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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE
DOCKETING & SERVICE
BRANCH

Before the Atomic Safety and
Licensing Board

In the Matter of

LONG ISLAND LIGHTING COMPANY
SHOREHAM NUCLEAR POWER STATION
UNIT 1

:
:
Docket
: 50-322-
OL-3
: (Emergency
Planning)
:
:-----
-x

April 29, 1988
9:05 a.m.

Deposition of DONALD DeVITO, taken by
LILCO, pursuant to Notice and Board Order,
at the State Capitol Building, Washington,
Avenue and State Street, Albany, New York, before
Michael H. Stephany, a Certified Shorthand
Reporter and Notary Public within and for
the State of New York.

Case No. Official Exhibit No. 18
50-322-OL-3

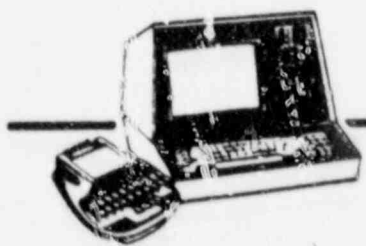
(GC, Board, Party)
Disposition: Identified
Rejected _____ Received _____

IN THE MATTER OF:
LILCO

Date: 7-11-88 Witness: Reporter: DWS

No. Pages:

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Computerized Transcription

Doyle Reporting, Inc.
CERTIFIED STENOTYPE REPORTERS

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

De Vito 1
DEFT. EXH. 10
PLF. EXH. IN. EV. _____
MICHAEL H. STEPHANY, CSR
DOYLE REPORTING INC.

Before the Atomic Safety and Licensing Board

In the Matter of)
)
LONG ISLAND LIGHTING COMPANY) Docket No. 50-322-OL-3
) (Emergency Planning)
(Shoreham Nuclear Power Station,) (Best Efforts Issue)
Unit 1))

4/29/88
MS.

NOTICE OF DEPOSITION

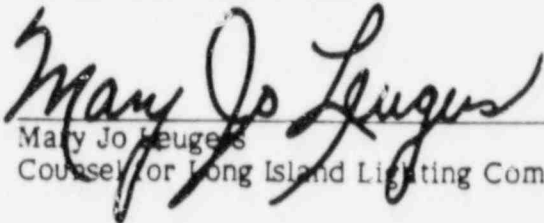
PLEASE TAKE NOTICE that the Long Island Lighting Company, by counsel, pursuant to 10 C.F.R. § 2.740a of the Nuclear Regulatory Commission's Rules of Practice, will take the deposition upon oral examination of Donald DeVito on matters concerning New York State's and Suffolk County's participation in a "best efforts" response to a Shoreham emergency as it relates to Contentions EP 1-2, 4-8, and 10. The deposition will be taken before a notary public and court reporter on Friday, April 29, 1988, at 9:00 a.m. and thereafter until the taking of the deposition may be completed, in room 214 of the Capitol Building, Albany, New York.

The deponent is directed to produce at the deposition, for inspection and copying, any and all documents, including without limitation notes, records, reports, memoranda, correspondence, studies, analyses, papers, writings, photographs, recordings, and other materials of any kind or nature whatsoever, in his possession, custody or control or in the possession, custody or control of representatives, employees, attorneys, assigns, or anyone acting on his behalf, which relate to the issue stated above, to include those documents requested to be produced in "LILCO's Second Set of Interrogatories and Requests for Production of Documents Regarding Contentions 1-2, 4-8, and

10 to Suffolk County, New York State, and the Town of Southampton," dated March 24, 1988. These documents should include, but are not limited to:

- 1) A true copy of the current New York State Radiological Emergency Preparedness Plan;
- 2) A true copy of the current New York State Disaster Preparedness Plan, specifically including any and all portions, appendices, attachments, or exhibits that involve or pertain to Suffolk County, and specifically include any Suffolk County disaster plan;
- 3) Any and all radiological emergency preparedness plans that cover or provide for any response by New York State or Suffolk County to a radiological emergency at any nuclear facility located in Connecticut, including any and all such plans sponsored by or received from the State of Connecticut or subdivision or local government thereof;
- 4) All documentation of the training and drills conducted or to be conducted by Suffolk County or New York State in connection with any radiological emergency response plan for Millstone, Haddam Neck, or Indian Point nuclear power plants, specifically including any portions of such plans for the ingestion exposure pathway for any of these plants; and
- 5) A true copy of any radiological emergency response plan, or any draft thereof, for the Shoreham Nuclear Power Station, reviewed in whole or in part by the DPC or REPG, including any notes or other documentation concerning the results of any such review, and including any such review conducted in whole or in part in 1982 or 1983.

