annex or the plan, and the new pages are inserted, so you  
14 wouldn't see '75 terminologies and names and dates and places  
15 in the new plan. It just goes without saying you can't let  
16 the plan get bigger and bigger and bigger and keep all the old  
17 stuff in there. You've got to discard it and put the new ones  
18 in.

19           Did that answer your question sir?

20           JUDGE GLEASON: I have to answer truthfully, no.  
21 Because it seems to me that it puts a shade on your answer  
22 that you related to the attorney a minute ago. That presents  
23 a little bit of a difference. If you testify that a plan that  
24 was, that this plan that you see before you as the County  
25 Discovery Exhibit #1, the county part of it is the same plan

1 that existed back in 1981 or 1983, whatever the date was,  
2 you're saying that in effect the language is the same. But  
3 you've just said to me, I think, or said to us, that there are  
4 changes in languages that occur.

5 THE WITNESS: Minor changes, Your Honor. Names,  
6 designation of different departments. Like that FRES  
7 consolidation thing. We went through it and you can probably  
8 find a few pages where we eliminated the word department and  
9 put division in. Minor changes. Nothing major.

10 JUDGE GLEASON: I can't distinguish between minor  
11 and major changes. I'll just have to leave the record where  
12 it is.

13 THE WITNESS: No changes in plan concept or the  
14 operation were made, it's just local changes. Names change,  
15 people change, phone numbers.

16 JUDGE GLEASON: Mr. Spivy would you please proceed?

17 MR. SPIVY: Judge, I don't want to belabor this  
18 point, but following up on your questions I would like to try  
19 to get this point straight because I --

20 JUDGE GLEASON: Proceed.

21 BY MR. SPIVY:

22 Q Mr. Jones would you get in front of you please, sir,  
23 the plan that you xeroxed in 1985?

24 (Pause)

25 JUDGE GLEASON: That's LILCO Exhibit #10?

1 MR. SPIVY: It's #9, Your Honor.

2 (Pause)

3 MR. SPIVY: Your Honor, may I approach the witness?

4 JUDGE GLEASON: Yes.

5 BY MR. SPIVY:

6 Q Mr. Jones, a portion of County Exhibit #1 is what  
7 you have been referring to as the emergency operating plan, is  
8 that correct?

9 A This is an annex to the plan.

10 Q Did you intend to tell the members of the Board that  
11 this is the entire emergency operating plan?

12 A This? This stack of documents. That's not the  
13 entire plan.

14 MR. LANPHER: I object. Judge, the record is  
15 confused. Mr. Spivy is pointing to a document. It's not  
16 clear exactly what he's pointing to and asking the witness --

17 JUDGE GLEASON: You have to specify what you're  
18 pointing to, Mr. Spivy.

19 MR. SPIVY: It is County Exhibit #1, Your Honor,  
20 less the letter of July 9, 1988 from Mr. Sisk to Mr. Lanpher,  
21 and less the two indices of the Suffolk County documents that  
22 were transmitted by that letter.

23 JUDGE GLEASON: So you have in front of the witness  
24 that part of County Discovery Exhibit #1 which has a base  
25 number of 4010022.

1 MR. SPIVY: The first document I see, Your Honor, is  
2 entitled Emergency Operation Plan, Annex A, Appendix 9,  
3 Attachment E, and it's bates 001227.

4 MR. LANPHER: That's not the order it was produced  
5 in.

6 JUDGE GLEASON: Off the record.

7 (Discussion held off the record.)

8 JUDGE GLEASON: On the record.

9 MR. SPIVY: I'm now referring to all of County  
10 Exhibit #1 save and except the letter that I just mentioned of  
11 July 9, and the two indices.

12 BY MR. SPIVY:

13 Q Mr. Jones, is that the county plan?

14 A This?

15 Q That stack of documents.

16 A No, not in its entirety. It's parts of the county  
17 plan.

18 Q Would you look at the document at your right hand  
19 that's been marked LILCO Exhibit #9 at the top. That I take  
20 it was the county plan that you xeroxed in 1985, is that  
21 correct?

22 A Yes.

23 Q Are there annexes included in LILCO Exhibit #9 that  
24 are not included in County Exhibit #1?

25 (Pause)

1           A     No. Everything that's here is in here. Everything  
2     that's in this pile of documents is contained in this complete  
3     plan in one form or another.

4           Q     You're telling me that everything in County #1 is  
5     included in LILCO #9, is that correct?

6           A     If you want to we can go through it and I'll point  
7     it out.

8           JUDGE GLEASON: Just respond to the question please.  
9     I thought the question was the reverse, where everything in  
10    LILCO #9 was included in County Discovery Exhibit #1.

11          MR. SPIVY: If I didn't ask that, Your Honor, that's  
12    what I intended to ask.

13          JUDGE GLEASON: Mr. Jones, do you understand the  
14    question? The question is the reverse of that.

15          THE WITNESS: Is this pile of documents contained in  
16    this document, is that the question?

17          JUDGE GLEASON: No, just the reverse.

18          Mr. Jones, look at me up here. Just the reverse.  
19    Is everything in the pile on your right, which is LILCO  
20    Discovery Exhibit #9 included in the pile on your left, which  
21    is County Discovery Exhibit #1?

22          THE WITNESS: No.

23          BY MR. SPIVY:

24          Q     Mr. Jones, let me go back now to 1985 when you  
25    xeroxed this document. At that time you were in custody of



1 it, I believe you told us. Correct?

2 JUDGE GLEASON: You're shaking your head again, Mr.  
3 Jones.

4 THE WITNESS: He hasn't asked a question yet. Oh,  
5 you want me to say yes I was in custody? Yes, I was in 1985.

6 BY MR. SPIVY:

7 Q Did that plan that you had in your possession and  
8 control in 1985 exist in fragments in somebody else's office?

9 JUDGE GLEASON: Once again, we're talking about  
10 LILCO Discovery Exhibit #9, is that correct?

11 MR. SPIVY: Yes sir, I'm sorry.

12 JUDGE GLEASON: Thank you.

13 THE WITNESS: All county agencies with an annex to  
14 this plan, the Health Department, the DPW people, have a copy  
15 of the plan, the whole plan. When their annexes are updated  
16 they submit it to us and they get it back. It's not sent out  
17 part and parcel. It goes out as a complete document to a  
18 holder.

19 BY MR. SPIVY:

20 Q But within the Department of Emergency Preparedness,  
21 would other people have had fragments of it in their files?

22 A No, the files are all zeroed in in two or three  
23 drawers full for plans and training. We had a handle on where  
24 everything went that applied to planning and/or training and  
25 radiological and resources, all in separate file cabinets so



1 to speak. Anything that was relative to planning, Ike had a  
2 file on.

3 Q That was kept in that one document that we've  
4 referred to as LILCO #9?

5 A That's the original county plan. The master copy.

6 Q What I'm trying to find out is were fragments of  
7 that master copy maintained regularly by other people in the  
8 Department of Emergency Planning?

9 MR. LANPHER: Objection. He's already asked and  
10 answered that.

11 JUDGE GLEASON: He has answered that.

12 MR. SPIVY: Your Honor, I've asked my associate to  
13 hand out LILCO's second set of interrogatories and a request  
14 for production of documents, and the third set of  
15 interrogatories and a request for production of documents, and  
16 I'll ask that be marked for identification as Exhibits #29 and  
17 #30. I ask that the second set be marked #29.

18 JUDGE GLEASON: Don't we already have the second set  
19 of interrogatories?

20 MR. LANPHER: Judge, I think what we got is the  
21 answers by New York State, the second set.

22 JUDGE GLEASON: The LILCO second set of  
23 interrogatories will be designated as LILCO Discovery Exhibit  
24 #29. And the LILCO third set of interrogatories will be  
25 designated as LILCO Discovery Exhibit #30.

1 (The documents referred to were  
2 marked for identification as  
3 LILCO Discovery Exhibits #29  
4 and #30.)

5 JUDGE GLEASON: All right, Mr. Spivy.

6 B/ MR. SPIVY:

7 Q Mr. Jones, in 1988 when you once again searched for  
8 documents, do you recall in what month that occurred?

9 A I believe May.

10 Q You told us that you had given a copy of this plan  
11 to Mr. Horton from SEMO. Do you recall if the request to  
12 search again for documents came before or after you gave the  
13 plan to Mr. Horton?

14 A It was after.

15 Q After?

16 A Let me think. Jerry Horton came in May, I think the  
17 search started in June. I'm not sure. Your question was when  
18 did I give Jerry Horton a copy of the document?

19 Q No sir, when did you begin the search relative to  
20 giving the document to Mr. Horton?

21 A He didn't come down searching for documents. He  
22 came down to review the county emergency operations plan.  
23 It's a scheduled thing.

24 Q Mr. Jones, we've got two different events here.  
25 Number one, you gave the document to Mr. Horton.

1 A Right.

2 Q Then in response to an apparent discovery request  
3 you searched again your files for documents, correct?

4 A Yes sir.

5 Q I'm just trying to find out if the search occurred  
6 before or after your giving the document to Mr. Horton.

7 A After.

8 Q All right, sir.

9 Did I correctly understand that what you gave Mr.  
10 Horton was a xeroxed copy of the plan as it existed in 1985?

11 MR. LANPHER: I object. This is repetitive. He's  
12 clearly testified to this before.

13 JUDGE GLEASON: Let him answer. Go ahead.

14 THE WITNESS: Yes, one of those ten that I had  
15 previously copied.

16 BY MR. SPIVY:

17 Q Was there nonetheless, a master plan in existence at  
18 the time that Mr. Horton came down that was different from the  
19 version that existed in 1985?

20 A The EOC copy of the plan was somewhat more up to  
21 date than that thing I reproduced in '85, yes. This updating  
22 is ongoing. It's current. Every day something will change.

23 Q Did you have an understanding of why Mr. Horton  
24 wanted a copy of the plan?

25 A Yes.

1 Q What was your understanding?

2 A Again, this a scheduled event. It's part of a  
3 comprehensive agreement we have with the state and FEMA and  
4 it's part of the planning program. They schedule different  
5 counties in to review their plan for content, and they make  
6 suggestions. This should be changed, there have been some  
7 additions and this is what you have to do now. We go through  
8 it page by page through this checklist that they use. He took  
9 the copy back to be further reviewed by his planning people  
10 upstate, the SEMO planning people.

11 Q Didn't you understand that the existence and  
12 adequacy of that plan was a condition to Suffolk County  
13 receiving certain federal funding?

14 MR. LANPHER: I object. This is not relevant to the  
15 issues in this proceeding, Judge.

16 JUDGE GLEASON: It may be, but I'm not sure. The  
17 objection is denied. Go ahead. Answer the question.

18 THE WITNESS: There are EMA monies funded for this,  
19 yes. You get paid for what you plan for. The state is the  
20 agent for this money. FEMA sends in the money.

21 BY MR. SPIVY:

22 Q And you gave Mr. Horton that plan as a part of the  
23 county's attempt to obtain these federal funds, isn't that  
24 correct?

25 A No. No, that's not correct at all. There was not

1 intent --

2 Q I don't suggest there's anything wrong with it, Mr.  
3 Jones. If you're entitled to the monies.

4 MR. LANPHER: Judge, he didn't let him finish his  
5 answer.

6 JUDGE GLEASON: Would you kindly correct what is  
7 wrong about this question, please.

8 THE WITNESS: The state are the people we answer to  
9 for the planning mode. Yes, we do receive EMA funding, 50  
10 percent funded by the state, by FEMA through the state, and  
11 the county picks up the other 50 percent. But the intent of  
12 giving them a copy of the plan is for them to review it  
13 further. We got an off the top of their head "gee it looks  
14 great and it is a good plan," but they further review it and  
15 really pick it apart if they can, and then they come back down  
16 and say this is what you've got to do to meet the requirements  
17 for the funding, yes. But whenever you change the plan or any  
18 portion of it, whenever you change any portion of the plan,  
19 the state has a copy of it already. When that plan was first  
20 put together way back in the dark ages, it was a requirement  
21 to forward it up through channels to the state so they can  
22 review it for content that it meets the requirements.

23 BY MR. SPIVY:

24 Q For how many years has the state had a copy of this  
25 plan?



1           A     I don't know of any previous submission of the plans  
2     other than the one I gave Jerry Horton. I don't know when, if  
3     anybody sent the state a copy of that plan other than me in  
4     May.

5           Q     What's your basis for saying that the state had a  
6     copy of this plan in the dark ages?

7           A     That was a requirement of planning. Send it to the  
8     state to be reviewed. It goes from us to the county exec, and  
9     if there's a financial impact sometimes the legislator likes  
10    to look at it, but you always send a copy to the state to be  
11    reviewed for content and so on, and I'm sure that happened.  
12    But I didn't send it. The only plan I ever sent the state was  
13    the one we gave Jerry Horton.

14          Q     But it's your understanding that in years prior to  
15    1988 that copies of this plan had been forwarded to SEMO, is  
16    that correct?

17               MR. LANPHER: I object to the question. It's  
18    calling for speculation. He says he didn't do it. He doesn't  
19    know if it happened.

20               JUDGE GLEASON: He's already testified that it did  
21    happen.

22               MR. LANPHER: No, he did not testify that it did  
23    happen. That's inaccurate, Judge.

24               JUDGE GLEASON: We'll let the record speak for  
25    itself. Answer the question, please.



1 THE WITNESS: What was the question?

2 BY MR. SPIVY:

3 Q My question was your understanding, is it not your  
4 understanding that in years prior to 1988 that copies of this  
5 plan were forwarded to the SEMO?

6 A I know there is a requirement to do this, but I  
7 don't know if one was sent.

8 JUDGE GLEASON: That testimony is different than  
9 what you just stated a few minutes ago.

10 THE WITNESS: I gave one to Jerry Horton, sir, in  
11 May of this year.

12 JUDGE GLEASON: You also stated that the plan was  
13 sent to the state for years past in connection with funding.

14 THE WITNESS: It should have been, but in my  
15 knowledge I don't know of anybody that sent it because I  
16 didn't get into planning and training until 1984. My  
17 predecessors might have sent it up there. If the state didn't  
18 have it, they'd probably be calling for one. You can assume  
19 that.

20 BY MR. SPIVY:

21 Q Mr. Jones, to your knowledge did Suffolk County  
22 receive EMA funding in 1984?

23 MR. LANPHER: I object, irrelevant.

24 JUDGE GLEASON: Objection denied.

25 MR. LANPHER: Could I ask the basis, Judge Gleason,

1 for why the objection is denied?

2 JUDGE GLEASON: We're trying to find out who had  
3 these plans.

4 MR. LANPHER: How does EMA funding have anything to  
5 do with that issue, sir?

6 JUDGE GLEASON: That's what we're going to find out.  
7 Answer the question.

8 THE WITNESS: In 1984 Donald Terrell was on board  
9 and his job was 50 percent funded, as was mine. So there  
10 probably was EMA funding in 1984.

11 BY MR. SPIVY:

12 Q Did you understand that Suffolk received EMA  
13 funding? All I'm asking you sir, is for your understanding.

14 A No, I don't have anything to do with that  
15 administration. It's an administrative thing. How they pay  
16 our paychecks is a county function.

17 Q Mr. Jones, listen to me.

18 Where did you get your understanding that in 1984 50  
19 percent of your salary came from federal funding?

20 A Because people would talk about it in the bunker.  
21 "Did you know that 50 percent of your pay is being funded by  
22 FEMA?"

23 Q Was it your assumption that 50 percent of your pay  
24 was being funded by FEMA?

25 MR. LANPHER: I object. Calling for speculation.

1 JUDGE GLEASON: Objection denied. Answer the  
2 question, please.

3 THE WITNESS: I assumed that my pay was 50 percent  
4 funded, as was other people in the bunker. The only people's  
5 money that's not EMA funded is the Director and the Deputy  
6 Director.

7 BY MR. SPIVY:

8 Q Did you assume that your pay was 50 percent federal  
9 funded in 1985?

10 MR. LANPHER: Standing objection to this line of  
11 questions.

12 JUDGE GLEASON: Standing denial.

13 MR. LANPHER: I asked for a standing objection to  
14 this line of questions. You've denied me the right to have a  
15 standing objection?

16 JUDGE GLEASON: No, no. I'm just saying the  
17 response is the same. The objection is denied.

18 BY MR. SPIVY:

19 Q Did you understand that your pay was 50 percent  
20 federal funded in 1986?

21 A Yes sir.

22 Q Did you have the same understanding in 1987?

23 A Yes sir.

24 Q Did you have the same understanding in 1988?

25 A Yes sir.

1           Q     Now during all those years when you were receiving  
2 these emoluments, this pay, did you understand that the  
3 submission of a plan to SEMO was a condition to Suffolk  
4 receiving those monies?

5           A     Yes. As is true with the Radiological Defense  
6 Officer's position. You're participating in a federally  
7 mandated radiological protection program that's EMA funded.  
8 So is the Operations Officer funded, what he does.

9           Q     I take it then, Mr. Jones that you, not for selfish  
10 reasons but for perfectly legitimate reasons, had an interest  
11 in seeing that these federal monies continued to flow.

12           MR. LANPHER: I object.

13           JUDGE GLEASON: I think that's irrelevant. I'll  
14 grant the objection.

15           MR. SPIVY: Your Honor, if I may, I'm trying to lay  
16 a foundation for my next question.

17           JUDGE GLEASON: All right, go ahead then. Just hold  
18 off the objection until we see where you proceed.

19           BY MR. SPIVY:

20           Q     My next question to you, Mr. Jones, is if you were  
21 interested in seeing that these federal monies continued to  
22 flow, why didn't you give Mr. Horton a current version of your  
23 emergency operating plan rather than an outdated version?

24           MR. LANPHER: I object, it's irrelevant.

25           JUDGE GLEASON: I think it's irrelevant. I'm going

1 to strike both questions.

2 THE WITNESS: I'd like to answer that.

3 MR. LANPHER: Mr. Jones, I objected. The question  
4 has been struck. Mr. Spivy will ask the next question.

5 THE WITNESS: I'm perfectly able to answer that.

6 MR. LANPHER: I know. We want to get you out today,  
7 remember?

8 JUDGE GLEASON: I think we ought to be through with  
9 this witness very shortly.

10 MR. SPIVY: Judge, if I can just confer with my co-  
11 counsel a minute I'll try to truncate this thing.

12 (Pause)

13 (Continued on following  
14 page.)

1 Q. Mr. Jones, coming back now to the other event of  
2 1988, the search for documents. Who made that request to  
3 you in 1988?

4 MR. LANPHER: Objection. He's already testified  
5 to that, it's repetitive.

6 JUDGE GLEASON: Well, let him answer again, so  
7 we'll get it in the sequence it's being asked. He's  
8 starting a series of questions here, and I think we'll  
9 proceed much faster.

10 Answer the question, Mr. Jones.

11 THE WITNESS: It was a request from Mr. Frank  
12 Petrone, the latest one, the '88?

13 BY MR. SPIVEY:

14 Q. Yes, sir.

15 A. Mr. Petrone requested that.

16 Q. And what was your relationship in the chain of  
17 command to Mr. Petrone?

18 A. Mr. Petrone was then assigned up at the County  
19 level, he was a Deputy Assistant County Executive had to do  
20 with the matters of Shoreham, and he came down to the bunker  
21 and explained to the Director what he wanted and we went  
22 through our search and destroy mission again for these  
23 documents.

24 Q. When you say, explained to the Director, are you  
25 referring to yourself?



1 A. No, Mr. Reagan.

2 Q. I see.

3 Were you present when Mr. Petrone came down?

4 A. No. It was relayed through the Director to us  
5 verbally the next day after we had started the record search  
6 again, he came physically to the bunker and saw what we had  
7 already put together and so on.

8 Q. At the time you began this search and destroy  
9 mission, were you shown either Exhibits 29 or 30, which are  
10 the second and third sets of interrogatories and request for  
11 production of documents?

12 A. No, I just had verbal instructions as had everyone  
13 else. They asked for basically the same things as we'd  
14 produced for Frank Jones, any planning activity documents  
15 relating to man made or natural disasters, including nuclear  
16 incidents, and any correspondence relating thereto.