Respectfully submitted,


Mary Jo Leuges
Counselor Long Island Lighting Company

Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

DATED: April 27, 1988

CERTIFICATE OF SERVICE

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-3

I hereby certify that copies of NOTICE OF DEPOSITION for Donald DeVito were served this date upon the following by telecopy as indicated by one asterisk, by Federal Express as indicated by two asterisks, or by first-class mail, postage prepaid.

James P. Gleason, Chairman
Atomic Safety and Licensing Board
513 Gilmoure Drive
Silver Spring, Maryland 20901

Richard G. Bachmann, Esq. **
U.S. Nuclear Regulatory Commission
Office of the General Counsel
Washington, D.C. 20555

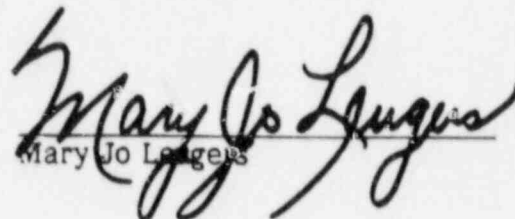
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Mr. Donald J. DeVito **
Director of the State Emergency
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Albany, New York 12236


Mary Jo Lengua

Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

April 27, 1988

A p p e a r a n c e s :

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BY: LAWRENCE COE LANPHER, ESQ.,

of Counsel

RICHARD ZAHNLEUTER, ESQ.
Deputy Special Counsel to the
Governor
Executive Chamber
Room 229
The Capitol
Albany, New York 12224

oDo

IT IS HEREBY STIPULATED AND AGREED by and among the attorneys for the respective parties hereto that the sealing and filing of the within deposition be, and the same hereby are, waived; and that the transcript may be signed before any Notary Public with the same force and effect as if signed before the Court.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of trial.

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D O N A L D D e V I T O, having been
first duly sworn by the Notary Public
(Michael H. Stephany), was examined and
testified as follows:

MR. SISK: Let the record reflect
that this deposition is convening pursuant
to notice from Long Island Lighting Company
under the Federal Rules of Civil Procedure
and the NRC Rulings of Practice.

The deposition is beginning shortly
after 9 a.m. I have been informed by
counsel for the state that the witness will
be available from 9 this morning until
noon. We plan to begin another panel
deposition at 1 p.m. today.

As with previous depositions, LILCO
will exert its best efforts to complete
this deposition within that time between 9
and noon. If it is not possible to
complete the deposition, we will ask that
it be continued this evening, tomorrow or
from day to day until it is completed.

Is my understanding correct, Mr.
Zahnleuter, that the witness will be

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available only until noon today?

MR. ZAHNLEUTER: That's correct. I object to any possible continuation beyond that time, but hopefully it won't be necessary.

MR. SISK: We will do the best we can.

EXAMINATION BY MR. SISK:

Q. Let me ask preliminarily, Mr. DeVito, have you brought any documents with you to the deposition today?

A. No, I haven't.

MR. SISK: Let me hand to the reporter and ask that it be marked as Exhibit 1 to this deposition, a copy of a notice from Long Island Lighting Company dated April 27, 1988 entitled "Notice of Deposition."

I will ask the reporter to mark this as Exhibit 1 and I will show a copy to the witness.

(Document marked DeVito Exhibit 1 for identification, as of this date.)

Q. Mr. DeVito, have you ever seen this

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document before?

A. No, I have not.

Q. Let me ask you to turn to page 2 of this document. I am going to refer you to a list of documents that were requested for this deposition.

Mr. DeVito, do you or does anyone in your office have a copy of the New York State radiological emergency preparedness plan?

A. I would assume so, but I have no specific knowledge that a copy of that plan is in my office.

Q. Does someone within the State Emergency Management Office under your supervision have such a copy of that plan?

A. I would believe so, but again, I don't specifically know that. It would be an assumption on my part.

Q. Do you or does anyone within your office have a copy of the current New York State disaster preparedness plan, referring to item 2 on that list?

A. The first part of that, yes. The New York State disaster preparedness plan, but I am

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not aware of any portions, appendices, attachments
or exhibits that would involve or pertain to
Suffolk County.

Q. Mr. DeVito, is there a Suffolk County
disaster plan that is either included within or
referenced in the New York State disaster
preparedness plan?

A. To my knowledge, no.

Q. Do you know whether there is such a
document?

MR. LANPHER: I object. Asked and
answered.

MR. SISK: I am asking for
clarification as to what "to my knowledge"
means.

Q. Do you know whether such a document
exists or is referenced in the New York State
plan?

A. I do not believe so, no.

Q. Let me ask you to refer to item 3,
then, on that list, Mr. DeVito.

Do you or does anyone within the
State Emergency Management Office, to your
knowledge, have a copy of any radiological

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emergency preparedness plans that cover or provide for any response by New York State or Suffolk County to a radiological emergency at any nuclear facility located in the State of Connecticut?

A. Just forgive me for a moment, Counselor. As I said, I have never seen this before, so I am just trying to read the whole paragraph here.

Q. That's fine.

MR. LANPHER: Is your question, Mr. Sisk, whether he or his office has any of the documents called for under item No. 3?

MR. SISK: Yes.

A. Again, to my knowledge, no.

Q. And could you also provide an answer with respect to item No. 4, do you or does anyone in your office have a copy of those documents, if any?

A. Again, to my knowledge, no.

Q. And the same question with respect to item 5?

A. Absolutely no with respect to item 5. I know that to be a fact. We don't have a copy of any such document.

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Q. Thank you.

Mr. DeVito, were you requested by counsel for the state to search your files for any of these documents prior to this deposition?

A. Yes, I think there was something that said that and we have no documents relating, to my knowledge, to these issues other than those that have already been provided to counsel.

Q. You do have or have a current -- a copy of the current version of the New York State disaster preparedness plan, is that correct?

A. That's correct.

Q. Can you tell me what the date of the latest revision of that plan is?

MR. LANPHER: I object to this whole line of questioning. I think it is irrelevant, but I won't interrupt with that objection. It is a continuing objection.

A. I don't know.

MR. SISK: Mr. Zahnleuter, we will request a copy from the state, at least of the New York State disaster preparedness plan, a current version of same.

We will proceed with the questioning

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as best we can under the circumstances.

MR. ZAHNLEUTER: I would like to ask you under what authority does LILCO have the right to initiate a discovery request at this late date? The discovery period is closed. There is no right that LILCO has, to my knowledge, to initiate document discovery at this time, and I object on that ground.

And I will also note that to the best of my recollection, LILCO has already been provided with a copy of the New York State disaster plan, and if you didn't bring it with you, I'm sorry that that didn't happen, but we are under no obligation to provide you with repetitive copies.

MR. SISK: To the extent it has already been produced and provided as a current copy, that is correct. I would simply note that the request for that document and any other documents was encompassed within LILCO's interrogatories and within the original deposition notice

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issued to this witness on April 5. We can argue the specifics later. Let's not clutter the record with that.

Q. Mr. DeVito, could you state your full name for the record, please?

A. Donald A. DeVito.

Q. What is your position, sir?

A. I am the director of the New York State Emergency Management Office.

Q. Is the New York State Emergency Management Office a part of the New York State Disaster Preparedness Commission?

A. Only indirectly.

Q. Can you describe for me the relationship between the State Emergency Management Office and the Disaster Preparedness Commission?

A. The Disaster Preparedness Commission has as its secretariat, the Division of Military and Naval Affairs.

The Division of Military and Naval Affairs is my host agency. As secretariat, they are responsible -- the chief of staff, to the governor; who is the head of that agency, is

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responsible to provide support services to the
commission. Administrative kinds of things.

In that regard, we have been
designated to fulfill those obligations.

MR. SISK: Let me make one other
request, while we are on the record, to
counsel for the State of New York.

There is a deposition this afternoon
of Messrs. Papile, Czech and Baranski. In
particular last week during the questioning
of Dr. Axelrod, Dr. Axelrod was unable to
completely identify the copy of the New
York State radiological emergency
preparedness plan that was placed before
him.

We have also made a request for the
New York State radiological emergency
preparedness plan, that is the current
version thereof, in the interrogatories and
in the deposition notices.

The version of the New York State
radiological emergency preparedness plan,
which I presented to Dr. Axelrod last week,
according to Dr. Axelrod, was under a cover

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from General Papile on the official stationery of the Disaster Preparedness Commission.

Also, in his affidavit filed on the summary disposition motions, previously Mr. Czech has stated that he is responsible for maintaining the state portion of that plan.

I would request that for purposes of questioning this afternoon, a copy of that be available.

MR. ZAHNLEUTER: Well, I suggest that at the deposition, you ask these witnesses who are available, who you have noticed for deposition, to identify the plan that you showed Dr. Axelrod.

I am not going to produce any documents pursuant to the discovery request, which is what I view it to be, that we received two or three days ago.