17 Q. Have you ever seen Exhibits 29 and 30 before  
18 today?

19 A. No.

20 Q. Did you actually participate in this search and  
21 destroy mission you've referred to?

22 A. Yes, I did.

23 Q. Who else participated?

24 A. Well, most of the documents they were asking for  
25 laid in my realm so they were right at my fingertips so it

1 was me unless I had someone help me carry very heavy boxes  
2 out of another store room or this was, he wanted to LERO  
3 plan with the latest revision to it, and that's one box full  
4 right there. But I found most of everything had it all  
5 packaged up.

6 Q. All right, sir, on this --

7 A. For him to review.

8 Q. -- on this occasion, are you the one who produced  
9 the Emergency Operating Plan?

10 A. Yes.

11 Q. And if I correctly understand it, you produced the  
12 version that had been Xeroxed in 1985?

13 A. That's correct.

14 Q. At the time you produced the copy that had been  
15 Xeroxed in 1985, did you understand or appreciate that that  
16 was an outdated document?

17 A. No, he just wanted a copy of the plan.

18 Q. Am I correct in assuming, however, that that was  
19 then not the current master plan?

20 A. No. The original was over on the shelf. No, that  
21 '85 thing wasn't current at that time, no, because there had  
22 been some changes made already. I never went back and re-  
23 Xeroxed when I made changes. The changes took place in the  
24 plan itself and those affected would be getting copies of  
25 the changes.

1           Q.   Mr. Jones, I just have to ask you directly when  
2 you produced these documents on this first occasion in 1988,  
3 why didn't you produce the current master plan?

4           A.   You mean make another 785 page copy of the plan as  
5 it existed today or on that day?

6           Q.   If that's the current master plan, why didn't you  
7 produce the current master plan?

8           A.   We're not in the publishing business, you know.  
9 The plan only goes to certain people. It was current as of  
10 1984 or '85 with the various changes that took place up  
11 until that time, but to copy the plan every time you make a  
12 change would be ludicrous. We're changing in some cases  
13 complete annexes which are 30 or 40 pages, but to even do  
14 that, you know, we're not set up like the grand operation  
15 most people think it is. We're just a few people doing  
16 something with nothing down there and to copy that FOC  
17 master copy is a monumental undertaking. For some folks,  
18 it's nothing, but for me to do it with my little Xerox  
19 machine -- and I didn't think it was necessary that they  
20 have the current updated one, you know, a copy of the plan  
21 as it existed on May whatever.

22                Later, that master copy was copied and furnished  
23 to you folks, realized that there was some information not  
24 in the '85 xeroxing and we said, well, maybe we should copy  
25 the master plan as it is today, the master copy as it is

1 today and furnish that, and --

2 Q. Who said that we should copy it?

3 A. We recognized that that '85 thing was not as up to  
4 date as what the master had in it.

5 Q. All right, stop right there. You said, we  
6 recognized. I want to know who we that you're referring to  
7 is.

8 A. On advice of counsel who participated in this same  
9 search for records and documents.

10 Q. Did counsel participate in the search originally  
11 when the '85 plan was produced?

12 A. Back in '83?

13 Q. No, sir. No, in '88, the first time you went  
14 through and you decided to copy the '85 plan in '88? Did  
15 counsel participate in that search?

16 MR. LANPHER: I object. The question assumes that  
17 he copied again. It's getting confusing. I think his  
18 testimony was that he had an extra copy of the '85 plan  
19 which he provided to Mr. Petrone in response to Mr.  
20 Petrone's request.

21 JUDGE GLEASON: That's our understanding too.

22 MR. LANPHER: I think the question is confusing.

23 MR. SPIVEY: That's my understanding also, Your  
24 Honor.

25

1 BY MR. SPIVEY:

2 Q. My question to you is, when you produced the '85  
3 version in 1988 on the first occasion, did counsel  
4 participate with you in that search?

5 A. They came down later.

6 Q. Who was it?

7 A. Mr. Lanpher and some of his able bodied  
8 assistants.

9 Q. Do you know their names?

10 A. We did a very thorough search.

11 Q. Do you know their names?

12 A. Ms. Taylor, Mr. Lanpher and a young man named  
13 Robert.

14 Q. On that occasion, did you tell them that the '85  
15 version was an outdated plan?

16 A. The question never arose. So they got a copy of  
17 it and went through it and it was this current. And later  
18 we realized that the master now is a little more up to date  
19 than what you had, and they saw fit to copy it and furnish  
20 it to you.

21 JUDGE GLEASON: Okay, let's just stop for a  
22 minute, please.

23 (Discussion held off the record.)

24 JUDGE GLEASON: I would like, Mr. Spivey, if you  
25 would conclude your questioning of this witness by 1:00

1 o'clock. That's ten more minutes. And I think that ought to  
2 be it.

3 MR. SPIVEY: I'll do my best, Judge.

4 JUDGE GLEASON: Thank you.

5 Now, in light of that, would you like to take a  
6 five-minute break now, or would you want to wait?

7 THE WITNESS: I can wait, sir.

8 JUDGE GLEASON: All right. Please proceed.

9 MR. SPIVEY: Judge Gleason, I'm now going to ask  
10 the witness some questions with respect to Discovery Exhibit  
11 No. 25.

12 JUDGE GLEASON: I want to say to the applicants  
13 that we're still missing a couple of exhibits up here from  
14 yesterday.

15 MR. SPIVEY: Well, at the lunch break, we can find  
16 out what you are missing and we'll supply them.

17 BY MR. SPIVEY:

18 Q. Mr. Jones, I've placed in front of you what has  
19 been marked as Discovery Exhibit No. 25.

20 Can you identify that document?

21 A. Yes, it's Annex K to the Suffolk County Emergency  
22 Operations Plan. It's the radiological intelligence annex,  
23 one that my primary job requires to be kept in an updated  
24 condition. For more current information, Annex K will very  
25 soon disappear from the County plan and become Annex B



1 because the planning concept dictated by FEMA requires a new  
2 radiological annex, and it's going to be numbered B. It's a  
3 blank form furnished by the State, fill in the blanks.

4 Much of the information in this Annex K will be  
5 gleaned and retained and become part of Annex B. This is  
6 the old Civil Defense approach to putting out the fires when  
7 you're in the midst of a nuclear holocaust.

8 Ten KT drops on New York City, what does Suffolk  
9 County do? We've trained people to respond to monitor  
10 fallout furnished training for shelter managers who are  
11 hopefully headed for fallout shelters. It's the old Civil  
12 Defense approach to nuclear attack.

13 JUDGE SHON: Just out of curiosity, what will then  
14 happen to what is presently Annex B?

15 THE WITNESS: Annex B approaches it on a peace  
16 time level. Annex B puts a peace time response with the  
17 monitors towards particularly radiological incidents  
18 involving the transportation of radioactive material. It  
19 doesn't deal with fixed sites.

20 JUDGE SHON: When Annex K become Annex B, what  
21 does the present Annex B become?

22 THE WITNESS: Annex B.

23 JUDGE SHON: Does that mean you have two Annex Bs?

24 THE WITNESS: No, this is Annex K, sir. K will  
25 become B.

1 JUDGE GLEASON: Will they be merged together?

2 THE WITNESS: No. There's just going to be moving  
3 tabs.

4 JUDGE SHON: I'm beginning to be sorry I asked the  
5 question.

6 THE WITNESS: No, I understand what you're saying.  
7 We're going to have an empty Annex K.

8 JUDGE SHON: No, that doesn't worry me. You've  
9 now got two annexes B, or at least you have an Annex B  
10 administration section.

11 THE WITNESS: Right.

12 JUDGE SHON: You are now going to make Annex K  
13 into Annex B and I was just curious as to --

14 THE WITNESS: This B will be the original B, and  
15 the Bs will be moved on down, we're going to stretch it out  
16 and revamp the index and the whole bit.

17 JUDGE SHON: Okay.

18 THE WITNESS: Annex K is going to become our  
19 hazard specific plan.

20 JUDGE GLEASON: Thank you, Mr. Jones.

21 BY MR. SPIVEY:

22 Q. Mr. Jones, is Annex K that you have in front of  
23 you currently a part of the Suffolk County plan?

24 A. Yes.

25 Q. How long has it been a part of the Suffolk County

1 plan?

2 A. As far back as 1976.

3 Q. Now, when will it be removed and a new Annex B  
4 inserted?

5 MR. LANPHER: I object. That's not relevant to  
6 the issues of document production. What's going to happen  
7 in the future to change this plan or what might happen --

8 JUDGE GLEASON: I question the relevancy of that,  
9 myself, Mr. Spivey?

10 MR. SPIVEY: Judge, we have never seen Annex K  
11 until very recently. And I am trying to understand what the  
12 impetus is for now changing or removing Annex K.

13 JUDGE GLEASON: Some ulterior reason or it's just  
14 revising the document, if I understand it.

15 Is that correct?

16 THE WITNESS: It's a revamping of the radiological  
17 protection program sponsored by FEMA for which I draw EMA  
18 money, if you're interested. They've decided to get away  
19 from the war time concept of responding to radiological  
20 incidents. Annex K is simply going to be removed and most  
21 of the contents of Annex K will become Annex B using some of  
22 the terminologies, lists of names of trained people and  
23 things like that that still exist.

24 JUDGE GLEASON: Is this being done because of a  
25 FEMA requirement?

1 THE WITNESS: Yes, sir. They've revised their  
2 radiological protection program from strictly war time  
3 concept to dual purpose.

4 JUDGE GLEASON: All right, Mr. Spivey.

5 MR. SPIVEY: Just a few more areas of inquiry,  
6 Your Honor, and I'll be through.

7 Could we show Mr. Jones Exhibit 11.

8 BY MR. SPIVEY:

9 Q. Mr. Jones, I've placed in front of you Discovery  
10 Exhibit 11 that was marked yesterday.

11 Have you seen that document before?

12 A. Yes, sir, I work with it every day.

13 Q. Was it a part of the Suffolk County Emergency  
14 Operating Plan?

15 A. Yes, sir, it is.

16 MR. LANPHER: I object to the question. I think  
17 it's vague. Does he mean this particular version of this  
18 directory?

19 JUDGE GLEASON: Restate the question, please?

20 BY MR. SPIVEY:

21 Q. Was a version of the Emergency Services Directory  
22 a part of the Suffolk County plan when you first became the  
23 custodian of it in 1984? Has it been a part of the plan  
24 ever since in one form or another?

25 A. Yes, sir.

1 Q. Did you give a copy of that directory to Mr. Kelly  
2 when you gave him the plan?

3 A. No.

4 Q. Did you give it to him on any other occasion?

5 A. No. These are not given to everyone. There's  
6 privileged information, they're unlisted phone numbers and  
7 stuff, primary give them to the role players, the town  
8 supervisors, and you can see there's a little statement  
9 here, the Directory is not for general distribution.

10 But I've never given Norman Kelly a copy of it,  
11 no.

12 Q. So is it fair to assume then that when you gave  
13 Mr. Kelly the Xerox copy of the 1985 plan that you removed  
14 that portion of it?

15 A. No, it's never been in there. It's in one of the  
16 annexes, it's in the Communications and Warning and  
17 Notification. That's an integral part of the plan as an  
18 annex, one of the annexes, an appendix to an annex. It's a  
19 call up list procedure. LILCO got one.

20 Q. All right, sir.

21 A. So has Turley.

22 Q. Let's see if we can get this straight on the  
23 record.

24 When you gave Mr. Kelly the plan whenever it was,  
25 was that directory a part of the plan that you gave to him?

1 A. Yes.

2 Q. And did he actually receive that document to the  
3 best of your knowledge, the emergency services directory?

4 MR. LANPHER: A different version? The version  
5 you have asked questions about is 1987.

6 BY MR. SPIVEY:

7 Q. Start all over, Mr. Jones.

8 When you Xeroxed the plan in 1985, did it have as  
9 a part of it, the emergency services directory?

10 A. Probably an '82 or an '83 version. This thing is  
11 changed every year.

12 Q. I understand that. But it was a part of what you  
13 Xeroxed, is that correct?

14 A. Yes.

15 Q. And when you gave Mr. Kelly the emergency  
16 operating plan, that document in whatever form it then  
17 appeared, went with it, is that correct?

18 A. Yes, sir.

19 Q. All right, sir.

20 MR. SPIVEY: Would you show the witness Discovery  
21 Exhibit 13.

22 BY MR. SPIVEY:

23 Q. Mr. Jones, I have now handed you a document that  
24 was marked yesterday as Discovery 13, and ask you, sir, if  
25 you can identify that document?



1           A.     Well, it's a combination of many documents. It  
2 has to do with hospital planning. Hospitals have plans.

3           Q.     No, sir. My question is can you identify the  
4 document?

5           A.     No, I had very little to do with it, actually.  
6 Before my time.

7           Q.     Have you ever seen it before?

8           A.     Yes. I've got to explain something here who this  
9 fellow Bruce Gould is and what he's doing.

10                   This is all -- we have assigned to us in the  
11 bunker IMAs, they're Air Force reservists, in our case, and  
12 IMA means individual mobilization augmentees. They serve a  
13 day a week, a day a month in the bunker working with  
14 counterparts. One of them works with me, and then they go  
15 on two weeks active duty and they serve it down in the  
16 bunker performing the functions.

17           Q.     Mr. Jones, I don't want to cut you off, but Judge  
18 Gleason's going to cut me off.

19           A.     All right.

20                   MR. SPIVEY: Sir?

21                   JUDGE GLEASON: That is correct.

22                   THE WITNESS: This is an effort on --

23                   BY MR. SPIVEY:

24           Q.     Let me ask you this question.

25                   Is this document maintained in the Department of

1 Emergency Preparedness?

2 A. This is part of the resources document.

3 Q. And is it a document that's normally maintained in  
4 your office?

5 A. In the bunker, not in the county plan.

6 Q. All right, in the bunker, if you will.

7 A. It's referred to in the county plan by telling  
8 you, see the resources manual. This is part of the  
9 resources manual.

10 Q. And I take it that is something that's updated  
11 form time to time?

12 A. Every year.

13 Q. But to your knowledge, has it existed in one form  
14 or another since 1984?

15 A. Yes.

16 Q. Would you turn about to the middle of that  
17 document and look at the bottom of the pages and you'll see  
18 the Bates stamps. Look at 0000152.

19 A. 152.

20 Q. I think it's more toward the middle.

21 A. Four zeros and 152.

22 Q. Yes. Do you have it?

23 A. Yes, sir.

24 Q. What is that part of the resources manual, Mr.  
25 Jones?

1           A.    It's a listing of stations that we could ask to  
2 broadcast notifications and announcements during times of  
3 emergency.

4           Q.    Has that been in this document in one form or  
5 another --

6           A.    It's part of the resources manual, yes. Later on,  
7 you get into stations and their phone numbers and things  
8 like that.

9           Q.    But my question to you, has that been a part of  
10 your resources manual in one form or another so long as  
11 you've known anything about it?

12          A.    Yes.

13               MR. SPIVEY: Your Honor, --

14               JUDGE GLEASON: It's almost five after 1:00.

15               MR. SPIVEY: If I could make a last point, Your  
16 Honor, and I'd like to move the introduction of pages  
17 0000152 through 162, inclusive.

18               MR. LANPHER: I'd like to understand for what  
19 purpose it's being offered, Judge?

20               JUDGE GLEASON: Well, let's find the pages first  
21 of all.

22               MR. LANPHER: I think it was the pages that he was  
23 just referring to.

24               JUDGE GLEASON: It may have been, but --  
25 52 through 62?

1 MR. SPIVEY: 152 through 162, yes, sir. I'm  
2 sorry, Your Honor, has that been admitted?

3 JUDGE GLEASON: No, not yet.

4 What is the purpose for which it's being offered  
5 into evidence?

6 MR. SPIVEY: Your Honor, this relates to both the  
7 emergency broadcast system issues and the realism issues,  
8 contentions on which we have asked discovery and we'd only  
9 received this document as of last Saturday.

10 JUDGE GLEASON: And your objection is based on  
11 what, Mr. Lanpher?

12 MR. LANPHER: Yes, Judge, I would like to pursue  
13 one question with the witness pertaining to this, if Mr.  
14 Spivey's finished with his question.

15 Did I understand he was done?

16 JUDGE GLEASON: I asked you --

17 MR. LANPHER: It has to do with that.

18 JUDGE GLEASON: Let him ask the question so we can  
19 get this cleared up.

20 Go ahead.

21 MR. LANPHER: Mr. Jones, this document which Mr.  
22 Spivey has sought to have introduced, I'd like you to look  
23 at that document. Has this document ever been approved as  
24 the Suffolk County plan?

25 THE WITNESS: No, sir.

1 MR. LANPHER: And you testified it's not part of  
2 the Suffolk County Emergency Operations Plan, correct?

3 THE WITNESS: No, it's a resource for our  
4 resources. The purpose of this thing is just so he has a  
5 list of radio stations that he could call. We don't have an  
6 official EBS station in Suffolk County.

7 MR. LANPHER: Okay. I have no further questions,  
8 then. I oppose the introduction. It's not pertinent to the  
9 discovery issues which are the focus of this proceeding, and  
10 it's not part of the plan. I don't understand why it should  
11 be admitted in evidence.

12 MR. SPIVEY: Your Honor, I believe it's referred  
13 to in the plan.

14 JUDGE GLEASON: Its discovery was, discovery of  
15 the EBS was halted and it does have some utilization or else  
16 it wouldn't be here. So we'll admit it, and we'll designate  
17 it as --

18 MR. LANPHER: I believe that's already been marked  
19 as a separate exhibit, hasn't it?

20 MR. SPIVEY: I believe we need a new exhibit  
21 number, Your Honor.

22 JUDGE GLEASON: Well, we'd better put a new number  
23 on it. LILCO Discovery Exhibit No. 30?

24 MR. SPIVEY: 31, I believe.

25 JUDGE GLEASON: 31, all right. All right, it'll

1 be admitted.

2 (The document referred to  
3 was marked for identification  
4 as LILCO Discovery Exhibit No.  
5 31 and was received in  
6 evidence.)

7 JUDGE GLEASON: Those other questions?

8 MR. ZAHNLEUTER: Judge Gleason, I couldn't quite  
9 hear your ruling.

10 JUDGE GLEASON: Well, why don't you read the  
11 record and you can get it. I've admitted it.

12 MR. ZAHNLEUTER: Did you say discovery on EBS was  
13 halted and that's why this is admitted?

14 JUDGE GLEASON: There was a halting of discovery  
15 on EBS, yes. That's one of the past issues.

16 MR. ZAHNLEUTER: I'm not --

17 JUDGE GLEASON: Well, read the record. I'm not  
18 going to take the time right now.

19 MS. CLARK: Judge Gleason, is it your  
20 understanding that after the break, document Exhibit 31 will  
21 be provided to the Reporter?

22 JUDGE GLEASON: It's not my understanding. I just  
23 took the pages out of their exhibit myself. Can't you do  
24 that?

25 MS. CLARK: No, the Reporter needs a copy of the



1 Exhibit.

2 JUDGE GLEASON: Ms. Young, do you have any  
3 questions?

4 MS. YOUNG: Ms. Clark is going to do the  
5 questioning, Judge Gleason.

6 JUDGE GLEASON: Or Ms. Clark?

7 MS. CLARK: Thank you, Judge Gleason.

8 CROSS EXAMINATION

9 BY MS. CLARK:

10 Q. Mr. Jones, during your employment with the County  
11 from 1982 until 1984, when I believe you said you became in  
12 charge of training, did you have occasion to use the Suffolk  
13 County Emergency Preparedness Plan during that time?

14 A. Emergency what?

15 Q. Suffolk County Operations Plan during from 1982  
16 until 1984, which is when you I presume took custody of that  
17 plan.

18 A. Did I have an opportunity to do what?

19 Q. Do use that plan or to refer to it in your  
20 employment with Suffolk County?

21 A. Use it?

22 Q. Yes?

23 A. You mean in real emergencies?

24 Q. No, just in the course of your employment? In  
25 other words, I want to know whether you were familiar with

1 the plan during that time?