The request that you provided to me as a follow-up to Dr. Axelrod's deposition is being considered and I will get back to you as soon as I can.

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However, your request for a copy of the New York State radiological plan is denied, because you already have a copy, as evidenced by the one that you produced to Dr. Axelrod, and I think the proper thing for you to do is to show these witnesses this afternoon the document and ask them to identify it.

MR. SISK: That is what we will do. The reason for requesting a copy was to make sure that we have no difficulty with verification and authentication.

So my request stands and I understand your response.

Q. Mr. DeVito, how have you prepared for this deposition?

A. When I first received notice of an earlier deposition, I was out of town and I requested that an inquiry be made as to what it entailed and all of that, and the information I received was that my deposition was going to be contested based upon that, and the matter was on hold as far as I was concerned.

When I returned, there were some

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other discussions that took place with counsel for the state as to what this proceeding might entail and that sort of thing. Which was important to me, since I am not familiar with the deposition process nor with any of the matters of discovery that you have brought out, that sort of thing. So I discussed those kinds of issues with state counsel to make sure I was properly prepared.

Q. What documents did you review, if any, in preparation for this deposition?

A. The previous -- a set of previous documents in which the governor's statement, Dr. Axelrod's testimony and the previous deposition by Dr. Axelrod were delivered.

Q. To the best of your recollection, the governor's statement that you are referring to, was that a portion of Dr. Axelrod's testimony that you reviewed?

A. I seem to recall that he did cite a portion of the governor's statement, yes.

Q. And you reviewed the transcript of Dr. Axelrod's deposition as well?

A. Yes, I did.

Q. Did you review any other documents in

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preparing for this deposition?

A. No. None specifically to prepare for this deposition.

Q. Mr. DeVito, how long have you held the position as the head of the State Emergency Management Office?

A. Since April of 1982.

Q. Who appointed you to that position, sir?

A. Well, that's kind of a difficult question to answer. It depends upon what you mean by appointment.

In essence it is a civil service position, so it is not based upon appointment per se, but rather that someone would recommend you for the position, and the qualifications would be determined, I assume, somewhere within the system, whatever system means in those kinds of things. And then subsequently, one is assigned on a temporary basis, as I understand it, until demonstrated capability warrants permanent assignment.

That begins within the Division of Military and Naval Affairs, and I assume that's

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where it ended.

Q. I hand to the reporter a document that was provided to me by counsel for the state this morning. It is entitled "Donald A. DeVito." It contains your address. I will ask if you can identify this document.

(Document marked DeVito Exhibit 2 for identification, as of this date.)

A. Yes, sir, I can.

Q. Can you describe what that document is for me, please?

A. Well, in essence it is a resume of some highlights with respect to my professional career, which was developed for another purpose, but which I happen to have, so I provided it, and a biographical sketch which is used by my office to provide to organizations that may request that I be a speaker.

It contains a number of highlights of various aspects of my career, so that dependent upon the body that has asked that I speak, they could emphasize what portion of it was relevant to them or of significance to them.

Q. When was this document prepared?

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A. Which one now?

Q. Exhibit 2.

A. Well, again, let me point out that it is actually in two parts. The biographical sketch is an ongoing thing in my office that is just available. I don't know when it was last done within the office.

Q. And you are now referring to the third page of that document?

A. Third page of the document.

The first two pages were prepared, oh, it must be about a year or so ago now, when I was requested to -- I was asked to lead a delegation of public safety officials to the Soviet Union in 1989, and at that time I didn't have such a document, and in order to satisfy the requests from the sponsoring organization, I prepared this document. May have been around April of last year, but I really couldn't be specific on that.

In that time frame.

Q. Is the information contained in this document that has been marked as Exhibit 2, true and accurate, to the best of your knowledge?

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A. Yes.

Q. And is there anything that you would like to add to that resume or biographical sketch at this time to update it?

A. No. Nothing of any real consequence, I would think.

I had a couple of grandchildren, another one on the way, if you want to add those, but other than that, nothing.

Q. Mr. DeVito, can you describe for me your responsibilities and duties as the head of the State Emergency Management Office?

A. Essentially it is to provide managerial direction to the staff of the Emergency Management Office in conduct of the many activities associated with our particular area of responsibility.

Q. Can you describe those activities generally for me?

A. We are essentially involved in a variety of mitigation activities that center around such things as training and public awareness, those sorts of things, and the development of an infrastructure, if you will, to

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deal with emergency response, and then to provide a mechanism for recovery should a catastrophic disaster strike, and perhaps federal assistance is made available so as to provide the mechanisms to do that kind of administrative kind of work.

In a nutshell, that's the kind of thing we get involved in.

Q. Is it the responsibility of the -- well, let me ask you this:

What is the responsibility of the State Emergency Management Office with respect to the state disaster preparedness plan? Does the State of New York Emergency Management Office prepare that or update it?

(Discussion off the record)

A. I'm sorry.

(Record read)

A. Yes, to the latter part of the question.

In the coordinating sense, our responsibility would be to provide the administrative mechanism for working with other state agencies to obtain whatever information is necessary to update that document, and then we

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would do the administrative printing and collating, printing and distribution, that sort of thing.

Q. Is it accurate to say that you have to obtain data from other state agencies in the process of updating that plan?

A. Data in its broadest sense, because the document, you will recall, is not very specific with respect to resources and times and things of that nature tha' would go into a plan of action. It is more generic oriented, who would be responsible for what, under what general circumstances, that sort of thing, so data only in a broad sense.

Q. What state agencies do you consult with in the process of updating the plan?

A. The Disaster Preparedness Commission, essentially.

Q. And does that include -- are you including within the Disaster Preparedness Commission, the heads of the various state agencies you participate with in the DPC?

A. Yes. Let me clarify. They are, of course, the members of

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that commission, but frequently the specific work is accomplished by someone within the organization as opposed to the member of the commission.

Q. By within the organization, do you mean a member of the staff or some other person within, say, the Department of Health?

A. That's correct.

Q. Or some other state agency?

A. That's correct.

Q. Are local disaster preparedness plans incorporated within or referenced in the New York State disaster preparedness plan?

MR. LANPHER: I object to the question. I think it is vague. I don't know what you mean by local disaster preparedness plans.

Q. Do you understand the question?

A. Not really. I have the same problem 365 days a year, what actually constitutes LILCO's disaster preparedness plan.

Did you have something specific in mind?

Q. Well, let me ask you this generally. Are there documents, other than the

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portion of the state disaster preparedness plan,
which pertain specifically to state agencies? Now
are there documents other than that which are
included in the plan?

A. No.

Q. Are local disaster preparedness plans
in any respect interfaced with the New York State
disaster preparedness plan?

MR. LANPHER: Same objection.

Q. I am referring to plans. Let me
clarify this. I am referring to plans basically
at this point for disasters in general as defined
in Article 2B of the executive --

MR. LANPHER: Same objection. I
think it is vague for the additional reason
I don't understand in your original
question before, the clarification you
talked about, interfacing with the disaster
preparedness plan.

I don't understand what you mean by
plan interfacing with another plan.

Q. Do you understand the question?

A. Let me answer it this way.

Whatever planning effort is done at

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the local level -- it is at the local level --
hopefully, it is consistent generally with
community acceptance standards of what ought to be
in a disaster plan.

But to determine whether or not that
plan, for any community in the state, specifically
blends in with, coordinates with, interfaces with
the state plan, you would have to go to that
community and determine what planning they have
done.

I do not make it a practice of
studying local government plans. I just don't
have the time nor the inclination.

Q. Does anyone within the State
Emergency Management Office review such local
disaster preparedness plans?

A. There is a process that is
essentially a federally funded planning process
that enables us to provide as an organization
assistance, if requested, to a locality in the
development of their broad-based disaster plan.

We provide those services, but to say
that yesterday we provided those services to
County X, I couldn't do that. I just don't know.

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DeVito

That's a sometimes scheduled activity spread out over years, so I couldn't give you a specific answer for any particular community, but that's generally the way the process works.

Q. Mr. DeVito, do you know whether Suffolk County has, as you called it, a broad-based disaster preparedness plan?

A. No, I don't. You would have to check with Suffolk County on that.

Q. Is there anyone within the State Emergency Management Office who would know the answer to that question?

A. I would doubt it. I would doubt it because -- remember that this process is of relatively recent vintage over the last several years.

There are an awful lot of communities in New York State that all need emergency planning of some sort or another, on some purpose or another, and I doubt if anyone is tracking all of them, only the ones we may be responsible for in a given year.

Q. Who within the State Emergency Management Office is responsible for providing

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assistance to local governments with respect to
these broad-based disaster preparedness plans?

MR. LANPHER: I object.

I think your question assumes facts
that he did not testify to.

Q. Can you answer the question?

A. Be a little more specific. I am
trying to give you as concrete an answer as I can
get but --

Q. Well, let me ask you, is there anyone
in the State Emergency Management Office who is
responsible for providing state assistance to
local governments in preparing the broad-based
local disaster preparedness plan?