2 A. Yes, it sat in the same room with us and my Annex  
3 K as the radiological officer was in there, and we used to  
4 have to finally pull Annex K out of there and kept it as a  
5 separate entity because that thing changes everyday, so I  
6 got into the planning area.

7 Q. So you had your own personal copy of Annex K  
8 during that time?

9 A. I maintained it, yes.

10 Q. I see. So Mr. Terrell, I take it at that time had  
11 the official custody of the master plan?

12 A. Yes, ma'am.

13 Q. So did Mr. Terrell maintain it as an entire  
14 document except for Annex K.

15 A. Yes. He sat right behind me at another desk and  
16 my Annex K was in a cabinet along side of me because I  
17 referred to it every day. And we understood that. There  
18 was a note in the County plan to see me for Annex K.

19 Q. Okay, so with the exception of Annex K, did he  
20 have the entire master plan during that time?

21 A. Yes.

22 Q. Thank you.

23 At the time you took custody of the master plan  
24 which was in 1984, did you also receive any kind of working  
25 copy like a Xerox, in other words, back in 1984?

1 A. Working copy or Xerox of what?

2 Q. Of the master plan, or did the only thing you  
3 received was the master plan, then?

4 A. Yes.

5 Q. So 1985 then was the first time that you made a  
6 working copy of the plan by Xeroxing it?

7 A. Yes, ma'am.

8 Q. And you made ten copies, is that correct?

9 A. Yes.

10 Q. I was wondering if you could possibly account for  
11 the ten copies. You said you'd given them all away by this  
12 time?

13 A. I have one left. They're going fast, folks, so  
14 get your bid in.

15 Let's see. Nine of them. Most of them went to  
16 County agencies that were changing their annexes. I used a  
17 few for myself. Norman Kelly got one, Mr. Petrone got one.  
18 It would be hard to pinpoint where the nine are. I do have  
19 one left.

20 Q. I see.

21 Could you please, if you can recall, just exactly  
22 where each of those copies went, which particular --

23 MR. LANPHER: I object to the question. He just  
24 said that he couldn't do it.

25

1 BY MS. CLARK:

2 Q. Okay, for example, did you give one to the fire  
3 department?

4 A. The FRES Commission has an annex in there.

5 Q. Did one of your '85 copies go to them?

6 A. Just their annex. This is your annex.

7 Q. Just the annex, not the entire copy?

8 A. Update and improve on as necessary and submit. We  
9 would do the same thing with the Department of Public Works  
10 because their situation changes an awfully lot. And so on.  
11 That's where most of them went, actually.

12 Q. Okay, but you only sent the applicable annex to  
13 those agencies?

14 A. Yes.

15 Q. And one more question, Mr. Jones.

16 When you've been referring to just the discovery  
17 requests and your mission as a search and destroy one, did  
18 you actually destroy any documents?

19 A. No, that was going back to the military on that  
20 one. We did a lot of that in the military but it was a real  
21 comprehensive search for all the documents that they wanted,  
22 and very concise and well done affair. Those people can  
23 wear you out when they start looking for documents, and they  
24 did. We came up with three boxes full.

25 Q. And I believe you also testified earlier that in

1 Suffolk County during your time there has participated in  
2 Millstone Emergency Preparedness Tests, is that correct?

3 A. We monitor Millstone and we have a requirement to  
4 continue participating in the notification system. Other  
5 than that, there's no physical involvement. We just make  
6 sure that the notification system is functioning properly.

7 Q. Okay. And do you do that through tests?

8 A. There's a once a month test, it's the first  
9 Wednesday of every month. And the pager monitor lights up  
10 and says, this is Millstone, this is a test, and you call in  
11 for further information. And when you call in, you're  
12 talking to a tape and it describes what's going on, and  
13 they're transposing this onto that incident report thing  
14 which is a standard form. And we just do our four phone  
15 calls and make sure they got the message, and if they  
16 haven't, get word to them that they should answer the tape,  
17 too. They have a requirement to answer the same tape.

18 Q. When you engage in these tests, do you follow any  
19 written procedures?

20 A. No, it's all --

21 Q. It's all ad hoc?

22 A. There's no plan.

23 Q. I see. Do you engage in any similar tests for any  
24 other nuclear plant?

25 A. No.

1 Q. Do you recall Mr. Jones, if you provided Mr.  
2 Kelly with a complete copy of the plan you had in 1985?

3 MR. LANPHER: Object. That's already been asked  
4 and answered.

5 JUDGE GLEASON: Let him answer it.

6 THE WITNESS: What was the question again?

7 BY MS. CLARK:

8 Q. Do you recall if the copy you provided to Mr.  
9 Kelly was a complete copy of the Xerox you made in 1985?

10 A. Yes.

11 Q. Okay.

12 A. The reason I say yes is these things were collated  
13 as we had them produced and complete copy is found between  
14 two blue separator sheets. So you get two separator sheets  
15 and what's in the middle is a complete copy.

16 MS. CLARK: Thank you very much.

17 That completes my questioning.

18 JUDGE GLEASON: All right, will counsel state  
19 whether they have questions.

20 MR. ZAHNLEUTER: No questions.

21 MR. CUMMING: I have no questions, Judge Gleason,  
22 of this witness.

23 MR. SPIVEY: Well, the questioning by the Staff  
24 has suggested an area of inquiry to me.

25 MR. LANPHER: Judge, I object to that.



1 JUDGE GLEASON: Thank you, Mr. Jones.

2 MR. IRWIN: The area as to which Mr. Spivey  
3 indicated that the Staff's questioning had prompted --

4 JUDGE GLEASON: Mr. Jones, just hold up just a  
5 minute, please.

6 Go ahead.

7 MR. IRWIN: -- dealt with his response to  
8 questions of notifications connected with the plant where he  
9 said that there was recordings, to my recollection of his  
10 answer, no plan or procedures for such responses. It was  
11 all up here, all ad hoc. There are documents which indicate  
12 that there's a regular procedure for responding to these  
13 calls and we have copies of them, and there's an apparent  
14 inconsistency between Mr. Jones' recollection and these  
15 documents, numerous of which he had signed.

16 And I think it'll only take a minute -

17 JUDGE GLEASON: I'm going to allow about three  
18 more minutes of questioning on this.

19 MR. LANPHER: Judge Gleason, may I be heard on  
20 this?

21 JUDGE GLEASON: Yes, go ahead, be heard. State  
22 your concerns.

23 MR. LANPHER: My concern is that LILCO had its  
24 opportunity if it wanted to pursue any questions having to  
25 do with Millstone, they had the documents. Mr. Jones

1 mentioned some Millstone stuff in his foundation testimony,  
2 and LILCO chose to pass it up.

3 For them to come back now, I think is  
4 inappropriate and inconsistent with what you said before,  
5 Judge. You felt that they passed their opportunity.  
6 There's nothing new here, plus I think it's totally  
7 irrelevant to the inquiry here.

8 JUDGE GLEASON: Well, it may be irrelevant. I  
9 don't know that until we do, but I'm going to allow him to  
10 pursue it for about two or three minutes, and then we're  
11 going to finish this witness.

12 MR. SPIVEY: Just right quick here, Your Honor.

13 RE CROSS EXAMINATION

14 BY MR. SPIVEY:

15 Q. Mr. Jones, I've put in front of you some forms  
16 prepared by Northeast Utility. Are you familiar with those  
17 forms?

18 A. Yes, sir.

19 Q. Are those the forms that are filled out by Suffolk  
20 in response to drills at Millstone?

21 A. That's correct.

22 Q. And also in response to actual events at  
23 Millstone?

24 A. That's correct.

25 Q. And those are filled out by your office in the

1 regular course of business, is that right

2 A. Yes, sir.

3 Q. And the first one is signed by you, is it not?

4 A. That's correct.

5 Q. All right, sir.

6 And among the other people that is it correct that  
7 on the bottom it shows that you made certain phone calls.

8 MR. LANPHER: I object, Judge. He made a proffer  
9 that the purpose of this limited interrogation was -- and  
10 his questions so far haven't gone to that whatsoever. So I  
11 object to this whole line of questioning.

12 JUDGE GLEASON: I'm going to overrule it until we  
13 find out what he's trying to do --

14 Proceed, please.

15 BY MR. SPIVEY:

16 Q. Is that correct, Mr. Jones?

17 A. What was the question?

18 Q. Are those phone calls that you made when this  
19 notification comes in for Millstone, is that military power  
20 shown there the various places you called?

21 A. Yes.

22 Q. And so that for example indicates that you called  
23 Mr. Shepherd at 11 minutes past 10:00 in the morning,  
24 correct?

25 A. Correct.

1 Q. Isn't it true, Mr. Jones, that Connecticut has a  
2 plan for emergency response at Millstone and that --

3 MR. LANPHER: I object. That's irrelevant.

4 JUDGE GLEASON: Objection denied.

5 BY MR. SPIVEY:

6 Q. And that as a part of that plan, it states  
7 Fisher's Island is also supported by the New York State  
8 Emergency Response Preparedness Organization, Suffolk County  
9 provides back-up communications, capabilities and support  
10 and will lend additional emergency services to the Island if  
11 so requested?

12 MR. LANPHER: I object to the question. I don't  
13 even know what he's reading from. Judge, this is not a  
14 probative record that anyone could ever review.

15 JUDGE GLEASON: The objection is denied.

16 What is the question, please?

17 BY MR. SPIVEY:

18 Q. Doesn't your department, Mr. Jones, participate in  
19 emergency response for Millstone under the Connecticut plan?

20 A. No.

21 Q. Well, let me show you, sir, the Connecticut plan,  
22 and ask you if you've ever seen a copy of that before?

23 MR. SPIVEY: I'm sorry, Your Honor, this is the  
24 only copy I have.

25 MR. LANPHER: And I object pursuant to that. I'd

1 like to see a copy of whatever --

2 MR. SPIVEY: We will show it to counsel, and I  
3 think it'll save time, Mr. Lanpher, if you'll come around  
4 and look over his shoulder.

5 Show him Annex 5, that's the only part I want to  
6 ask him about. Show Mr. Lanpher Annex 5.

7 MR. LANPHER: This is Annex 5 to what?

8 MR. SPIVEY: Let's hand the witness the same  
9 thing.

10 The Radiological Emergency Response Plan.

11 MR. LANPHER: Am I correct that this is a plan for  
12 the State of Connecticut?

13 MR. SPIVEY: It's my understanding, the plan for  
14 Millstone.

15 MR. LANPHER: Judge Gleason, I asked a question.  
16 Is this a State of Connecticut plan?

17 JUDGE GLEASON: What is this document you're  
18 putting before us, Mr. Spivey?

19 MR. SPIVEY: I understand it a Connecticut  
20 State plan for Millstone, Your Honor.

21 JUDGE GLEASON: All right.

22 MR. SPIVEY: And I'm directing the witness'  
23 particular attention to page 101-4.

24 Your Honor, while he's looking may we have this  
25 marked for identification as Discovery No. 32? 33, I'm

1     sorry, Your Honor.

2                 JUDGE GLEASON: Well, I've already marked the  
3     Northeast Utility forms as 32.

4                 MR. SPIVEY: You're correct, Your Honor.

5                 JUDGE GLEASON: And this will be marked as County  
6     Discovery No. 33.

7                                 (The document referred to  
8                                 was marked for identification  
9                                 as County Discovery No. 33.)

10                JUDGE GLEASON: All right, Mr. Spivey.

11                BY MR. SPIVEY:

12                Q.    Mr. Jones, would you look at the bottom of the  
13     page 101-4, where it begins, Fishers Island is also  
14     supported by the New York State Emergency Preparedness  
15     Organization?

16                A.    Yes.

17                Q.    Are you familiar with this document?

18                A.    No.

19                Q.    You've never seen it before?

20                A.    I've been in touch with the people from Northeast  
21     Utilities, and Suffolk County plays not part in an event  
22     that occurs or emanates from Millstone, Connecticut. The  
23     State of Connecticut furnishes all the necessary support for  
24     Fishes Island, Plum Island, which is a Federal  
25     Installation.



1           The only reason the county's involved is because  
2   Millstone or Fishers Island falls within their ten mile EPZ.

3           Q.   Well, it's in the State of New York, isn't it?

4           A.   What?

5           Q.   Fisher's Island's in the State of New York?

6           A.   Yes.

7           Q.   And you provide back-up communication capabilities  
8   for Fisher's Island in the event of an emergency at  
9   Millstone, do you not?

10           MR. LANPHER: I object to the question. He  
11   already testified earlier that they get this monitoring  
12   phone call and then they make phone calls.

13           JUDGE GLEASON: Well, ask him again, because he  
14   seems to be stating a lack of knowledge with respect to  
15   something that at least on the face of it --

16           THE WITNESS: Back-up communications capability is  
17   the keeper and/or the monitor that Millstone furnishes to  
18   Judge Edwards on Fisher's Island. The State of Connecticut  
19   totally supports these people with additional emergency  
20   services. We don't train people to send there. We wouldn't  
21   be expected to go there. We have no plan to respond to a  
22   Millstone event, other than continuing or fortifying or  
23   participating in the notification system.

24           I'll call your attention to the first two  
25   paragraphs where it says, in essence, the lead

1 responsibility for assessing the initial radiological impact  
2 of an incident on Fisher's Island and assistance with the  
3 implementation of any protective actions belongs to the  
4 State of Connecticut.

5 BY MR. SPIVEY:

6 Q. Mr. Jones, I'm asking you when you get a  
7 notification from Millstone, do you not communicate it to  
8 the people shown on the instant report?

9 A. On the telephone, yes. That's our only  
10 participation.

11 Q. And are you not committed to lend additional  
12 emergency services to the Island if they were requested by  
13 Connecticut or Millstone?

14 A. Well, ask yourself a question. What would they  
15 need? And do we have it to support them? No. They need  
16 boats if they have to evacuate. We don't have boats.

17 They need monitors. We don't have the trained  
18 monitors for that. Those monitors go through a whole  
19 different type of training and we've never trained for a  
20 response to a nuclear incident out of a power plant.

21 Q. Sir, my question to you is would Suffolk lend  
22 additional emergency services to the Island if so requested  
23 by Millstone or Connecticut?

24 MR. LANPHER: I object to the question. He's  
25 already answered it. This goes far beyond the inquiry that

1 you authorized, Judge.

2 JUDGE GLEASON: He's answered it.

3 Mr. Jones, let me ask you a question. There's a  
4 sentence here on this same page that talks about an  
5 operational agreement which has been longstanding between  
6 the State of Connecticut and the officials of Fisher Island,  
7 town of Suffolk County and the State of New York.

8 That would appear to have some substance to it,  
9 and I'm asking if that is new information to you, or what's  
10 your understanding of that statement?

11 THE WITNESS: You're reading that first paragraph  
12 on page 101-4, sir?

13 JUDGE GLEASON: That's right. The sentence that  
14 begins, "because of the logistics associated with the  
15 Island's location --."

16 THE WITNESS: Connecticut assumes all the support  
17 necessary to support a plume floating over Fisher's Island.  
18 Connecticut comes and puts out the brush fire. We have no  
19 capability. We don't plan for it. The only way we're  
20 involved is communicating with them through this pager  
21 system.

22 JUDGE SHON: Mr. Jones, if I read these two  
23 sentences correctly, the word, agreement, that Judge Gleason  
24 has pointed out is the agreement that the State of  
25 Connecticut will take care of Fisher's Island, is it not?

1 THE WITNESS: That's correct, sir.

2 JUDGE SHON: That's what I thought. The agreement  
3 is simply to let Connecticut take care of it.

4 Thank you.

5 JUDGE GLEASON: Mr. Spivey?

6 MR. SPIVEY: Nothing further, Your Honor, except  
7 we'd move the introduction of the incident reports that have  
8 been marked as number 32.

9 JUDGE GLEASON: All right. Is there objection?

10 MR. LANPHER: I object. I don't understand what  
11 purpose it's for. It's not relevant to the issues in this  
12 proceeding. They were produced in discovery.

13 MR. SPIVEY: They were just produced to us on  
14 Saturday.

15 MR. LANPHER: Show me some other discovery  
16 requests when they were supposed to be? There's no  
17 allegation that these reports were supposed to be produced  
18 before.

19 MR. SPIVEY: Your Honor, we had asked questions  
20 about plans and procedures from Millstone, and have been  
21 told there's no participation.

22 MR. LANPHER: And Mr. Jones just testified that  
23 the responsibility is for the State of Connecticut, and  
24 these incident reports aren't the plan or procedure.

25 JUDGE GLEASON: We're going to allow them in.

1 There's no basic reason to exclude them at this point.

2 (The documents previously  
3 identified as Discovery  
4 Exhibit No. 32 were received  
5 in evidence.)\_

6 MR. SPIVEY: No further questions.

7 MR. REIS: Mr. Chairman, the Staff has one  
8 question which is a recross.

9 JUDGE GLEASON: Well, we're not allowing recross  
10 on things like that, so --

11 MR. REIS: I don't think the record is clear.

12 JUDGE GLEASON: Ask the question, please.

13 RECROSS EXAMINATION

14 BY MR. REIS:

15 Q. Mr. Jones, directing your attention to LILCO  
16 Discovery Exhibit 33, do you have that in your office?

17 A. This?

18 MR. LANPHER: Judge, I object to the question. He  
19 said he has not seen this Exhibit before.

20 JUDGE GLEASON: Well, let him answer the question.  
21 Don't answer for him.

22 MR. LANPHER: I didn't answer for him.

23 JUDGE GLEASON: Let him answer the question.

24 Mr. Jones?

25 THE WITNESS: The question, sir?

1 BY MR. REIS:

2 Q. Looking at LILCO Discovery Exhibit No. 33, do you  
3 have this in your office?

4 A. Is this 33?

5 Q. That's right.

6 A. No, I don't recognize it.

7 JUDGE GLEASON: All right. I'll be back at 2:15.

8 (Whereupon, at 1:30 p.m., the hearing was recessed  
9 for lunch, to reconvene the same day, Tuesday, July 12,  
10 1988, at 2:15 p.m., in the same place.)

11 (Continued on following page.)  
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1                   A F T E R N O O N   S E S S I O N

2   (2:25 p.m.)

3           JUDGE GLEASON:   Shall we proceed.

4           MS. LETSCHE:   Judge Gleason, sitting at the  
5   witness table is Mr. Bilello, who is who we'd like to  
6   proceed with.

7   Whereupon,

8                                   JOHN B. BILELLO

9   was called as a witness herein, and having been first duly  
10  sworn, was examined and testified as follows:

11                                 DIRECT EXAMINATION

12                         BY MS. LETSCHE:

13           Q.   Mr. Bilello, would you just state for the record  
14  your name, please

15           A.   My name is John B. Bilello.

16           Q.   Mr. Bilello, what is your current occupation?

17           A.   I'm presently the Acting Director of Emergency  
18  Preparedness, Division of.

19           Q.   And is the Division of Emergency Preparedness part  
20  of Suffolk County's government?

21           A.   Yes, it's the Suffolk County division of Emergency  
22  Preparedness under the Department of Fire, Rescue Emergency  
23  Service.

24           Q.   Now, you said that you are now the Acting Director  
25  of that Division, is that right?

1 A. Yes.

2 Q. For how long have you been the Acting Director?

3 A. Since May of this year.

4 Q. And what was your position before you became the  
5 Acting Director of the Division?

6 I.. Deputy Director of Suffolk County Emergency  
7 Preparedness.

8 Q. Deputy Director of the same division, is that  
9 right?

10 A. Yes.

11 Q. For how long were you the Deputy Director of the  
12 Emergency Preparedness Division?

13 A. For eight and a half years.

14 Q. So you began that job in approximately 1980, is  
15 that right?

16 A. That's correct.

17 Q. How did you become the Acting Director of the  
18 Division?

19 JUDGE GLEASON: I'm sorry, what was the question,  
20 again?

21 BY MS. LETSCHE:

22 Q. How did you become the Acting Director of the  
23 Division?

24 A. My predecessor, Mr. William Reagan retired, and as  
25 Deputy, I was appointed to the Acting Director's position.

1 Q. Now, before we go any further, Mr. Bilello, have  
2 you talked to anyone about the testimony of any of the New  
3 York State witnesses, yesterday?