A. In the final analysis, I would be.
After all, while one might be able to delegate
authority, you cannot delegate responsibility.

So in the final analysis, I am
responsible for that, but I do have a staff and
planning section that is engaged in those types of
activities.

Q. Who within the planning section is
engaged in those types of activities?

A. There are a number of people, about

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seven or eight at this point.

Q. Could you give me the names of those people, to the best of your recollection?

A. My section chief is one Richard Herskowitz. He is my chief of planning. I would depend upon him to advise me as to what activities had taken place in any given year and what the status of those might be in any given year.

But let me point out that having said that, that the final responsibility, nonetheless, rests with the local community. It is, after all, to be a community plan.

All we might provide is the broadest guidance and assistance with respect to what ought to be in the plan and how you might structure it, and that guidance, in turn, flows from federal documentation.

As I indicated earlier, these are federally funded programs and the string, of course, from the federal side, is to comply with certain broad-based guidance that they make available. That is essentially the way the process works.

Any community can refuse to

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DeVito

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participate or participate at some other level,

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should they so choose.

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That's why I say, if you have a
specific local government plan in mind or a

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specific community in mind, that they would be the

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ones who would be in a better position to answer

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that type of a question than anyone at the state

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level.

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Q. "They," meaning the local government?

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A. Meaning the local, that you may be

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concerned about.

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Q. When you refer to federal guidance,

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are you referring to guidance from the Federal

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Emergency Management Agency?

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A. That's correct.

17

Q. Mr. DeVito, can you describe for me

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generally your experience with emergency planning

19

and disaster preparedness planning?

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MR. LANPHER: I object. Overbroad.

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A. I would have to agree. I thought

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I --

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MR. LANPHER: Don't respond to my

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objections.

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MR. ZAHNLEUTER: Wait a minute. Can

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you narrow your question, please?

MR. SISK: I am just attempting to establish the witness' experience with emergency planning.

MR. ZAHNLEUTER: Is this for all time? Do you want to limit it, what his career with --

MR. SISK: I am asking for a general description at this point of this witness' experience.

MR. ZAHNLEUTER: Can you answer the question, Mr. DeVito?

A. I am, of course, the director of an agency of an organization that engages in emergency planning. That doesn't mean that I get involved in the minutia of plans. I just don't have the time for that, even if I had the inclination.

So my experience is that of managing that, of those who have to deal with whatever details might be attendant to whatever plan for any purpose.

Q. Mr. DeVito, have you had experience with actually responding to an actual emergency?

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DeVito

A. Yes.

Q. Could you describe those experiences for me?

MR. LANPHER: I will object.

Irrelevant.

Q. I will confine it to the time during which you have been the head of the State Emergency Planning Management Office.

MR. LANPHER: Same objection. Also, it's overbroad. I think you should narrow it to the specific kinds of emergencies which are at issue here.

MR. SISK: I prefer not to narrow the question in that fashion.

Q. Can you answer the question?

A. The State of New York has been involved in a number of responses to a number of incidents of various types since I have been director, and that is the organization to whom it involves the responsibility to coordinate activities. I have been involved in a number of events.

Now to focus on how many, I don't have that kind of specific recall, but to focus on

1 any specific number, you would have to indicate
2 what you mean by events.

3
4 For example, there have been seven
5 presidential disaster declarations to which we
6 have responded to. There are I don't know how
7 many other incidents over six years to which we
8 have had to respond. That would have to take some
9 checking back of the records.

10 Q. Were you involved in the response to
11 Hurricane Gloria in 1985?

12 A. Yes.

13 Q. Can you describe for me your
14 experience in responding to that emergency?

15 MR. ZAHNLEUTER: I would like to
16 object on grounds of relevancy because
17 Hurricane Gloria is not relevant to an
18 emergency at the Shoreham nuclear power
19 plant.

20 I would ask also for a clarification
21 of response, as you use it in your
22 question.

23 Q. Can you answer the question, Mr.
24 DeVito?

25 A. What is the question again?

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Q. Well, the question is, can you describe for me your experience in responding to Hurricane Gloria and with counsel's objection noted?

MR. ZAHNLEUTER: Well, my objection is based on relevancy.

I will allow Mr. DeVito to answer. Nevertheless, I still seek a clarification of what you mean by response.

Q. Can you answer the question?

A. Part of the dilemma in developing a full and complete answer to the question, to a question such as that, turns on how do you define "response"? At what point are you engaged in a response activity as opposed to a preparation activity?