4 A. No.

5 Q. Have you talked to anyone about the testimony of  
6 Mr. Dick Jones in this hearing this morning?

7 A. No.

8 Q. Now, can you just briefly describe for the Board,  
9 Mr. Bilello, what your duties are as the Deputy Director,  
10 what your duties were as the Deputy Director of the Division  
11 of Emergency Preparedness?

12 A. My duties were primarily of an administrative  
13 nature. That is that I would set up agendas for hurricane  
14 conferences and help in budgeting in the budget, preparing  
15 the budget and the year end report to the County Executive.

16 Q. Can you just generally describe for the Board what  
17 it is that the Suffolk County Emergency Preparedness  
18 Division does?

19 A. Well, it's a coordinating department that  
20 maintains records and plans for the County of Suffolk.

21 Q. When you say, maintains records and plans, what  
22 kind of records and plans are you referring to?

23 A. Any plans of the nature that would help people to  
24 perform their jobs in an emergency.

25 Q. Any particular kinds of emergency?

1           A.    All types of emergencies; nuclear, non-nuclear, or  
2   man-made and God-made.

3           Q.    How many professionals work in the Division of  
4   Emergency Preparedness?

5           A.    There's presently four.  There was five before Mr.  
6   Reagan retired.

7           Q.    So, counting the Director, there would be five?

8           A.    Yes.

9           Q.    And where are the Division's offices located?

10          A.    The Division Office is located in the Emergency  
11   Operating Center which is in Yaphank, New York, Suffolk  
12   County, New York.

13          Q.    And is that the center which you all refer to as  
14   the "bunker"?

15          A.    Yes, it's below grade.

16          Q.    Mr. Bilello, are you familiar with a document  
17   titled, Suffolk County Emergency Operations Plan?

18          A.    Yes, vaguely.

19          Q.    When you say you're vaguely familiar with it, Mr.  
20   Bilello, what do you mean?

21          A.    I'm not knowledgeable of the contents of it, but  
22   I've seen the document at the EOC Emergency Operating Center  
23   many times.

24          Q.    Now, are you responsible for maintaining that  
25   document?

1 A. No, I'm not.

2 Q. Have you ever in your positions with the Division  
3 of Emergency Preparedness been responsible for maintaining  
4 or updating that document?

5 A. No, I have not.

6 Q. Now, Mr. Lanpher has placed next to you a document  
7 which is I'll state for the record has been marked as LILCO  
8 Discovery Exhibit No. 10.

9 Would you take a look at that document and tell me  
10 if you can identify it?

11 A. That's Suffolk County's Emergency Operation Plan.

12 Q. Who is it in the County EOC who maintains the  
13 Suffolk County Emergency Operations Plan?

14 A. The Planning and Training Office of which is Mr.  
15 Dick Jones.

16 Q. Now, before Mr. Jones was in that position, who  
17 maintained the copy of that plan?

18 A. Mr. Donald Terrell.

19 Q. Mr. Bilello, do you know when the Suffolk County  
20 Emergency Operations Plan was first created?

21 A. Well, it was there when I got there in 1980. I  
22 don't have an exact date for you, but I do know by looking  
23 through it occasionally, the first two pages especially,  
24 that it's dated '75 and '79. So it would be prior to my  
25 employment.

1 Q. Do you recall a time in 1982 when the Emergency  
2 Preparedness Division was requested to gather documents to  
3 respond to LILCO discovery requests?

4 A. Yes, I have.

5 Q. And at that time, what is it that you recall on  
6 that subject?

7 A. I remember Mr. Frank Jones who was the then Deputy  
8 County Executive for Suffolk County requesting in writing to  
9 Mr. Reagan who was the Director, a list of all documents,  
10 plans referring to emergencies both nuclear and non-nuclear.

11 Q. Okay, when you say that Mr. Jones requested a  
12 list, is that what you said that Mr. Jones requested a list  
13 of documents?

14 A. The actual documents as well.

15 Q. Mr. Jones requested documents. All right. how did  
16 you learn that Mr. Jones had made that request?

17 A. Through a written memo that Mr. Reagan had shown  
18 me.

19 Q. A written memo from Mr. Frank Jones?

20 A. Yes.

21 Q. Now, what did you do when you learned from Mr.  
22 Reagan of Mr. Jones' request?

23 A. I assigned some of the Staff members to gather the  
24 information that was requested by Mr. Frank Jones.

25 Q. Who were the Staff members that you assigned to do



1 that?

2 A. In '82, it was Don Terrell, Dick Boughton,  
3 Berkeley Bennett.

4 Q. Did you personally engage in the gathering of  
5 documents back in 1982 to the best of your recollection?

6 A. No.

7 Q. Did you give any instructions to the Staff members  
8 you've just mentioned who you requested to gather documents?

9 A. Yes.

10 Q. What did you tell them?

11 A. To gather all documents that referred to any  
12 emergency plans, or anything of that nature, and to put them  
13 in boxes so that they could be delivered as we were  
14 instructed to do so by Mr. Jones.

15 Q. They were to be delivered where?

16 A. To the Dennison Building where Mr. Jones has his  
17 office which is on the Ninth Floor in Hauppauge, New York.

18 Q. Now, what did your Staff do pursuant to that  
19 request by you?

20 A. On short notice, they gathered the information  
21 that was requested, the documents that were requested.

22 Q. And was the Suffolk County Emergency Operations  
23 Plan included among the documents that your Staff gathered?

24 A. I believe it was.

25 Q. Why do you say that?

1           A.     Well, it's the plan and it's the one intimate  
2 piece of planning that we have that's used in any incident,  
3 so it would be one of the first things we would probably  
4 ship.

5           JUDGE GLEASON:   Excuse me.   What date are we  
6 talking about again?

7           MS. LETSCHE:   This is in 1982.

8           BY MS. LETSCHE:

9           Q.     Did you give any instructions to your Staff not to  
10 send any items that they located in their files when they  
11 were gathering documents?

12          A.     No.

13          Q.     Turning your attention now to 1983, Mr. Bilello,  
14 do you have a recollection of there being another request  
15 that the files be searched for documents responsive to a  
16 LILCO discovery request?

17          A.     There was another memo sent by the same gentleman,  
18 Mr. Frank Jones, requesting similar information. As a matter  
19 of fact, as far as I remember, it was identical in nature  
20 that he wanted plans and documents, any type of emergencies.

21          Q.     By any type of emergencies, what do you mean?

22          A.     Nuclear, non-nuclear, man-made, you know, Act of  
23 God, and so on.

24          Q.     And what did you do when you learned of that  
25 request by Mr. Jones?

1           A.    Same thing we'd done in '82. I requested the  
2   Staff to gather the information, put it in boxes so it could  
3   be delivered to Mr. Jones in Hauppauge.

4           Q.    Who was the Staff that you made that request of in  
5   1983?

6           A.    Mr. Dick Jones, Mr. Berkeley Bennett, and Mr. Dick  
7   Boughton.

8           Q.    Did you personally do any file searching in that  
9   1983 time frame?

10          A.    No.

11          Q.    And why is that that you did not?

12          A.    I had administrative duties to attend to, and  
13   there was a sufficient number of people in the Staff to do  
14   it on their own.

15          Q.    Now, what did your Staff do in response to your  
16   request that you just mentioned in 1983?

17          A.    They gathered the documents requested, put them  
18   boxes, and again delivered them to Hauppauge.

19          Q.    Now, do you recall whether the Suffolk County  
20   Emergency Operations Plan was among the documents which were  
21   in those boxes sent to Mr. Jones in 1983?

22          A.    I believe it was.

23          Q.    Do you have a specific recollection of that  
24   particular document being in those boxes?

25          A.    No.

1 Q. Why do you say that you believe it was included?

2 A. Again, it's the main document kept by our  
3 Department.

4 Q. Did you at any time instruct your staff not to  
5 include any documents that they had gathered among those  
6 that they sent to Mr. Jones?

7 A. No.

8 Q. Now, turning your attention to 1988, do you recall  
9 a time this year when you were again requested to search for  
10 emergency plans and procedures in response to a LILCO  
11 discovery request?

12 A. Yes.

13 Q. And what is it that you recall about that  
14 incident?

15 A. That Mr. Frank Petrone requested that we get as  
16 many of the documents, plans and so on and so forth and get  
17 them prepared and at EOC.

18 Q. When you say, get them and get them prepared, what  
19 do you mean by that?

20 A. Well, put them in boxes so they could be looked at  
21 previous to shipping, or to removing from the EOC.

22 Q. All right. Who was it who was going to look at  
23 those documents?

24 A. I believe the attorneys that were retained by the  
25 County.

1 Q. And what did you understand Mr. Petrone to be  
2 asking you in 1988 to gather up to be reviewed?

3 A. All plans referring to emergencies and any  
4 documents that we had on that same subject.

5 Q. Now, what did you do, once you learned of Mr.  
6 Petrone's request?

7 A. I assigned the Staff to gather up the documents  
8 that were requested.

9 Q. Okay, and who was the Staff that you assigned in  
10 1988?

11 A. It was the same gentlemen as in '83: Dick Jones,  
12 Berkeley Bennett, Dick Boughton.

13 Q. And I assume those gentlemen did gather up the  
14 bunch of documents?

15 A. Yes.

16 Q. And what happened with those documents?

17 A. They were forwarded to Mr. Petrone, I believe.

18 Q. Now, to your knowledge, was the Suffolk County  
19 Emergency Operations Plan among the documents which were  
20 forwarded to Mr. Petrone?

21 A. Yes, I believe it was.

22 Q. And on what do you base that belief?

23 A. On the same thing I did in '83, that it would be  
24 the main document that's carried at EOC.

25 Q. You didn't personally give that document to Mr.

1     Petrone?

2             A.     No.

3             Q.     Mr. Bilello, you mentioned before that one of your  
4     duties as the Deputy Director of the Emergency Preparedness  
5     Division had to do with hurricane conferences.

6                     Can you tell me what you mean by hurricane  
7     conferences?

8             A.     We hold a one-day conference at the EOC which is  
9     the bunker, as you referred to, and we invite members of  
10    Suffolk County Government as well as the political  
11    subdivisions, as well as volunteer agencies as well as  
12    utility companies to attend.

13            Q.     You say you hold these conferences. Are they held  
14    regularly?

15            A.     In the eight years I've been there, we've had one  
16    in each one of the eight years.

17            Q.     And what is it that goes on during these hurricane  
18    conferences?

19            A.     Well, there's usually speakers, and sometimes  
20    video tapes of what damage a hurricane would do, how to  
21    mitigate it, how to act in response of it and so on and so  
22    forth.

23            Q.     Is planning for responding to hurricanes discussed  
24    at these conferences?

25            A.     I believe it's discussed to the fact that it's



1 brought to the attention of the people there that it's  
2 necessary to have planning in order to alleviate the damage  
3 of a hurricane.

4 Q. And along that line, is the Suffolk County  
5 Emergency Operations Plan discussed, referred to during  
6 these conferences?

7 A. I believe it's referred to but not discussed.

8 Q. Now, you mentioned that public utility companies  
9 are invited to these conferences. To your knowledge, does  
10 LILCO attend the hurricane conferences?

11 A. Yes.

12 Q. Mr. Bilello, were you present in the Suffolk  
13 County EOC during Hurricane Gloria?

14 A. Yes, I was.

15 Q. And that was back in 1985, is that right?

16 A. That's correct.

17 Q. And was the County's response to Hurricane Gloria  
18 made pursuant to the Suffolk County Emergency Operations  
19 Plan?

20 A. Yes.

21 Q. During Hurricane Gloria, were any LILCO  
22 representatives present in the County EOC?

23 A. I believe a representative of LILCO was at the EOC  
24 at that time.

25 Q. Do you happen to know who it was?

1 A. No.

2 Q. Mr. Bilello, do you know a gentleman by the name  
3 of Norman Kelly?

4 A. Yes, I do.

5 Q. How do you know him?

6 A. Mr. Kelly was a predecessor to Mr. Reagan as the  
7 Director of Emergency Preparedness in Suffolk County, and he  
8 has visited the bunker many times and that's primarily how I  
9 know him.

10 Q. Do you know where Mr. Kelly currently works?

11 A. I believe he works for LILCO.

12 Q. Do you know how long Mr. Kelly has been a LILCO  
13 employee?

14 A. He stated that he's been an employee of LILCO for  
15 three and a half years.

16 Q. You said he stated that. Mr. Kelly told you that?

17 A. Yes.

18 Q. Now, to your knowledge, is Mr. Kelly familiar with  
19 the Suffolk County Emergency Operations Plan?

20 A. Yes.

21 Q. And how do you know that?

22 A. Well, because I've been informed that Mr. Kelly  
23 has a copy of the Emergency Operating Plan. I've also been  
24 --

25 MR. SPIVEY: Object, Your Honor. We are testifying

1 to hearsay now.

2 JUDGE GLEASON: Well, I think I'm going to let it  
3 in. I want to trace this through.

4 BY MS. LETSCHE:

5 Q. I think you said you have been informed that Mr.  
6 Kelly has a copy of the plan?

7 A. Yes. And I believe that Mr. Kelly was also  
8 instrumental in helping write this plan, or at least to add  
9 appendices and annexes to the plan.

10 Q. When you say he was instrumental in helping to  
11 write it or to add appendices, do you mean while he was the  
12 Director of the Emergency Preparedness Division?

13 MR. SPIVEY: Objection, Your Honor. I think Ms.  
14 Letsche ought to be required to lay a better foundation for  
15 this series of questions.

16 JUDGE GLEASON: Do you wish to do that?

17 MS. LETSCHE: I don't know what other foundation  
18 is necessary.

19 JUDGE GLEASON: Respond to the question, please.

20 THE WITNESS: Yes.

21 BY MS. LETSCHE:

22 Q. Have you ever spoken directly to Mr. Kelly about  
23 his possession of the Suffolk County Emergency Operations  
24 Plan?

25 A. Yes, during the luncheon that we had that he and

1 I, Mr. Reagan had called me and asked me if I would attend a  
2 luncheon that Mr. Kelly who was ill at the time and just  
3 recovering was attending and he asked me if I would like to  
4 join them for lunch and I did do so.

5 Q. When was that, sir?

6 A. About six to eight weeks ago.

7 Q. And during that luncheon, did Mr. Kelly inform you  
8 that he had in fact received a copy of the Suffolk County  
9 Operations Plan?

10 MR. SPIVEY: I object to leading, Your Honor.

11 JUDGE GLEASON: I'll permit the answer. Go ahead.

12 THE WITNESS: Yes.

13 MS. LETSCHE: That's all the questions I have,  
14 Judge Gleason. Mr. Bilello is available for the Board's  
15 questions.

16 EXAMINATION BY THE BOARD

17 JUDGE GLEASON: Mr. Bilello, could you give us a  
18 little bit of your background, please, prior to --

19 THE WITNESS: Sir, is that prior to Government?

20 JUDGE GLEASON: Yes, prior to your government  
21 experience.

22 THE WITNESS: I spent two years in the Service. I  
23 was a ceramic tile contractor for twenty-some odd years. I  
24 built residential homes. I was Commissioner of Parks and  
25 Recreation for the Town of Baban. I was Deputy Supervisor

1 for the Town of Baban. I was Community Affairs Director for  
2 the Town of Baban. And then the rest of it is as I  
3 testified prior.

4 JUDGE GLEASON: Any of that experience cover any  
5 planning duties or planning responsibilities?

6 MR. SPIVEY: Judge Gleason, it's hard to hear you.

7 JUDGE GLEASON: I'm sorry.

8 Did any of that experience cover any planning  
9 responsibilities, emergency planning things, types?

10 THE WITNESS: Not emergency planning, sir.

11 JUDGE GLEASON: Could you lay out what the  
12 responsibilities of your division is with respect to  
13 emergency planning?

14 THE WITNESS: With respect to emergency planning,  
15 to assist its political subdivision in writing up their  
16 local plans, to assist the other departments in Suffolk  
17 County if they need assistance through SEMO, which is the  
18 State Emergency Management Organization. They have people  
19 in the planning section who come down and assist different  
20 departments and different political subdivisions.

21 JUDGE GLEASON: Would you be considered as the  
22 experts within the County on emergency planning that other  
23 sections of the Government would look to for advice and  
24 education and information on emergency planning?

25 THE WITNESS: Suffolk County does have a planning

1 department other than the Department of Emergency  
2 Preparedness whose sole responsibility is only planning.

3 JUDGE GLEASON: I understand that, but that's not  
4 emergency planning, if I understand correctly.

5 MS. LETSCHE: Excuse me, Judge Gleason. I'm not  
6 sure your question was clear. Are you saying the planning  
7 department, are you asking whether the planning department  
8 deals with emergency planning?

9 JUDGE GLEASON: I would ask that question.  
10 Ordinarily it does not.

11 Does it deal with emergency planning, the planning  
12 department?

13 THE WITNESS: Suffolk County Division within the  
14 Emergency Preparedness?

15 JUDGE GLEASON: No.

16 THE WITNESS: I'm sorry, I don't understand.

17 JUDGE GLEASON: Do you have a Department of  
18 Planning?

19 THE WITNESS: Yes, we do.

20 JUDGE GLEASON: Does that have anything to do with  
21 emergency planning, that department?

22 THE WITNESS: I believe they do plan for that  
23 also.

24 JUDGE GLEASON: Well, they plan for the whole  
25 government?



1 THE WITNESS: Yes.

2 JUDGE GLEASON: Within the Department of Planning?

3 THE WITNESS: Yes.

4 JUDGE GLEASON: Well, I guess where I'm having  
5 problem is to finding out what the responsibilities of your  
6 division is, and now as opposed to what the responsibilities  
7 of the Department of Planning is.

8 Could you enlighten me on that?

9 THE WITNESS: The gentleman whose responsible for  
10 updating and upkeeping this plan in particular is the  
11 Planning and Training Officer for the Department. He  
12 updates by changing --

13 JUDGE GLEASON: He's within your division, right?

14 THE WITNESS: Yes. He changes it by changing  
15 names as it becomes necessary when someone retires, and  
16 there's a change --

17 JUDGE GLEASON: Yes, but the whole purpose of your  
18 division is to really to be the kind of force that handles  
19 emergency planning for the county to make sure that he plans  
20 are maintained or updated and changed and you're the  
21 conduit, I presume, if you will, for planning information  
22 that comes from the State to the County, and vice versa,  
23 from the County to the State, it goes through your division,  
24 is that correct?

25 THE WITNESS: Yes.

1 JUDGE GLEASON: Since you have been involved,  
2 before a question was asked by Ms. Letsche as to the  
3 operation of the Suffolk County Emergency Plan in Hurricane  
4 Gloria, and you said it was implemented there, what other  
5 events have occurred, let's say in the eight years you've  
6 been there that that plan would have been operative, too.

7 Do you understand my question?

8 THE WITNESS: Yes.

9 We had an incident what we considered it the Gucci  
10 incident where an explosion occurred in a fireworks plant in  
11 Brookhaven Township, and there we assisted the Town of  
12 Brookhaven.

13 JUDGE GLEASON: We were recently at a hearing up  
14 there in the last two months and there was a truck that had  
15 overturned with some gas that went on for a couple days, it  
16 was a rather dangerous thing. I think the newspapers  
17 accounts reflected that about 1500 people had to be  
18 evacuated.

19 Was the plan operative in that particular  
20 incident?

21 THE WITNESS: The incident you're referring to,  
22 sir, happened in Nassau County.

23 JUDGE GLEASON: I see. All right, I guess we're  
24 reading the newspaper of some other county. I'd asked him  
25 if we were staying in Suffolk County, he said we were.

1 All right, I withdraw the question.

2 Well, since it has been involved in other  
3 incidents, can you give a kind of opinion or a judgment --  
4 and I'm sure this question will be objected to so I  
5 anticipate it in advance -- as to what the abilities, what  
6 you determine or how you can assess the abilities of Suffolk  
7 County to respond in the event of an emergency?

8 MS. LETSCHE: I object to that question as being  
9 beyond the scope of this proceeding.

10 JUDGE GLEASON: Ms. Letsche, I anticipated you'd  
11 object to that, and I deny the objection.

12 So please answer the question.

13 THE WITNESS: I have no actual knowledge as my job  
14 is basically administrative.

15 JUDGE GLEASON: Well, when these emergencies  
16 happen in which the plan gets operative, are you involved in  
17 any way?

18 THE WITNESS: In assisting and advising the County  
19 Executive who makes the final decisions.

20 JUDGE GLEASON: Right.

21 THE WITNESS: And advising the Commissioner who  
22 then advises the County Executive.

23 JUDGE GLEASON: So were you in that position when  
24 Hurricane Gloria happened, or was somebody else in that  
25 position?

1 THE WITNESS: I was not in that position.

2 JUDGE GLEASON: I see. So you have no opinion  
3 about the abilities of the County to respond to an  
4 emergency?

5 THE WITNESS: No.

6 JUDGE GLEASON: Is that correct?

7 THE WITNESS: That's correct.

8 JUDGE GLEASON: And you've already responded to  
9 questions from Ms. Letsche about being involved in and  
10 responding to production of document requests for this  
11 litigation in the past, in '82, '83, and '88.

12 Didn't you kind of reach a point where you kind of  
13 got tired of doing the same thing all over again, because I  
14 gather that practically the only thing you produced,  
15 although you didn't say this, but the main thing you  
16 produced was certainly this Suffolk County operating plan.  
17 Didn't you at one point say, how many times do we have to  
18 produce this?

19 THE WITNESS: Yes.

20 JUDGE GLEASON: Did you get any answer to that?

21 THE WITNESS: No.

22 JUDGE GLEASON: Have you ever testified in these  
23 proceedings before?

24 THE WITNESS: No, sir.

25 JUDGE GLEASON: Are you familiar with the

1 emergency plans of any other jurisdiction or any other  
2 jurisdictions where there is a nuclear plant like Indian  
3 Point?

4 THE WITNESS: No, sir.

5 JUDGE GLEASON: Brookhaven National Laboratory?

6 THE WITNESS: No, sir.

7 JUDGE GLEASON: How familiar are you with the  
8 State Officials that are involved in emergency planning?

9 THE WITNESS: I deal with them as speakers in our  
10 different conferences in that manner.

11 JUDGE GLEASON: Do you know any of the SEMC  
12 people?

13 THE WITNESS: Yes.

14 JUDGE GLEASON: Who is it that you know?

15 THE WITNESS: I know Mr. Don DiVito who is the  
16 Director. Mr. Germano.

17 JUDGE GLEASON: Germano you know?

18 THE WITNESS: Tony Germano, I've spoken to him,  
19 seen him at conferences.

20 Gerry Hartin and Luciano Salamone.

21 JUDGE GLEASON: Can you give a close spelling to  
22 it?

23 THE WITNESS: Luciano Salamone.

24 JUDGE GLEASON: You indicated I believe in  
25 response to questions by Ms. Letsche that Mr. Kelly had

1 received to your knowledge a copy of the Suffolk County Plan  
2 somewhere in recent days, is that right?

3 THE WITNESS: Yes, sir.

4 JUDGE GLEASON: And I think you intimated at least  
5 that you knew that because he said so. Is that correct?

6 THE WITNESS: Yes. And also it was told to me by  
7 Mr. Dick Jones who I believe gave him the copy.

8 JUDGE GLEASON: I see.

9 What would be the circumstances that Mr. Kelly  
10 would have told you that?

11 THE WITNESS: During our luncheon, I mentioned it  
12 to him in passing as a joke, and he answered in the  
13 affirmative.

14 JUDGE GLEASON: What would be the nature of the  
15 joke?

16 THE WITNESS: Well, I said that I thought that  
17 LILCO was denying the fact that there was such a thing as an  
18 emergency operating plan for Suffolk County, and that he  
19 knew about it because he was an employee of LILCO and he had  
20 it in his possession.

21 JUDGE GLEASON: I see, so this must have been a  
22 fairly recent luncheon. What was the date of the luncheon?

23 THE WITNESS: I can't tell you the exact date,  
24 sir.

25 JUDGE GLEASON: Well, approximately?



1 THE WITNESS: Six to eight weeks ago, Mr. Kelly  
2 was released from the hospital.

3 JUDGE GLEASON: Some time the end of May?

4 THE WITNESS: I would say, yes.

5 JUDGE GLEASON: And who else was at this luncheon?

6 THE WITNESS: Mr. William Reagan who was --

7 JUDGE GLEASON: The former director.

8 THE WITNESS: -- the former director, yes.

9 JUDGE GLEASON: And just you and Mr. Reagan?

10 THE WITNESS: And Mr. Kelly.

11 JUDGE GLEASON: And Mr. Kelly.

12 Thank you.

13 Are you familiar with the LILCO emergency plan?

14 THE WITNESS: No, sir.

15 JUDGE GLEASON: Never read it?

16 THE WITNESS: No, sir.

17 JUDGE GLEASON: And I believe you've been asked  
18 the question as to whether you had ever participated in any  
19 discussions where the appropriateness of producing this  
20 information on emergency plans had been brought up and  
21 discussed.

22 Were you asked that question? If you weren't, I'm  
23 asking you.

24 Were you ever involved in any discussions where  
25 the question of whether you should or should not produce a

1 plan, a Suffolk County plan to the attorneys was discussed?

2 THE WITNESS: No.

3 JUDGE GLEASON: Thank you.

4 (Continued on following page.)

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1 JUDGE GLEASON: All right, who's going to proceed?  
2 Mr. Spivy are you still on tap?

3 MR. SPIVY: Yes sir.

4 JUDGE GLEASON: That's all the questions I have at  
5 the moment.

6 MR. SPIVY: May the witness be shown Exhibits #27  
7 and #28?

8 (Pause)

9 CROSS-EXAMINATION

10 BY MR. SPIVY:

11 Q Mr. Bilello, before you look at those exhibits let  
12 me ask you several questions please, sir.

13 During the course of coming here to testify today  
14 have you gained an understanding of what the lawyers mean when  
15 they talk about discovery?

16 A No.

17 Q You have not. Did you have a prior understanding of  
18 discovery as that term is used?

19 A No sir.

20 Q Are you familiar with certain pleadings that are  
21 filed in cases like this that are called discovery?

22 A No sir.

23 Q Did you understand that in 1982 when you searched  
24 or caused these documents to be searched for, that you were  
25 engaged in a process that was called discovery?

1 A No.

2 JUDGE GLEASON: Mr. Spivy, would you mind if I asked  
3 him one more question?

4 MR. SPIVY: No sir.

5 JUDGE GLEASON: I should have when I had the  
6 opportunity. If I don't do it now I'm sure I'll forget it.

7 In your discussions at the luncheon with Mr. Kelly,  
8 what was your understanding as to what use he was going to  
9 make of this Suffolk County emergency plan?

10 THE WITNESS: I had none, sir.

11 JUDGE GLEASON: You had none?

12 THE WITNESS: No.

13 JUDGE GLEASON: Did you have any idea as to what --

14 THE WITNESS: No.

15 JUDGE GLEASON: But you were kidding him about it,  
16 but you didn't know what he was going to do with it?

17 THE WITNESS: Yes.

18 JUDGE GLEASON: Thank you.

19 BY MR. SPIVY:

20 Q Mr. Bilello, in 1982 when you were asked to search  
21 for these documents you've described, I believe that request  
22 came to you from Mr. Regan, is that correct?

23 A Verbally, yes.

24 Q At the time that Mr. Regan made that request, did he  
25 give you any writing or list that had the documents described

1 on there that he or Mr. Jones wanted?

2 A No.

3 Q Was anyone else present when Mr. Regan gave you  
4 these instructions?

5 A No.

6 Q How soon after Mr. Regan gave you these instructions  
7 did you instruct your staff to look for them?

8 A He and I immediately instructed the staff to start  
9 looking.

10 Q Do you have a specific recollection of this  
11 conversation with Mr. Regan?

12 A Yes.

13 Q Do you have a specific recollection of your  
14 conversation with your staff?

15 A Yes. That is to say we requested that they gather  
16 the information, the documents that were requested.

17 Q Was Mr. Regan present when you instructed your  
18 staff?

19 A Yes.

20 Q So to the best of your knowledge Mr. Regan heard  
21 what you told your staff?

22 A Yes.

23 Q Did you tell your staff essentially the same thing  
24 that Mr. Regan had told you?

25 A Yes. Both he and I did it together. We went out to

1 talk to the staff and we said we got a request from Mr. Frank  
2 Jones and this is what the documents he's looking for and we  
3 would appreciate it if you'd gather them and put them in boxes  
4 so they can be shipped up there.

5 Q Once those documents were gathered, did you actually  
6 review them?

7 A No.

8 Q Did you make an inventory of what was in the box?

9 A No.

10 Q Do you know if anyone made an inventory of what was  
11 in the box?

12 A No.

13 Q So for a matter of fact, Mr. Bilello, you don't know  
14 what went in the box do you?

15 A No.

16 Q My statement to you is correct, you don't know what  
17 went in the box.

18 A Right.

19 Q Is that true with respect to the search that was  
20 made in 1983? You don't know what was gathered, correct?

21 A Correct.

22 Q In 1988 you don't know what was gathered, do you?

23 A That's true.

24 Q Mr. Bilello, how did you come to know Mr. Salamone?

25 A He is the liaison officer for the southern district



1 of SEMO, and Suffolk County is part of the southern district.

2 Q How long have you known Mr. Salamone?

3 A Three years or so.

4 Q About three years?

5 A Yes.

6 Q How about Mr. Germano? How did you come to know Mr.  
7 Germano?

8 A Through attending seminars and both Albany and he  
9 attending seminars in Suffolk County.

10 Q What were the nature of these seminars, Mr. Bilello?

11 A Anything from distribution of funds to hurricane  
12 conferences.

13 Q Are these distribution of funds emergency assistance  
14 funds?

15 A Yes.

16 Q Is part of your compensation paid with federal  
17 monies?

18 MS. LETSCHE: I'm going to interpose an objection to  
19 this line of questioning. It doesn't have any relevance to  
20 this proceeding.

21 JUDGE GLEASON: I let other information in on this.  
22 I won't let it go too far.

23 MR. SPIVY: I'm not going very far, Your Honor.

24 BY MR. SPIVY:

25 Q Mr. Bilello, to the best of your knowledge does SEMO

1 have a copy of the Suffolk County emergency operating plan?

2 A Yes.

3 Q For how long have they had that?

4 A I believe they had it recently when Mr. Horton was  
5 at the EOC.

6 Q Do you know if they had it prior to that time?

7 A No, I do not.

8 MR. SPIVY: May I have a moment, Your Honor?

9 JUDGE GLEASON: Yes.

10 (Pause)

11 BY MR. SPIVY:

12 Q Mr. Bilello, since you have been employed with the  
13 Department of Emergency Preparedness have you, to the best of  
14 your knowledge, always been compensated partially with federal  
15 monies?

16 A I believe that's true.

17 Q Do you know if prior to the emergency operating  
18 plan being given to Mr. Horton, that SEMO knew about the  
19 existence of the Suffolk plan?

20 A Are you asking if SEMO knew we had an emergency  
21 operating plan?

22 Q Yes.

23 A The answer is yes.

24 Q For how many years have they known that?

25 A I can't say. I can't remember that far back. But

1 I'm sure they knew.

2 Q For as long as you've been there?

3 A Yes.

4 Q Do you know who it is within SEMO who would have  
5 known that?

6 A Probably the planning and training section.

7 Q Who is in that, do you know?

8 A No.

9 Q Mr. Hertowitz, does that ring a bell to you?

10 A Yes.

11 Q So you think he would have known about it?

12 A Yes, possibly.

13 MR. SPIVY: May I have just a moment, Your Honor? I  
14 think I can cut this short.

15 (Pause)

16 BY MR. SPIVY:

17 Q Mr. Bilello, let me ask you several questions based  
18 on some earlier testimony here.

19 Do you know a man named Robert Shepherd?

20 A Yes.

21 Q He's in the Health Department.

22 A The Suffolk County Health Department, correct.

23 Q Is there some relationship between your department  
24 and Mr. Shepherd in the Health Department?

25 MS. LETSCHE: I object to that question. That's

1       vague and ambiguous. A relationship between two governmental  
2       departments, I don't know what that question means.

3               JUDGE GLEASON: What kind of a relationship are you  
4       referring to?

5               MR. SPIVY: I'm talking about a relationship having  
6       to do with common duties, Your Honor.

7               MR. LANPHER: That's still a vague question.

8               JUDGE GLEASON: Well it's getting less vague. You'd  
9       have to concede that.

10              MR. LANPHER: I'll still object to it, though.

11              JUDGE GLEASON: Can you make it a little bit more  
12       specific?

13              MR. SPIVY: Yes sir, I can.

14              I'll hand the witness an exhibit, Your Honor.

15              BY MR. SPIVY:

16              Q     Mr. Bilello, I'm going to hand you what's been  
17       previously introduced here as Exhibit #11 which is I believe a  
18       part of the emergency directory of your plan, is that correct?

19              A     Yes sir.

20              Q     I had a page there turned t Mr. Shepherd. What page  
21       is that on? On page five, so members of the Board can see.

22              Can you tell us why Mr. Shepherd is listed in your  
23       directory of emergency preparedness?

24              A     It says here Robert Shepherd, radiation control  
25       health services liaison, he is a liaison from the health

1 service to our department. That's why he would be listed as  
2 is the other liaisons, Frank Gully and so on.

3 Q Have you ever asked Mr. Shepherd to perform any  
4 services on behalf of your department?

5 A No sir.

6 Q Do you know if Mr. Shepherd ever attended any  
7 exercises other than at nuclear plants in the state of New  
8 York?

9 MS. LETSCHE: I'm going to object to that question  
10 as being irrelevant.

11 JUDGE GLEASON: I'm sorry. Would you ask the  
12 question again please?

13 BY MR. SPIVY:

14 Q Do you know if Mr. Shepherd has ever attended any  
15 exercises held at nuclear plants in the state of New York?

16 JUDGE GLEASON: The objection is denied.

17 THE WITNESS: No, I don't know that he attended any.

18 BY MR. SPIVY:

19 Q Mr. Bilello, let me turn your attention to this  
20 lunch with Mr. Kelly and Mr. Regan. I was confused about who  
21 invited whom to that lunch. Could you tell me what your  
22 understanding is?

23 A Certainly. Mr. Regan called me on the phone and  
24 asked me if I would be interested in having lunch with him and  
25 Mr. Kelly. Since Mr. Kelly was recently hospitalized with a

1 serious illness, I was pleased to attend the meeting and I  
2 said I would, and I did attend that meeting. Luncheon, I'm  
3 sorry. I keep saying meeting.

4 Q In the middle of the day?

5 A Yes, it was sometime around lunch time. I'd say any  
6 time between 12:00 and 1:00.

7 Q Was Mr. Regan then employed by the county?

8 A No.

9 Q Did Mr. Regan tell you why he was calling you to  
10 have lunch with Mr. Kelly?

11 A No.

12 Q Did Mr. Regan suggest to you that anyone had  
13 suggested to him that he have lunch with Mr. Kelly?

14 A No.

15 Q Did he ever suggest that to you before, during, or  
16 after that lunch?

17 A No.

18 Q To the best of your knowledge, has anyone in the  
19 world ever suggested to Mr. Regan that he arrange that lunch  
20 that day?

21 A No.

22 Q On the occasion of this lunch, where was it held?

23 A It was held at the Coram Pond Diner in Coram,  
24 Suffolk County, New York.

25 Q Did you and Mr. Regan go there together?



1           A     No, I met him there. He was not employed at the  
2 time by the county.

3           Q     Did you prior to going have any discussion with Mr.  
4 Regan about the discussions you were going to have with Mr.  
5 Kelly?

6           A     None whatsoever.

7           Q     You didn't discuss with him that you might discuss  
8 this emergency operating plan with Mr. Kelly?

9           A     No sir.

10          Q     You said that the topic of the emergency operating  
11 plan came up as sort of a joke?

12          A     Yes sir.

13          Q     At that point you knew that LILCO was denying that  
14 they had ever seen that plan?

15          A     Yes, I believe I did.

16          Q     How did you come to know that?

17          A     I don't remember that.

18          Q     Did you know it prior to that lunch?

19          A     I believe so.

20          Q     What's your best recollection of when you learned  
21 that?

22          A     I have no recollection on how I learned that.

23          Q     What's your best recollection of when you learned  
24 that?

25          A     I'm sorry, but as I said, I don't remember it at

1 this time.

2 Q You don't recall any conversations with anyone?

3 A No.

4 Q Mr. Bilello, recite for me as best you can how this  
5 conversation arose in which this joke was made.

6 A I primarily had lunch with Mr. Kelly to inquire  
7 about his health. And in passing, I mentioned the fact that I  
8 was aware, or had been informed that he had a copy of the  
9 emergency operating plan.

10 Q Who informed you that he had a copy of the emergency  
11 operating plan?

12 A Mr. Dick Jones.

13 Q When did Mr. Jones advise you of that?

14 A I don't remember exactly.

15 Q Was it before this luncheon?

16 A Oh yes.

17 Q How long before this luncheon was it?

18 A I don't remember that.

19 Q A matter of hours or a matter of days?

20 A I'm sorry, I don't remember that. I do remember  
21 before.

22 Q You knew before the luncheon that Mr. Kelly was  
23 supposed to have had a copy of the plan?

24 A Yes.

25 Q But you don't know how long you knew that?

1 A No.

2 Q You can't say if it was a matter of days or weeks or  
3 months?

4 MS. LETSCHE: I object. This has all been asked and  
5 answered. The witness has answered all these questions.

6 JUDGE GLEASON: He has answered the question.

7 MR. SPIVY: I believe it's proper cross-examination,  
8 Your Honor. I believe I'm entitled to test the witness'  
9 memory.

10 JUDGE GLEASON: I think you've done that.

11 BY MR. SPIVY:

12 Q Mr. Bilello, when did Mr. Regan leave the Suffolk  
13 County government?

14 A I believe the end of May of this year.

15 Q 1988?

16 A Yes.

17 Q So the lunch that you described would have had to  
18 have taken place some time in June?

19 A Either the last week of May or sometime the early  
20 part of June, yes.

21 Q Can you describe for me the circumstances in which  
22 Mr. Jones told you that Mr. Kelly had a copy of the plan?

23 A I asked Mr. Jones if he had given anyone a copy of  
24 the plan and he informed me that the only person who he knew  
25 that had a copy would be Mr. Kelly.

1 Q Why did you ask Mr. Jones that?

2 A Because it was brought to my attention that Mr.  
3 Kelly did have a set.

4 Q Who brought that to your attention?

5 A I'm sorry, I don't remember.

6 Q So you were double checking your information?

7 A Yes.

8 Q Once you got this information from this unknown  
9 source you went to Mr. Jones to double check it?

10 A Yes.

11 Q Why did you want to double check it?

12 A I wanted to know if it was true that Mr. Kelly did  
13 have a copy.

14 Q Why did you want to know if it was true?

15 A I just thought it was important for me to know that.

16 Q All right sir. I want to know why you thought it  
17 was important.

18 A I don't know why I thought it was important. I  
19 thought I should know what was going on, what was leaving the  
20 office or the emergency operating center.

21 Q Was this of some significance in your life at that  
22 time?

23 A Yes, I don't think we should be, I'm also the  
24 Freedom of Information officer and I don't think we should be  
25 releasing any documents to anyone without them requesting a

1 freedom of information form.

2 Q Did you criticize Mr. Jones for releasing that  
3 document?

4 A Yes.

5 Q What did you say to him?

6 A I said in prior times I don't want him to make the  
7 same mistake in doing that. As a matter of fact I circulated  
8 a memo to that effect within the last two or three weeks to  
9 all staff members.

10 JUDGE GLEASON: Excuse me. What was the date of  
11 that memo?

12 THE WITNESS: It was three weeks ago, sir. Two or  
13 three weeks ago. I don't have an actual, I don't remember the  
14 exact date.