If, by response, you mean me personally, when did I do some specific action with respect to the area impacted, you could carve that out of almost any period of time.

For example, I don't remember the dates now, other than that it was in October of '85, as I recall, within hours of the advent of the hurricane itself. I was still in Albany. I

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felt that my place was out on Long Island with my people, so I departed the Albany headquarters sometime in the morning of whatever day it was, and I would have to refer back to the record for this.

Q. This was shortly after the hurricane had passed?

A. No, this was while the hurricane was still threatening, hours before it struck the area.

I proceeded then to Long Island. My timing was not exactly the best because I engaged Gloria enroute and had a rather unique experience of driving for about a half hour or so in the eye of the hurricane itself, then arriving at the state office building in Long Island in Suffolk County where I took command, if you will, of the State Emergency Management Office resources that were there to deal with the onslaught of the hurricane.

So if that's what you mean by saying how did you respond, well, that illustrates at least a physical action which I undertook.

Now, obviously, there are other

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related types of activities preceding and following the hurricane, again depending upon what you mean by response, that could all be brought into that response.

Q. I think you have answered the question I intended to ask. Let me follow up.

Can you tell me where is the office in Suffolk County that you referred to, the SEMO office?

A. There is no SEMO, and I will probably use that acronym from time to time, but there is no SEMO office in Long Island.

What we did was we went to the state office building there in Hauppauge and operated out of there.

Q. Was that a local emergency operation center for the purpose of that response?

A. No. We have no emergency operation center on Long Island.

Q. Can you describe for me, in your own words, the activities that were undertaken at that office at that time?

MR. ZAHNLEUTER: I object to Hurricane Gloria questions and I will enter

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a continuing objection to save time but,
Mr. Sisk, it's not a relevant inquiry and
we do have a limited amount of time.

Q. Can you answer the question?

A. Which was again?

Q. Can you give me a general description
of the activities that were carried out at the
state office building in Hauppauge at that time?

MR. LANPHER: You mean after Mr.

DeVito arrived there?

Q. After he arrived, yes.

A. Well, it was very clear early on that
the major problem in the aftermath of Hurricane
Gloria was the extraordinary loss of power on the
Island.

Unfortunately, it appeared that the
system for providing electrical power on the
Island was extremely vulnerable and Hurricane
Gloria demonstrated that by devastating the
system.

I seem to recall numbers around
800,000 customers without power. The problem, of
course, with this is customers mean more than your
home or mine.

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The end result was that most of our activities, post-Gloria impact, was in attempting to assist people in communities that had their power disrupted because of the collapse of the system.

Q. Were there members of the staffs of other state agencies at that location at that time in the state office building on Long Island?

A. Well, of course, it's a state office building, so there are other state agencies there.

Q. I mean specifically involved in that emergency response?

A. As we moved through the period in the aftermath of the hurricane, we did rely on other state agencies, because we are a very small organization, to assist us in our efforts to assist those who were experiencing difficulties because of the extraordinary power outage.

Q. What other state agencies were involved?

A. Oh, I couldn't recall them all, but I can remember a person from the Health Department. The state police were involved. We had some assistance from the Department of State and

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others. For the most part, the DPC members.

Q. Did you direct the state's activities from that location in responding to that event?

MR. LANPHER: Could I ask for a clarification? Do you mean he, personally, or did the state?

Q. No, I am asking whether Mr. DeVito did.

A. Keeping in mind that the emergency management system, the public safety system for the state begins with the governor and then from him passes through his chairing of the Disaster Preparedness Commission, and understanding then that I only act as an agent for that body as the state coordinating officer, within those limitations, I directed, insofar as I was empowered to do so, those resources that were made available to me to deal with this extraordinary situation.

Q. In that circumstance, would it be accurate to say that you report directly to the chairman of the DPC?

A. That's correct.

Q. Is that true generally in responding

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to emergencies, all types that are within the responsibility of the State Emergency Management Office?

MR. LANPHER: Are you including nuclear power plant radiological emergencies in your question?

Q. I am asking about those emergencies that are within the responsibility of the State Emergency Management Office.

MR. LANPHER: I object to the question because you have not established what emergencies are within his responsibilities.

I think the question is vague.

Q. Can you answer the question?

A. Setting aside the new power plant industry situation, as a matter of procedure my operational chain of command would be to the chairman of the Disaster Preparedness Commission.

Q. And that would be with respect to -- again, setting aside nuclear power plant emergencies -- that would apply to any emergency for which the State Emergency Management Office is responsible?