15 JUDGE GLEASON: What did the memo state?

16 THE WITNESS: The memo states that no documents are  
17 to leave the emergency operating, or be given to anyone  
18 without them filing a Freedom of Information request which  
19 would be then approved or disapproved by myself. I'm also the  
20 Freedom of Information officer.

21 JUDGE GLEASON: Thank you.

22 BY MR. SPIVY:

23 Q Was it your conversation with Mr. Jones that  
24 prompted you to write this memorandum?

25 A Partially, and knowing that it was not a proper

1 thing to release any documents. If he had requested that from  
2 me before releasing it, I would have told him definitely not  
3 to be released.

4 Q But if you had not had the conversation with Mr.  
5 Jones, you would have not written the memorandum, isn't that  
6 correct?

7 A No, that's not correct. We have recently had  
8 seminars on Freedom of Information, and that was about a month  
9 or six weeks ago, and I was told by the county attorneys and  
10 some state people that the procedures should be for anyone  
11 requesting any information, documents, etcetera, to put them  
12 in writing through a Freedom of Information request. So I  
13 would have done it anyway.

14 Q Where is a copy of this memorandum?

15 MS. LETSCHE: I object. I don't know what the  
16 relevance is of a Freedom of Information Act memorandum.

17 JUDGE GLEASON: The objection is denied. It's very  
18 relevant. Please answer the question.

19 MS. LETSCHE: Excuse me, Judge Gleason. Could you  
20 explain to me the relevance of this Freedom of Information Act  
21 memorandum to this proceeding?

22 JUDGE GLEASON: It's obvious that it's relevant as  
23 to Mr. Bilello's activities regarding this information. His  
24 all of a sudden sending a memo out when he's been in this job  
25 for a number of years in response to a request from the county



1 attorney's office. In fact I'm going to ask him when the, if  
2 the request from the county attorney's office came in the way  
3 of a memo.

4 MS. LETSCHE: Excuse me, Judge Gleason. I think  
5 there must be some misunderstanding. There has been no  
6 discussion about the Suffolk County attorney's office in  
7 connection with this Freedom of Information Act memorandum.  
8 That was --

9 JUDGE GLEASON: I thought he testified that the  
10 county attorney's office had told him to make sure that  
11 documents were not released unless they were supported by a  
12 Freedom of Information request. Didn't you just state that?

13 THE WITNESS: No sir. What I did say is there was a  
14 seminar informing the Freedom of Information officers, all of  
15 the Freedom of Information officers in Suffolk County, of  
16 which there were maybe 50 people in the auditorium, that  
17 Suffolk County should tighten up its requests for information  
18 and that it should be definitely put in writing when someone  
19 requests any documents.

20 JUDGE GLEASON: When was that seminar held?

21 THE WITNESS: About six to eight weeks ago.

22 JUDGE GLEASON: Proceed.

23 BY MR. SPIVY:

24 Q Mr. Bilello, didn't you also testify that the county  
25 attorneys had told you to tighten up on those Freedom of

1 Information Act requests?

2 A They told everyone at the seminar that the only way  
3 to release any information or documents would be through a  
4 Freedom of Information form. The person seeking that  
5 information should fill it out.

6 Q So the seminar you attended was conducted by the  
7 county attorneys, is that correct?

8 A A county attorney with a state employee, the leading  
9 employee of the state on Freedom of Information. I don't  
10 remember his name.

11 Q what was the name of the county attorney?

12 A Joyce Lawn.

13 MR. SPIVY: Your Honor, I'd like to call for  
14 production of that memorandum that he sent out. I think it's  
15 important to these hearings.

16 MS. LETSCHE: I would like to have a proffer from  
17 Mr. Spivy as to the relevance of a memorandum going out saying  
18 Freedom of Information Act procedures must be followed before  
19 documents are given to people walking in off the street and  
20 asking for governmental documents. I want to know the  
21 relevance of that document to the matter in question here  
22 which is responses to discovery requests.

23 MR. SPIVY: Would the Court like an answer?

24 JUDGE GLEASON: I don't think it's up to me to say  
25 whether I'd like an answer or not. It's a question of whether

1 you want to respond to it or not.

2 MR. SPIVY: Judge, as I said to you this morning,  
3 I'm on unfamiliar ground a little bit.

4 JUDGE GLEASON: You shouldn't be.

5 MR. SPIVY: I'm not used to being interrogated by  
6 attorneys during proceedings.

7 JUDGE GLEASON: You just made a motion for  
8 production of a particular document. That motion has been  
9 objected to. I'm asking you if you want to respond to the  
10 objections.

11 MR. SPIVY: May I have a moment, Your Honor?

12 JUDGE GLEASON: Sure.

13 (Pause)

14 MR. SPIVY: Your Honor, I will respond to the  
15 objection.

16 I think the totality of the circumstances in which  
17 this memorandum were generated, that is whether it was in  
18 response to a Freedom of Information Act or in response to a  
19 conversation with Mr. Jones, especially as it bears on the  
20 witness' testimony that Mr. Kelly had a copy of the emergency  
21 plan, is entirely relevant and proper.

22 MS. LETSCHE: Excuse me, Judge Gleason.

23 MR. SPIVY: Excuse me.

24 MS. LETSCHE: I'm sorry. I didn't know you weren't  
25 finished. Excuse me, Mr. Spivy.

1 MR. SPIVY: So for that reason, Your Honor, I  
2 believe our call for a proffer of the document is proper.

3 MS. LETSCHE: If I can respond, Judge Gleason. The  
4 matter at issue here which is the production of the Suffolk  
5 County emergency operations plan happened in, I believe it was  
6 on May 24th. This memorandum took place after that. Mr.  
7 Bilello has explained to the best of his ability the  
8 generation of that memorandum, why it was sent out. It has to  
9 do with Freedom of Information Act requests, that is people  
10 coming in off the street and asking for governmental  
11 documents. It has nothing to do with the county responding to  
12 discovery requests which response took place before this  
13 memorandum even came into existence. And we're talking about  
14 the production of the plan to LILCO, or rather the giving of  
15 the plan to LILCO back in 1985.

16 The fact that this gentleman wrote a Freedom of  
17 Information Act related memorandum to his staff at some point  
18 pursuant to a conference on Freedom of Information Act  
19 practices has absolutely nothing to do with the county's  
20 response to the discovery requests in this proceeding. It's  
21 just completely irrelevant, and nothing that Mr. Spivy has  
22 said addresses that fact.

23 I don't know what totality of circumstances he's  
24 talking about. The totality is that the plan at issue was  
25 produced before that.

1 JUDGE GLEASON: I think we have to conclude, Ms.  
2 Letsche, that Mr. Bilello's activities in this period of time  
3 are matters that have some relevance to this proceeding.  
4 Whether or not this particular memo has relevance, we really  
5 can't, or has probative value, we really cannot determine at  
6 this time. It certainly has potential relevance, and on that  
7 basis I think it has to be produced.

8 Mr. Spivy?

9 MR. SPIVY: If I could interject at this point, we  
10 have one more witness to go before the day is over, and I  
11 really think that hopefully the questioning of this witness  
12 will be finished by 4:00 o'clock.

13 JUDGE GLEASON: I should say in addition to the  
14 remarks, it's just not only the activities of Mr. Bilello that  
15 have some relevance, it would be the activities of anybody  
16 working for the county government. It just so happens that  
17 this thing came to light during this period of time. It may  
18 have some probative value.

19 (Pause)

20 JUDGE GLEASON: While we're waiting for the  
21 attorneys, Ms. Letsche, have you been able to track down by  
22 sea or by land Mr. Shepherd?

23 MS. LETSCHE: I have not been able to get through. I  
24 tried to reach his secretary yesterday to find out if there  
25 was a way to reach him and I wasn't able to reach her

1 yesterday. I'm hoping that my office has been able to make  
2 contact today. I don't know if that's happened yet. But I  
3 should be able to report something one way or the other  
4 Thursday.

5 (Pause)

6 MR. SPIVY: One more small area of inquiry, Your  
7 Honor.

8 JUDGE GLEASON: All right.

9 MR. SPIVY: May the witness be shown LILCO Exhibit  
10 #11?

11 (Pause)

12 BY MR. SPIVY:

13 Q Mr. Bilello, would you look at the emergency  
14 directory which has been marked for identification as  
15 Discovery #11? Can you identify that document?

16 A Yes.

17 Q Is that something maintained by your office in the  
18 regular course of business?

19 A A staff member in my office, yes.

20 Q Would you look at the second page where it says  
21 Revised August 1987. Do you know if that's the most recent  
22 edition?

23 A Yes it is, sir.

24 MR. SPIVY: Your Honor, I would like to move the  
25 introduction of this document into evidence.



1 JUDGE GLEASON: It's already in.

2 MR. SPIVY: I'm sorry, sir. I just had it marked  
3 for identification.

4 MR. LANPHER: Could you wait one second, Judge?

5 JUDGE SHON: To my recollection that's the one we  
6 marked and had redacted yesterday. We had it not admitted,  
7 but if it has been that's all right.

8 JUDGE GLEASON: What does your notation show, Mr.  
9 Lanpher?

10 MR. LANPHER: I have a blank. If you wait a moment  
11 I'll check the transcript from yesterday. Hopefully the  
12 transcript would indicate whether there was a motion or  
13 whatever with respect to that exhibit.

14 It's at 21154 it was marked, I believe.

15 MS. LETSCHE: Mr. Lanpher raised a concern about  
16 confidentiality.

17 JUDGE SHON: LILCO agreed to redact it and I believe  
18 has provided a redacted copy to the reporter.

19 (Pause)

20 MR. LANPHER: I don't think it was moved in one way  
21 or the other, frankly.

22 MS. YOUNG: My records show no admission.

23 JUDGE GLEASON: In any event, my recollection is it  
24 was admitted, but in redacted form because you had raised that  
25 issue at that time. But in any event, if not, they're moving

1 it for admission again.

2 Do you object to it?

3 MS. LETSCHE: As long as it's been redacted we don't  
4 object to it.

5 MR. SPIVY: I would just like to vouch on the  
6 record, Your Honor, this has never been produced to us in  
7 discovery. I have no further questions.

8 MS. LETSCHE: If I could make a comment here. Mr.  
9 Spivy, can you identify for me what discovery request this  
10 document is responsive to? What 1988 discovery request this  
11 is responsive to?

12 MR. SPIVY: I'll let Mr. Sisk respond to that, but I  
13 think the answer is that the former witnesses have said that  
14 it's part of the emergency operating plan, Your Honor.

15 MS. LETSCHE: That's not true. The emergency  
16 operating plan which the witnesses have testified is the  
17 current version is Exhibit #10, I believe. And the version of  
18 the emergency directory which is in that plan is the 1986  
19 version. So your characterization of the witness' testimony  
20 is incorrect.

21 JUDGE GLEASON: Let's not quibble any more.

22 Who's going to proceed?

23 MS. LETSCHE: We just need a moment to prepare.

24 JUDGE GLEASON: I'm not saying your quibbling  
25 doesn't have substance you understand, Ms. Letsche. I just

1 say let's discontinue it.

2 (Pause)

3 CROSS-EXAMINATION

4 BY MS. CLARK:

5 Q Mr. Bilello, first to go back a little bit to your  
6 earlier testimony, when you were talking about the first  
7 request for you to produce documents back in 1982, I believe  
8 you stated that Mr. Regan asked you to produce documents as  
9 well as a list, is that correct?

10 A I believe he asked me to produce documents.

11 Q Did he ask you to produce a list of documents?

12 A I don't remember. If I said that I'm incorrect in  
13 saying list.

14 Q Did you prepare any kind of list of the documents  
15 you found in this search?

16 A No.

17 Q Similarly, with regard to the 1983 request from Mr.  
18 Regan again. At that time were you asked to provide a list of  
19 any of the documents you found in your search?

20 A No.

21 Q Was any such list prepared in 1983?

22 A No.

23 Q Did you see the documents that were produced in both  
24 the 1982 and in 1983, were there boxes of documents that you  
25 saw?

1           A     No, I saw the boxes, but I didn't actually see the  
2 documents.

3           Q     From your observation did you notice any difference?  
4 Did it look like it was about the same number of documents on  
5 both occasions?

6           A     Yes.

7           Q     Do you recall how many boxes there were?

8           A     Three if I remember right.

9           Q     With regard to the 1988 production of documents, I  
10 believe you said counsel came to your office to pick up the  
11 documents?

12          A     I believe so, yes.

13          Q     Did you see counsel come and obtain those documents?

14          A     Yes.

15          Q     Did you observe anybody at that time removing any of  
16 the documents from the boxes before they took them?

17          A     No.

18          Q     Other than, I believe you stated that the Suffolk  
19 County plan was activated in response to Hurricane Gloria and  
20 the Gucci Fireworks fire. During your tenure with Suffolk  
21 County, has that plan been activated on any other occasion?

22          A     I don't remember any other occasions.

23          Q     With regard to the lunch you had with Mr. Kelly and  
24 I believe Mr. Regan at that time, you said you had knowledge  
25 before that luncheon began that LILCO was denying the

1 existence of having their plan at that time, the Suffolk  
2 County plan. Can you tell me if you knew that because you had  
3 been told by counsel for Suffolk County?

4 A No, I don't remember who told me that. But I do  
5 remember having knowledge that that was so.

6 Q But you don't recall who told you?

7 A No.

8 Q One last question. With regard to the Freedom of  
9 Information Act memorandum you sent around, had you ever sent  
10 a similar memorandum to your office before that time?

11 A No. I don't believe so. I can't remember exactly,  
12 but I would say no.

13 Q You think that was the first time you ever sent any  
14 kind of information to your, any information they would have  
15 that people should not produce documents unless it was in  
16 response to a written freedom of information act request?

17 A That was after attending the only seminar I ever  
18 attended on Freedom of Information.

19 Q I understand. Did anybody else in your office ever  
20 send one around to that effect?

21 A No, I'm the Freedom of Information officer.

22 Q To your knowledge, was the request for documents  
23 that you responded to in 1988 any broader than the  
24 instructions you had received in 1982 or 1983?

25 A I don't know that to be the case. I would say the



1 same.

2 MS. CLARK: Thank you very much.

3 JUDGE GLEASON: Mr. Cumming?

4 MR. CUMMING: I have a few questions Judge Gleason.

5 BY MR. CUMMING:

6 Q Mr. Bilello, my name is William R. Cumming. I'm  
7 counsel for the Federal Emergency Management Agency.

8 In your key position as an administrator, would you  
9 be typically the person who would approve travel or persons  
10 within your department --

11 MS. LETSCHE: I object to that question, Judge  
12 Gleason. That doesn't have any relevance to anything we've  
13 been talking about here, much less to what the scope of this  
14 proceeding as you've defined it.

15 JUDGE GLEASON: I'm really curious as to how you can  
16 make that judgment so early.

17 MS. LETSCHE: Because I just heard the question and  
18 it has to do with authorizing travel which doesn't have  
19 anything to do with whether emergency plans were produced or  
20 not produced. So on its face the question is not relevant.

21 JUDGE GLEASON: Obviously it doesn't in and of  
22 itself, but I want to know where that question may lead to.

23 MS. LETSCHE: Judge Gleason, my job as counsel is to  
24 object to objectionable questions, and that is one.  
25 Therefore, I made my objection.



1 JUDGE GLEASON: You certainly have been carrying  
2 that responsibility out in a very liberal fashion in this  
3 proceeding.

4 The objection is denied. Please response to the  
5 question.

6 THE WITNESS: That responsibility is the  
7 Commissioner of Fire and Rescue Emergency Services.

8 MR. CUMMING: Thank you.

9 BY MR. CUMMING:

10 Q Would you have some knowledge, however, in your  
11 position of the travel of persons within the department to  
12 visit state level agencies in the course of their work?

13 MS. LETSCHE: I object to that question on the same  
14 grounds. It has no relevance.

15 JUDGE GLEASON: Objection is denied on the same  
16 grounds.

17 THE WITNESS: Would you please repeat the question?

18 BY MR. CUMMING:

19 Q Would you have some knowledge based on your position  
20 of the travel of employees within your department to visit  
21 state level agencies, for example SEMO or the Department of  
22 Naval Military Service?

23 A Yes.

24 Q And certainly you make that kind of travel yourself  
25 occasionally, do you not?

1 A Occasionally.

2 Q How often in a typical year would you make such a  
3 trip?

4 MS. LETSCHE: I'm just going to note my objection,  
5 and I'll object to this entire line of questioning unless or  
6 until there is some link up between it and the object of this  
7 proceeding.

8 JUDGE GLEASON: Proceed.

9 THE WITNESS: A few times a year.

10 BY MR. CUMMING:

11 Q Were any of your visits in a typical year related to  
12 planning?

13 A No.

14 Q Based on your position, would you have knowledge of  
15 how often state level officials visit your organization?

16 A Yes.

17 Q In a typical year, how often would they visit?

18 A Twelve times.

19 Q Typically, how long would those visits be?

20 A The duration would be anywhere from half an hour to  
21 four hours, three hours.

22 Q What would be a typical or a number of typical  
23 reasons for them to visit your organization?

24 MS. LETSCHE: I'm going to object to that one on the  
25 additional ground that it is completely vague and ambiguous. I

1 don't know how Mr. Cumming thinks that Mr. Bilello is going to  
2 know the reasons that unidentified state officials may have  
3 for typical visits.

4 JUDGE GLEASON: Let's see what he says. Objection  
5 is denied.

6 THE WITNESS: Can you rephrase that question please?

7 BY MR. CUMMING:

8 Q What is your understanding of what a typical state  
9 level official visiting your organization would be doing  
10 within the course of one of those 12 odd visits you mentioned  
11 previously?

12 A By typical, what do you mean? I don't understand.

13 Q Would it be for purposes of audit somehow of your  
14 organization?

15 A No, speaker at a hurricane conference would be one  
16 reason.

17 Q Would it be for the purpose of technical assistance,  
18 perhaps, in the organization?

19 A Possibly.

20 Q Would it be for the purpose of giving information  
21 about changes in state policy?

22 A Possibly.

23 Q Would it be possibly about giving information about  
24 changes in federal guidelines?

25 A I don't know that.

1           Q     I just have one further question, Mr. Bilello.  
2     Given your understanding today, not any time in the past but  
3     given your understanding today, why was it important in 1982,  
4     1983, 1985 or later, even 1988 of this year, whether or not  
5     LILCO had a copy of your emergency operations plan?

6           A     I have no idea why it was important.

7           Q     You have no idea?

8           A     No.

9           MR. CUMMING: Thank you.

10          JUDGE GLEASON: Mr. Zahnleuter?

11          MR. ZAHNLEUTER: Before I ask my first question, I  
12     move to strike the testimony elicited by Mr. Cumming because  
13     it demonstrated no relevance to this proceeding.

14          JUDGE GLEASON: The motion is denied. Please  
15     proceed with your questions if you have any.

16          BY MR. ZAHNLEUTER:

17          Q     Mr. Bilello, Mr. Spivy asked you a question or two  
18     concerning whether SEMO might have known of the county  
19     emergency operations plan prior to May of 1988. Do you recall  
20     those questions?

21          A     Yes.

22          Q     You don't have any personal knowledge that SEMO knew  
23     of the county emergency operations plan prior to May 1988 do  
24     you?

25          A     No.

1 Q You're just assuming that they did?

2 A Yes.

3 MR. ZAHNLEUTER: No more questions.

4 MS. LETSCHE: I have no Redirect.

5 JUDGE GLEASON: All right.

6 MR. SPIVY: One question, Your Honor.

7 JUDGE GLEASON: On what?

8 MR. SPIVY: On the last question asked by Mr.  
9 Zahnleuter.

10 JUDGE GLEASON: One question?

11 MR. SPIVY: One question.

12 JUDGE GLEASON: All right.

13 BY MR. SPIVY:

14 Q What's the basis of your assumption that SEMO knew  
15 of the plans?

16 A I would imagine that they would have knowledge of,  
17 that every community, or the 61 counties in New York has an  
18 emergency operating plan.

19 MR. SPIVY: No further questions.

20 JUDGE GLEASON: Mr. Bilello, you've been very  
21 helpful and we appreciate your coming today. Thank you so  
22 much.

23 THE WITNESS: Thank you.

24 MR. GLEASON: Let's take a five minute break please  
25 before we go to the last witness.



- 1 (Whereupon, a brief recess was taken.)
- 2 (Whereupon, the witness was excused.)
- 3 (Continued on following page.)



1 JUDGE GLEASON: All right. If you want to  
2 proceed.

3 MR. LANPHER: Mr. Chairman, Mr. Frank Petrone has  
4 taken the witness stand.

5 Whereupon,

6 FRANK P. PETRONE  
7 was called as a witness herein, and having been first duly  
8 sworn, was examined, and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. LANPHER:

11 Q. Mr. Petrone, would you please state your full  
12 name?

13 A. Yes, I'm Frank P. Petrone.

14 Q. We keep making that mistake, don't we.

15 Mr. Petrone, by whom are you employed?

16 A. The County of Suffolk.

17 Q. And in what position are you presently employed?

18 A. I'm the Acting Commissioner for the Department of  
19 Fire, Rescue and Emergency Services.

20 Q. How long have you been the Acting Commissioner?

21 A. Just about three weeks.

22 Q. And prior to that, were you employed by Suffolk  
23 County?

24 A. Yes, I was.

25 Q. In what position?

1 A. I was the County Executive Assistant.

2 Q. Was that to Suffolk County Executive Patrick  
3 Halpin?

4 A. Yes, it was.

5 Q. Mr. Halpin took office at the beginning of this  
6 year, correct.

7 A. That's correct.

8 Q. You've been the County Executive Assistant to him  
9 since the beginning of 1988?

10 A. Yes.

11 Q. Prior to that, were you employed by Suffolk  
12 County?

13 A. Yes, I was.

14 Q. In what position?

15 A. I was County Executive Assistant to the former  
16 Acting County Executive, Michael Lagrande.

17 Q. And what were the dates of that employment?

18 A. January 15, 1987 to December 31st, '87.

19 Q. So is it fair to say that you've been employed by  
20 Suffolk County since January 15, 1987 in the various  
21 positions you've described?

22 A. Yes.

23 Q. Were you ever employed by Suffolk County prior to  
24 January 15, 1987?

25 A. Yes, I was.

1 Q. In what position?

2 A. I was an assistant to the then Chief Deputy County  
3 Executive, John Gallagher from January 1980 to approximately  
4 February, '81, at which point then I was an Assistant Deputy  
5 County Executive reporting to John Gallagher responsible for  
6 human services.

7 Q. Am I correct that during the time period 1982  
8 through early 1986, you were employed by the Federal  
9 Emergency Management Agency?

10 A. Yes, sir.

11 Q. Now, Mr. Petrone, have you spoken with any person  
12 concerning the testimony which was given yesterday by  
13 certain New York State witnesses in this proceeding?

14 A. No, I have not.

15 Q. Did you speak with your colleagues, Mr. Bilello,  
16 or Mr. Jones, or anyone else about the testimony that they  
17 gave this morning and afternoon in this proceeding?

18 A. No, I did not.

19 Q. Now, in your position as County Executive  
20 Assistant, did there come a time earlier this year when you  
21 were asked to locate documents in the possession of Suffolk  
22 County related to emergency plans and procedures for nuclear  
23 and non-nuclear emergencies?

24 A. Yes.

25 Q. Could you please describe what your role was?

1           A.    I acted as Liaison for the County with the County  
2 attorneys, our represented county attorneys Kilpatrick and  
3 Lockhart. And my role at that point was to work with the  
4 emergency services division of the Emergency Preparedness  
5 Division in putting together the various documents as  
6 counsel requested.

7           Q.    Do you recall the nature of the documents that  
8 counsel requested you to gather?

9           A.    Yes. Anything to do with emergency planning that  
10 the County uses in their emergency response. And basically  
11 we pulled together the County Emergency Operating Plan at  
12 that point.

13          Q.    You said we pulled together the County Emergency  
14 Operating Plan. What do you mean, we pulled it together?

15          A.    Well, we actually got it and made a copy of it,  
16 and submitted it. I asked Mr. Jones for a copy of it. Mr.  
17 Jones gave me a copy of it which I submitted to counsel.

18          Q.    Do you recall approximately when that was?

19          A.    That was I believe in late Spring.

20          Q.    Of 1988?

21          A.    Yes.

22          Q.    Do you recall whether there were other documents  
23 besides the County Emergency Operations Plan which were  
24 gathered under your direction?

25          A.    Yes. We made an attempt to go through the files

1 with counsel to see if there would be anything else counsel  
2 felt pertinent to LILCO's request. And we did find other  
3 materials, such as logs and a resource manual in terms of  
4 resources utilized by the County.

5 Q. Were you personally involved in reviewing files,  
6 or were files reviewed at your direction or request?

7 A. They were reviewed at my request with Mr. Jones  
8 and a member of counsel from Kilpatrick and Lockhart.

9 JUDGE GLEASON: We have two Mr. Jones' involved  
10 here. Could you --

11 THE WITNESS: I'm sorry. Richard Jones.

12 BY MR. LANPHER:

13 Q. Have any of your references to a Mr. Jones been  
14 other than to Dick Jones who testified earlier today?

15 A. No. Richard Jones.

16 MR. LANPHER: Thank you, Judge.

17 BY MR. LANPHER:

18 Q. Are you aware of any documents which were gathered  
19 at your direction or request which then you decided not to  
20 produce to counsel?

21 A. Not that I can recall.

22 Q. Mr. Petrone, given the dates of your employment  
23 with Suffolk County, is it fair to state that you were not  
24 involved in document production back in 1982 and 1983?

25 A. That's correct.



1 MR. LANPHER: Judge Gleason, this witness is  
2 available for the Board's questions.

3 EXAMINATION

4 BY THE BOARD:

5 JUDGE GLEASON: So your period of duties then if I  
6 can add them together were with the County between '80 and  
7 '82 and '87 to the current date. Is that correct?

8 THE WITNESS: Yes, sir.

9 JUDGE GLEASON: Are you aware of the circumstances  
10 surrounding the submittal of a copy of the Emergency Plan to  
11 a Mr. Kelly?

12 MR. LANPHER: Judge, it's hard to hear you.

13 JUDGE GLEASON: I'm sorry.

14 Did you hear the question?

15 THE WITNESS: Yes, I did.

16 I was aware of it as a result of a meeting that we  
17 had with Mr. Richard Jones, Mr. John Bilello and  
18 representatives of counsel. I was made aware of that at  
19 that time.

20 JUDGE GLEASON: Could you describe the  
21 circumstances of that meeting, when it was held and what was  
22 discussed at that meeting, why it was called and who called  
23 it?

24 THE WITNESS: Well, the meeting was held last  
25 Wednesday, I believe, and it was basically to be sure that



1 we were providing the necessary documentation and documents  
2 that had been requested. And at that point, there was a  
3 discussion and a review in terms of the fact of documents  
4 that had perhaps been submitted, and the availability of the  
5 documents.

6 And it was brought up that Mr. Kelly at that point  
7 did have a document that was released to him.

8 JUDGE GLEASON: And prior to last Wednesday, you  
9 had no such knowledge of such an event occurring?

10 THE WITNESS: No, sir.

11 JUDGE GLEASON: Have you interacted any of your  
12 responsibilities with people who are involved in emergency  
13 planning at the State level for either Seymour or Yaphank?

14 MP. LANPHER: Judge Gleason, can I ask for a  
15 clarification. Do you mean in his responsibilities as an  
16 employee of Suffolk County?

17 JUDGE GLEASON: Yes. In your official  
18 responsibilities?

19 THE WITNESS: The only interaction I had with them  
20 over I'd say the last year, year and a half almost, was that  
21 of discussions surrounding a local emergency planning  
22 committee that would be dealing with hazardous material plan  
23 development as required through the SARA Title II  
24 legislation. That was the extent of my discussions at that  
25 time.

1 JUDGE GLEASON: Do you perform liaison work with  
2 the County legislature?

3 THE WITNESS: As part of my responsibilities with  
4 Shoreham, yes.

5 JUDGE GLEASON: And have your responsibilities  
6 with Shoreham covered the full period from '86 to '88?

7 THE WITNESS: From January '87.

8 JUDGE GLEASON: January '87, the end of '86 to  
9 '88?

10 THE WITNESS: Yes, sir.

11 JUDGE GLEASON: Are you currently still  
12 responsible for that?

13 THE WITNESS: Yes, sir.

14 JUDGE GLEASON: Could you go over again what  
15 participation you've had in this period '87, '88 with  
16 respect to the production of documents and the discovery  
17 process concerning this litigation?

18 THE WITNESS: In this particular litigation, I was  
19 requested by counsel last spring of the discovery requests  
20 that LILCO had and requested to please work with the  
21 Emergency Preparedness Division in attempting to gather the  
22 various documents that would be relevant. My involvement  
23 was basically with Mr. Richard Jones and then later with Mr.  
24 John Bilello.

25 And my involvement basically was working

1 extensively with counsel as we tried to sift the files, or  
2 as Mr. Jones tried to sift the files. And then working with  
3 them almost on a daily basis, I would say, and then meeting  
4 with them and sitting with them on two occasions so that  
5 they themselves could go through the various files to see  
6 what would be pertinent.

7 And that was the extent of my involvement.

8 JUDGE GLEASON: At any of these sessions, did the  
9 appropriateness of certain documents for submission in  
10 discovery ever get discussed?

11 Is my question clear?

12 THE WITNESS: Yes, sir, it is.

13 I really can't recall if there were any  
14 discussions on how pertinent a document was. I think what  
15 our position was at that point, and counsel's position  
16 basically was that whatever would be relevant or anything to  
17 do with emergency planning at that point would be submitted  
18 to LILCO. And so I don't recall any incident where we came  
19 across a document and decided that this would not be  
20 relevant. I think pretty much everything we came across was  
21 submitted.

22 JUDGE GLEASON: Were you aware of the fact that  
23 the document that we're talking about, the so-called Suffolk  
24 County Emergency Operating Plan, had been submitted on two  
25 different occasions, according to testimony here to the

1 attorneys?

2 MR. LANPHER: Judge, please, could I ask for a  
3 clarification?

4 Were you aware at what time? When he was starting  
5 this document search?

6 JUDGE GLEASON: At any time, were you aware -- I'm  
7 not talking of course -- I'm talking obviously before you  
8 made the request in 1988. Were you aware of the fact that  
9 the Suffolk County Emergency Operating Plan had been made  
10 available in the discovery process, as has been alleged, on  
11 several occasions prior to that?

12 THE WITNESS: I was made aware of it through  
13 counsel that when we came across the Emergency Plan at that  
14 point, counsel felt that they had submitted this. That  
15 statement was made at our initial meeting with counsel, Mr.  
16 Jones at the ERC and Yaphank.

17 JUDGE GLEASON: Which members of the counsel are  
18 you referring to? Mr. Lanpher?

19 THE WITNESS: Ms. Taylor and Mr. Lanpher.

20 JUDGE GLEASON: Did you get involved in the actual  
21 operating end -- in your duties, I mean -- during this last  
22 two year period, have you been involved in any emergency  
23 responses by Suffolk County?

24 THE WITNESS: No, I have not, sir.

25 JUDGE GLEASON: Those outside of your general line

1 of duty except the current one?

2 THE WITNESS: As of three weeks ago, yes.

3 JUDGE GLEASON: Was there a particular reason that  
4 you have now changed your responsibility from where you were  
5 to where you are?

6 THE WITNESS: Well, the County Executive asked me  
7 to go over as Acting Commissioner a week or two following  
8 the resignation of the Commissioner, Mr. Herbert Davis. And  
9 at that point, he requested my services.

10 JUDGE GLEASON: Is that viewed as a temporary  
11 assignment?

12 THE WITNESS: Who can I ask that question, sir?

13 JUDGE GLEASON: Well, I don't know. Maybe Mr.  
14 Petrone is not interested in becoming permanently the  
15 Commissioner of the Department of Fire and Rescue Services.  
16 I don't know.

17 I just wonder if it's some times you have to have  
18 somebody heading up a department for a short period of time,  
19 even though that's not their background, but they're fairly  
20 competent handling administrative matters. So that's why I  
21 asked that question.

22 THE WITNESS: I haven't been told at this point  
23 that I could have the job if I wanted it. There is a  
24 process in the County for that particular position. There's  
25 a Commission for the Department which reviews candidates and

1 submits recommendations to the County Executive, at which  
2 point he submits a recommendation to the legislature. And  
3 then through their committee process, and then through them  
4 as a body as a whole make the appointment.

5 I have submitted my resume to the Commission.

6 JUDGE GLEASON: You have?

7 THE WITNESS: Yes.

8 JUDGE GLEASON: That's fine. That answers that  
9 question.

10 Are you familiar with the Emergency Plan of the  
11 Applicant in this proceeding?

12 THE WITNESS: I'm only familiar with it as it  
13 relates to any direction through counsel for litigation  
14 purposes, parts of it. I have not reviewed the entire plan  
15 myself.

16 JUDGE GLEASON: You haven't reviewed it from the  
17 point of view of how it is intended to interface, if you  
18 will, or tie in with resources at the County level?

19 THE WITNESS: That's correct.

20 JUDGE GLEASON: You have not?

21 THE WITNESS: No, I have not.

22 JUDGE GLEASON: Are you familiar with the  
23 Emergency Plan of the Brookhaven National Laboratory?

24 THE WITNESS: No, I'm not, sir.

25 JUDGE GLEASON: Have you testified in these



1 proceedings before? Have I asked that question?

2 THE WITNESS: I testified in a proceeding  
3 approximately a year ago on emergency planning. The  
4 proceeding was dedicated basically to the FEMA exercise of  
5 1986.

6 JUDGE GLEASON: Was it an OL-5 proceeding?

7 THE WITNESS: I couldn't recall.

8 JUDGE GLEASON: Is that right, Mr. Lanpher?

9 MR. LANPHER: Yes, that's right.

10 JUDGE GLEASON: And what was the scope of your  
11 testimony at that particular time?

12 THE WITNESS: The scope of the testimony basically  
13 was the exercise that was conducted by FEMA in 1986 and the  
14 relevance to a full participation exercise.

15 JUDGE GLEASON: Could you amplify that just a  
16 little bit?

17 MR. LANPHER: Judge Gleason, could I help, and  
18 maybe speed things up on that?

19 JUDGE GLEASON: You're always in favor of speeding  
20 things up, you know that.

21 MR. LANPHER: To be specific, my recollection is  
22 that Mr. Petrone testified on contentions EX-15 and 16 in  
23 which there was an allegation that the February 13, 1986  
24 exercise of the Shoreham emergency plan did not comply with  
25 Appendix E full participation exercise requirements. And a

1 partial initial decision last December, LPB 87-32, that  
2 contention was upheld, and it's on appeal right now before  
3 the Appeal Board.

4 And I believe the only testimony that Mr. Petrone  
5 gave was as part of a panel of other Suffolk County and New  
6 York State witnesses concerning whether that exercise met  
7 full participation requirements.

8 JUDGE GLEASON: Does that generally comport with  
9 your recollection?

10 THE WITNESS: Yes, sir.

11 JUDGE GLEASON: Thank you.

12 JUDGE SHON: Mr. Petrone, in late May there was a  
13 copy of Suffolk County Emergency Operations plan turned over  
14 pursuant to a discovery order to LILCO's attorneys through  
15 your attorneys.

16 Am I right that that copy was a copy you obtained  
17 from Mr. Richard Jones and gave to Mr. Frank Jones? Is that  
18 right? Were you the --

19 THE WITNESS: No, I obtained that copy in May '88  
20 from Mr. Richard Jones, and I submitted that copy to  
21 counsel.

22 JUDGE SHON: Oh, you gave it directly to counsel,  
23 I see.

24 THE WITNESS: Directly.

25 JUDGE SHON: Mr. Frank Jones did come up I think

1 in connection with that, but I don't know exactly in what  
2 connection.

3 When you did that at the time you did that, were  
4 you aware that in early May, a copy of that same plan had  
5 been given to a Mr. Jerry Horton of SEMA of the New York  
6 Office?

7 THE WITNESS: I was made aware of that at our most  
8 recent meeting last Wednesday with the division and counsel  
9 that that was given to Mr. Horton for review purposes.

10 JUDGE SHON: But in late May when you obtained the  
11 copy for your attorneys, you didn't know of that, is that  
12 --?

13 THE WITNESS: I don't believe so, sir. I don't  
14 believe so. I think it was last week.

15 JUDGE SHON: In late May, were you aware of the  
16 fact that a copy had also been given to one Norman Kelly of  
17 LILCO in 1985?

18 THE WITNESS: In late May? No, I was not aware of  
19 that.

20 JUDGE SHON: I see. You found that out only last  
21 week?

22 THE WITNESS: Yes, sir.

23 JUDGE SHON: Thank you, that's all I have.

24 JUDGE GLEASON: All right, Mr. Spivey, the witness  
25 is yours.

## 1 CROSS EXAMINATION

2 BY MR. SPIVEY:

3 Q. Mr. Petrone, when you said that you first  
4 undertook this document search in late Spring, do I take it  
5 now in response to Judge Shon's answers that it was after  
6 the Order of May 10?

7 A. Yes, sir. It was after counsel informed me of  
8 your request.

9 Q. Did counsel inform you that the Board had ordered  
10 the plan produced at that time?

11 A. Yes, sir.

12 MR. LANPHER: I object to the question. The Board  
13 didn't order the plan produced. The Board ordered us to  
14 comply with discovery. The implication of that question and  
15 answer was that the Board had made a specific directive  
16 concerning this plan.

17 JUDGE GLEASON: Do you accept the correction, Mr.  
18 Spivey?

19 MR. SPIVEY: Yes, sir, I'll take the correction.

20 JUDGE GLEASON: All right, thank you.

21 BY MR. SPIVEY:

22 Q. Mr. Petrone, are you aware today that the first  
23 time this plan was produced in this May sequence that the  
24 plan that was produced was an out-dated plan?

25 A. I'm aware today, sir.

1 Q. When did you become aware of that?

2 A. I became aware of that last Wednesday at a meeting  
3 with counsel.

4 Q. Did you have any involvement in furnishing the  
5 current master plan as it's been called by other witnesses?

6 A My involvement was working with counsel last  
7 Wednesday, and then requesting of the Emergency Preparedness  
8 Division through Mr. Jones to make available to counsel an  
9 update of that plan so counsel could submit that.

10 Q. I see.

11 Now, was it last Wednesday that you heard for the  
12 first time that the Suffolk County attorneys thought that  
13 they had produced this plan in earlier years, say, in 1982,  
14 1983?

15 A. No, sir, I believe it was our first meeting which  
16 was a few weeks prior to that.

17 Q. Who was present at that meeting?

18 A. That meeting was Mr. Lanpher and Ms. Taylor and we  
19 met with the Emergency Preparedness Division in Yaphank.

20 Q. Did you gain an understanding at that meeting as  
21 to what form the plan appeared in when it was produced in  
22 earlier years?

23 A. The only recollection I have is that counsel at  
24 that point felt that they had submitted this document in  
25 earlier years through their own statements.

1 Q. The very same document that you were then  
2 discussing?

3 A. Yes, I believe so.

4 Q. That's your best recollection?

5 A. Yes, it is, sir.

6 Q. Now, I didn't mean to trap you or trick you. I've  
7 tripped myself. But when we're talking about in the very  
8 same form, do you mean the first one that was produced or  
9 the second one that was produced?

10 A. The first one, I believe.

11 Q. All right.

12 And you first learned that Mr. Kelly allegedly got  
13 a copy of the plan at the meeting last Wednesday?

14 A. That's correct.

15 Q. Who said that?

16 MR. LANPHER: Excuse me. Can I ask for a  
17 clarification.

18 Who said what?

19 BY MR. SPIVEY:

20 Q. Who said that Mr. Kelly had a copy of the plan.

21 MR. LANPHER: Thank you.

22 THE WITNESS: I believe in our discussions that it  
23 came out through Mr. Richard Jones.

24 BY MR. SPIVEY:

25 Q. And who was present at the meeting?



1           A.    Mr. Richard Jones, Mr. John Bilello, Mr. Larry  
2   Lanpher, Ms. Taylor, Ms. Letsche, and myself.

3           Q.    What were the circumstances in which Mr. Jones  
4   related this information?

5           A.    I believe it was just, it was a brief discussion  
6   in terms of the fact that this plan had been previously  
7   submitted, and at that point, it was brought to my  
8   attention, and I don't remember the particulars of how  
9   specifically, but it was brought to my attention that Mr.  
10   Kelly did have a copy of the plan and that it was submitted  
11   to him.

12          Q.    Did you attach any significance to Mr. Jones'  
13   comment?

14          A.    The only significance I would attach is the fact  
15   that obviously this plan has been widespread.

16          Q.    What do you mean by widespread?

17          A.    Well, obviously, I think if they give it to Mr.  
18   Kelly, and counsel for the county testified -- strike that  
19   -- not testified but stated to me that they submitted the  
20   plan at an earlier time frame, my only best feeling on that  
21   is basically it's been out. Somebody else had it and it's  
22   been somewhere else other than in the Suffolk EOC.

23          Q.    In your present position, were you upset to learn  
24   that Mr. Kelly had been given a copy of the plan?

25          A.    As Acting Commissioner, I'd be concerned in terms

1 of any type of document that would be released from the  
2 department that I have responsibility for without my  
3 knowledge.

4 Q. Is it your understanding that Mr. Jones gave Mr.  
5 Kelly the plan?

6 A. That's my understanding.

7 Q. Do you have any understanding whether or not  
8 anyone remonstrated with Mr. Jones for giving out the plan?

9 A. No, sir.

10 MR. SPIVEY: May I have just a moment, Your Honor.

11 BY MR. SPIVEY:

12 Q. Mr. Petrone with respect to this search for  
13 documents that you've just described, was there only one  
14 search or more than one search to the best of your  
15 knowledge?

16 A. To the best of my knowledge, we did two extensive  
17 searches; one several weeks ago, the initial search, and  
18 then at counsel's request, we did another search last  
19 Wednesday to be sure that any and all documents relevant to  
20 the request would be submitted.

21 Q. Was that the first time that counsel became  
22 personally involved in the search?

23 A. No. Counsel became personally involved a few  
24 weeks prior, and as I testified, Ms. Taylor, Mr. Larpher at  
25 one meeting and then counsel again last Wednesday became

1 involved and at that meeting was Ms. Letsche, Mr. Lanpher,  
2 Ms. Taylor.

3 Q. Was counsel involved in the first search following  
4 the May 10 order of the Board?

5 A. Yes, I believe so.

6 Q. And where did that search take place?

7 A. At the County EOC at Yaphank, which houses the  
8 Offices of the Emergency Preparedness Division.

9 Q. Was the current updated emergency operating plan  
10 at the EOC at the time the first search was made?

11 A. Yes, sir.

12 Q. Mr. Petrone, to your understanding, was the scope  
13 of the search the same on both occasions?

14 A. I believe the initial search was of course through  
15 files, and through file cabinets. I believe the subsequent  
16 search was again through the same file cabinets to be sure  
17 that everything had been provided. I believe they were the  
18 same.

19 Q. So you think they were the same?

20 A. Yes, I believe so.

21 Q. You don't recall looking for anything additionally  
22 in the second search?

23 A. Not that I can recall.

24 MR. SPIVEY: Excuse me just one moment, Your  
25 Honor.

1 BY MR. SPIVEY:

2 Q. Mr. Petrone, do you recall your deposition being  
3 taken on April 25, 1988, in Hauppauge?

4 A. Yes, sir.

5 Q. And on that occasion, do you recall being asked  
6 about the existence of an emergency plan?

7 A. I believe so.

8 Q. Prior to your deposition, had you told counsel  
9 that there was an existing emergency plan for Suffolk  
10 County?

11 A. I can't recall whether I told them or not. I  
12 can't recall. Prior to the deposition?

13 Q. Prior to the deposition.

14 A. No, I can't recall.

15 Q. After the deposition, did you tell them there was  
16 such a plan?

17 A. Yes.

18 Q. Who did you tell that to?

19 A. Right at the deposition, I mean, that came right  
20 out when Mr. Michael Miller, counsel was present.

21 Q. Did you have any discussions with Mr. Miller after  
22 the deposition?

23 A. No, not in particular. I don't think it was a big  
24 surprise, the plan.

25 Q. Did he ask you for the plan?

1 A. No, he did not.

2 Q. Mr. Petrone, do you recall at the deposition, you  
3 described the emergency plan as an all encompassing plan?

4 MR. LANPHER: Excuse me, Judge Gleason?

5 JUDGE GLEASON: Excuse me. If he's got an  
6 objection, I haven't heard the question.

7 MR. LANPHER: This goes before the question. If  
8 he's going to be referring to questions from the deposition,  
9 I'd like to have a copy of the transcript.

10 JUDGE GLEASON: All right. Do you have a copy  
11 available?

12 MR. SPIVEY: I only have one copy, Your Honor.  
13 It's the deposition taken on April 25, 1988, of Mr. Petrone  
14 by Mr. Davis.

15 May I show it to the witness and we'll have Mr.  
16 Lanpher come look at it?

17 MR. LANPHER: Do you have a page number?

18 MR. SPIVEY: Yes, sir, page 24, line 7.

19 THE WITNESS: Is there a question?

20 MR. SPIVEY: Just as soon as the witness is --

21 BY MR. SPIVEY:

22 Q. Are you ready, Mr. Petrone?

23 A. Yes, sir.

24 Q. Now, does this deposition refresh your  
25 recollection as to your testimony?

1 A. Yes.

2 Q. All right, sir. And would you tell the members of  
3 the Board how you described the plan on April 25, 1988?

4 A. I described it basically that the County has an  
5 emergency plan.

6 JUDGE GLEASON: Why don't you read the question?

7 THE WITNESS: Yes, can I read it? It'll be much  
8 easier --

9 JUDGE GLEASON: Because that's the only way we  
10 know what's going on.

11 THE WITNESS: Okay. The question pending is  
12 whether the County of Suffolk has a civil defense plan.  
13 Part of the question, I think.

14 The answer was, okay. From what I can recall, the  
15 County of Suffolk has an emergency plan and as part of an  
16 emergency plan through New York State, and through ultimate  
17 Federal funding, they do have some semblance of a civil  
18 defense component.

19 BY MR. SPIVEY:

20 Q. Now, would you read the next question and answer  
21 please?

22 A. Question. When you say, some semblance of a civil  
23 defense component, is that how you characterize the civil  
24 defense plan?

25 Answer. Basically, if we could look back to what



1 the Federal Government has required, and that is that they  
2 have been requiring for many years an all-encompassing type  
3 of emergency planning provided that there were no other  
4 regulations that were promulgated through the Federal  
5 Government that required specific planning for specific  
6 types of emergencies, and civil defense was a component that  
7 is part of an overall generic type of emergency type of  
8 planning.

9 Q. Now, my question to you, Mr. Petrone, is when you  
10 were making that answer and referencing that emergency plan,  
11 did you have in mind what we have been referring here today  
12 as the Suffolk County emergency plan?

13 A. Yes.

14 MR. SPIVEY: No further questions, Your Honor.

15 JUDGE GLEASON: I just have one very brief  
16 question.

17 Mr. Petrone, when you were advised I guess last  
18 Wednesday that a copy of the Suffolk Emergency Operating  
19 Plan had been provided to Mr. Kelly, you indicated that that  
20 was the first time you heard that information, is that  
21 correct?

22 THE WITNESS: Yes, sir.

23 JUDGE GLEASON: Were you surprised about that  
24 information?

25 THE WITNESS: Yes.

1 JUDGE GLEASON: Thank you.

2 Ms. Clark, are you ready to proceed?

3 MS. CLARK: Just a couple of questions.

4 CROSS EXAMINATION

5 BY MS. CLARK:

6 Q. Mr. Petrone, just a couple of questions.

7 First, just to clarify one matter, following the  
8 May 10 discovery request, did you conduct two or three  
9 searches for documents?

10 A. Two searches.

11 Q. Both of those searches then were conducted with  
12 the aid of counsel?

13 A. Yes.

14 Q. Getting back briefly to your meeting last  
15 Wednesday when you were informed by Mr. Jones about the fact  
16 that Mr. Kelly had been provided with a copy of the LILCO  
17 plan, could you just -- I know you've discussed --

18 MR. LANPHER: Excuse me. Not the LILCO plan.

19 BY MS. CLARK:

20 Q. Oh, I'm sorry. The Suffolk County Operations  
21 Plan. I know we discussed this briefly before, but could  
22 you give me some idea of the context in which that subject  
23 came up during the conversation?

24 A. I believe it just came out really in general  
25 conversation. At one point there was a conversation that

1 they had felt again that this plan was previously submitted  
2 by the County and that it was in the hands of LILCO. And at  
3 that point, I believe it came up that Mr. Kelly also had  
4 been given the plan. And that was my first indication that  
5 that had taken place.

6 Q. And it was Mr. Jones who provided that information  
7 during the meeting?

8 A. I believe so.

9 Q. Did you get at the time, did you get any  
10 impression as to why Mr. Jones thought it was significant  
11 that Mr. Kelly had been provided the plan when indeed the  
12 counsel for Suffolk County is convinced that LILCO was  
13 previously provided with copies of that plan on two  
14 occasions.

15 MR. LANPHER: I object to the question on both  
16 those grounds. She's asking for speculation about what Mr.  
17 Jones thought. Second, her question said why Mr. Richard  
18 Jones thought this was significant and I don't want to be  
19 talking about other people's testimony because of your  
20 order, previously. Judge, but I think she's mischaracterized  
21 other testimony. Third, the question was convoluted and I  
22 can't understand it.

23 JUDGE GLEASON: It was convoluted.

24 MS. CLARK: I'm sorry, I'll try to rephrase the  
25 question.

1 BY MS. CLARK:

2 Q. Let me ask you this, Mr. Petrone. At the time the  
3 subject came up, did you think it was significant that Mr.  
4 Kelly had been provided a copy of this plan?

5 A. Yes.

6 Q. Why did you think that in light of the fact that  
7 you were aware or were under the impression that LILCO had  
8 previously been provided the plan by Suffolk County?

9 A. Well, it was significant in the fact that I was  
10 informed then at that point too that Mr. Kelly was employed  
11 by LILCO, and that significant to me with respect to the  
12 fact that if counsel had been stating that they submitted  
13 the plan, and then of course Mr. Kelly was given a copy of  
14 the plan, it led me to believe that the plan was at that  
15 point in time widespread.

16 MS. CLARK: Very well.

17 I believe that concludes our questioning.

18 Thank you.

19 JUDGE GLEASON: Mr. Cumming?

20 MR. CUMMING: I have one question, Judge Gleason.

21 CROSS EXAMINATION

22 BY MR. CUMMING:

23 Q. Mr. Petrone, my name is William R. Cumming, and  
24 I'm counsel for FEMA.

25 During your time as Regional Director of FEMA

1 Region II, did either the State of New York or any of its  
2 subunits in the State Government or Suffolk County or any of  
3 its subunits request either formally or informally a waiver  
4 of any FEMA regulation with respect to emergency planning?

5 MR. LANPHER: I object, Judge Gleason, as  
6 unconnected with this proceeding.

7 JUDGE GLEASON: It may or may not be. I can't  
8 determine that at the present time.

9 MR. LANPHER: Well, I think you ought to request  
10 counsel for FEMA to make a proffer on how its relevant, and  
11 then you should rule on the objection.

12 JUDGE GLEASON: Well, let's let him proceed. The  
13 objection's denied.

14 Answer the question, please.

15 THE WITNESS: Bill, can you repeat that again?

16 BY MR. CUMMING:

17 Q. To the extent that you have a recollection today,  
18 do you remember during your tenure as Director of FEMA  
19 Region II, do you remember if the State of New York or any  
20 of the subunits of the State Government, administrative  
21 subunits of the State Government or Suffolk County or any of  
22 its subunits, requesting from you as a regional director,  
23 any waiver or exemption from any FEMA regulation concerning  
24 emergency planning, or the requirement to emergency plan?

25 A. I can't remember anything specific. I know that

1 there was discussion with New York State over various  
2 things, and whether it was relevant to Suffolk County, I  
3 can't recall.

4 Q. But you have no specific recollection of the State  
5 Government requesting any such exemption on behalf of  
6 Suffolk County?

7 A. I can't recall. It's over three years.

8 JUDGE GLEASON: Mr. Zahnleuter?

9 MR. ZAHNLEUTER: No questions.

10 MR. LANPHER: No questions, Judge.

11 JUDGE GLEASON: All right. We thank you very  
12 much, Mr. Petrone. Your testimony's been very helpful.

13 THE WITNESS: Thank you.

14 (Witness is excused.)

15 JUDGE GLEASON: And that concludes our session for  
16 the day, and we shall be seeing you all on Thursday.

17 So that we don't get witnesses backed up here,  
18 whom do we want to start with, and have you discussed this  
19 amongst yourselves. I know that you'd rather not have your  
20 witness come, and if you're going to raise that again, why  
21 go ahead, raise it.

22 MR. ZAHNLEUTER: Well, as a matter of fact, I have  
23 been asked to ask the Board to reconsider its request that  
24 Dr. Axelrod appear on Thursday. And I base my motion on new  
25 facts that have been presented in the testimony of Mr.



1 Papile and Mr. DeVito. And I specifically refer to the  
2 transcript pages 20,965 through 968, and 21,098 through  
3 21,108, and in those pages, facts are presented to the  
4 effect that Dr. Axelrod had no role in the production of  
5 documents by REPIC and no role in the production of  
6 documents by SEMA. And in fact, as the Chairman of the  
7 Disaster Preparedness Commission, he wouldn't be expected to  
8 have any such role in any document production because those  
9 matters are left to the individual agency heads.

10 On that basis, I think there's enough evidence in  
11 the record to show that Dr. Axelrod's appearance would not  
12 be productive. And on that basis, I ask the Board to  
13 reconsider its request that he appear because he is a very  
14 important man who has an awful lot to do in State  
15 Government. And I'd appreciate a reconsideration of the  
16 prior request.

17 JUDGE GLEASON: Mr. Sisk?

18 MR. SISK: LILCO's position has been stated  
19 several times, and I don't think it's necessary to repeat  
20 it.

21 JUDGE GLEASON: We think he's a very important  
22 man, Mr. Zahnleuter. Obviously, he's very important. He's  
23 a very key individual, you know. If he wouldn't have been,  
24 you wouldn't offered his testimony in realism issues. And  
25 the mere fact that he doesn't actually produce plans himself

1 really does not cover the complete area which this inquiry  
2 covers.

3 So I think he has to be here, and we can't really  
4 change our decision with regard to him. I would suggest  
5 that if we can, we could work out a time accommodation that  
6 would maybe make it a little bit more convenient with  
7 counsel for applicants, but I leave that to you two to do.

8 MR. SISK: We are more than happy to work morning  
9 or afternoon, whichever Dr. Axelrod prefers.

10 MR. ZAHNLEUTER: Dr. Axelrod is a key policymaker  
11 and that is the reason why he was presented as a witness in  
12 the realism proceeding. But the point is that the realism  
13 best efforts proceeding is not this proceeding.

14 This is a proceeding regarding the integrity of  
15 the NRC's rules. And the State of New York's position is  
16 that he doesn't have any information to offer on that issue.  
17 And it would be unreasonable to require him to appear in  
18 this proceeding.

19 JUDGE GLEASON: Well, we'll only know that after  
20 he's here, so he will have to appear on Thursday.

21 MR. ZAHNLEUTER: I feel compelled to inform the  
22 Board and the parties that regretfully, Dr. Axelrod declines  
23 the Board's request to appear.

24 JUDGE GLEASON: Then we'll just issue a subpoena  
25 for his attendance.

1 MR. SISK: Judge Gleason, we will request a  
2 subpoena and we will try to inform the Board of that in  
3 writing shortly. We have not yet determined whether the  
4 location of the hearings might need to be moved in order to  
5 effectuate that.

6 JUDGE GLEASON: All right. Why would the hearings  
7 have to be relocated somewhere else?

8 MR. SISK: Judge Gleason, we're still doing our  
9 research on that topic. I don't know whether they would be  
10 or not.

11 JUDGE GLEASON: I don't think they should be, if  
12 you want my opinion.

13 MS. YOUNG: Judge Gleason, I might also add that  
14 the questions that I asked of Mr. DiVito yesterday regarding  
15 LILCO Exhibit 19, which is a guide published by New York  
16 State, Mr. DiVito indicated he didn't know when the document  
17 was prepared and who prepared it.

18 JUDGE GLEASON: That concludes our --

19 MR. SISK: Judge Gleason, I'm sorry. I don't  
20 think we've dealt with the matter of Mr. Shepherd that we  
21 had requested on --

22 JUDGE GLEASON: Well, I think she indicated that  
23 she was going to provide that information on Thursday.

24 MR. SISK: Okay, very well. I missed that and I'm  
25 sorry.

1 JUDGE GLEASON: Thank you all, and we'll see you  
2 at 9:30 on Thursday morning.

3 MR. SISK: Your Honor, if you could just order Mr.  
4 Zahnleuter to have Mr. Axelrod here?

5 JUDGE GLEASON: I think I have ordered him to.

6 MR. SISK: And I think he would be in contempt if  
7 he does not, and the State of New York will be in contempt  
8 if he is not produced on Thursday. I don't think a subpoena  
9 is really necessary. I think if there is a subpoena, he  
10 should await for it to be issued by you from the bench right  
11 now. And he ought to be ordered to wait until you prepare  
12 and write that subpoena for Mr. Axelrod to appear on  
13 Thursday.

14 MR. REIS: Judge Gleason, I agree with the  
15 Staff's position that the Board has authority to order a  
16 party to produce a witness irrespective of a subpoena and  
17 that that can be effectuated from anywhere in the country.

18 JUDGE GLEASON: All right. You are ordered to  
19 produce the witness, and if you refuse to produce the  
20 witness on Thursday, I will issue the subpoena before you  
21 leave today.

22 MR. ZAHNLEUTER: I wish to make a statement then  
23 on my own behalf that as I understand the Board's order, the  
24 State of New York is ordered to produce Dr. Axelrod. I  
25 disagree with Mr. Reis' representations that I personally am

1 in contempt of anything. I am counsel to the State and I am  
2 merely representing the State's interest.

3 JUDGE GLEASON: You've been advised by Dr. Axelrod  
4 that he will not testify here on Thursday?

5 MR. ZAHNLEUTER: I have already stated that Dr.  
6 Axelrod regretfully declines to comply with the Board's  
7 request to attend.

8 JUDGE GLEASON: When were you advised of that  
9 information?

10 MR. ZAHNLEUTER: It's been discussed and the  
11 reason why I was a few minutes late to Mr. Petrone's  
12 testimony this afternoon, was because that was when I was  
13 advised by telephone with my office.

14 JUDGE GLEASON: All right. Well, we'll issue the  
15 subpoena so just wait around for it before you go.

16 Thank you.

17 Thank you all.

18 (Whereupon, at 4:45 p.m., the hearing was  
19 recessed, to reconvene on Thursday, July 23, 1987, at  
20 9:30 a.m., in the same place.)

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CERTIFICATE

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This is to certify that the attached proceedings before the  
United States Nuclear Regulatory Commission in the matter of:  
Name: LONG ISLAND LIGHTING COMPANY (Shoreham Nuclear Power  
Station, Unit 1)

Docket Number: 50-322-OL-3

Place: Bethesda, Maryland

Date: July 12, 1988

were held as herein appears, and that this is the original  
transcript thereof for the file of the United States Nuclear  
Regulatory Commission taken stenographically by me and,  
thereafter reduced to typewriting by me or under the direction  
of the court reporting company, and that the transcript is a  
true and accurate record of the foregoing proceedings.

/s/ Joan Rose

(Signature typed): Joan Rose

Official Reporter

Heritage Reporting Corporation