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A. No, because you had -- the state system calls for the designation of a state coordinating officer when a disaster occurred and is so declared by the governor.

In that kind of eventuality, it is possible. As a matter of fact, it has occurred in the past where some other official in some other state agency would be designated as the state coordinating officer.

My responsibility then would be to assist that person in the conduct of his or her activities with respect to the response, whatever the response would be.

Q. Is the state coordinating officer designated by the chairman of the Disaster Preparedness Commission?

A. That is the normal procedure.

Q. At the time of the events you described with respect to Hurricane Gloria, was Dr. Axelrod the chairman of the DPC in Albany?

A. Fundamentally, yes, but he did come down to the area on more than one occasion.

Q. So he was in Suffolk County part of the time and in Albany part of the time?

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A. Yes, although the preponderance of his time obviously was in Albany, as I recall.

Q. How did you make any communications with him when he was in Albany?

A. Well, again, you would have to be specific.

Q. Did you have a direct phone line to Dr. Axelrod in Albany?

A. No. That's part of the problem I am trying to get at here. These are too general. You are trying to get me to respond too much to broad issues here.

For example, this business of how did you communicate would be determined by a particular day. I mean I am not exaggerating. On one given day, the only thing that might have been available to me would be a high frequency radio to Albany, assuming that I could get through. And then someone in Albany would have to make the necessary telecommunication linkage by phone.

On other days, we had phones available to us, so I could obviously call him directly.

So you would have to, you know, it

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would depend on when and what particular
circumstances. The system is not a dedicated
system and telephone lines get loaded.

Q. Can you describe for me the telephone
system that you did use, at least, for some of
those communications?

A. Whatever.

MR. LANPHER: I have a continuing
objection on relevancy grounds.

Q. Just a commercial telephone?

A. Whatever system exists within the
state office building there on Long Island at
Hauppauge.

Q. Well, does that involve any special
numbers, or is that just like dialing over a
regular commercial telephone?

A. No. The state has a special system
that requires a particular access code and all
that kind of thing.

Q. What is that system called?

A. I don't know what it was called then.
I know it's now L-INCS, L-I-N-C-S, if my memory
serves me right, whatever that acronym stands for.

Q. And that system is installed at the

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state offices in Hauppauge?

A. I am no expert in the telecommunications system with the State of New York.

Q. I understand. I am not asking for that --

A. I don't know what specific system they had in this building, other than more often than I was comfortable with, it didn't work, so whatever it was --

Q. When you say you used a high frequency radio at times, was that a radio that was maintained in the state office building when you arrived there?

A. No.

Q. Is that something you brought with you?

A. Well, that's something that we dispatched down, but it didn't physically go with me.

Q. It was dispatched from where?

A. From Albany.

Q. And that equipment is maintained by the State Emergency Management Office?

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A. That is correct.

Q. Who, in Albany, are you able to contact via that radio?

A. It would be my State Emergency Operations Center in Building 22.

Q. And that office, in turn, would relay the communications to the Disaster Preparedness Commissioner?

A. Well, whomever.

Q. Whoever you needed to speak with?

A. Yes.

MR. SISK: Let the record show that the deponent is conferring with his counsel.

MR. LANPHER: And let the record show it's proper.

MR. ZAHNLEUTER: I will insist on my right to confer with my client at any time I wish.

MR. SISK: Very well.

Q. Mr. DeVito, can you describe for me the deputies within the State Emergency Management Office who work directly for you?

I believe you described some of those

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people earlier.

MR. LANPHER: I object on relevancy grounds.

Q. Who are your other --- and I want you to put it in your own words with your own titles -- but who are your chiefs of staff?

A. Well, I have no deputy at the present time. That position remains vacant.

But I do have sections and each section has a person in charge of that function area responsibility. So I have a chief of planning to whom I already referred.

There is a training chief. There is a section that we identify as technical resources; communications section and an administration section.

Q. Can you give me the names of the heads of those sections?

A. The communications chief is one Bruce Houston, H-o-u-s-t-o-n.

The technical resources chief is one Lee Battes, B-a-t-t-e-s.

The administrative chief is one John Agostino, A-g-o-s-t-i-n-o.

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I mentioned planning already. Whom did I leave out?

Training is one Les Radford, R-a-d-f-o-r-d.

I believe that covers them all.

Q. Are you familiar with a gentleman named Anthony Germano, G-e-r-m-a-n-o?

A. Yes.

Q. What is his position?

A. Mr. Germano functions essentially as a chief of staff type person, one who coordinates the workload requirements and correspondence, that sort of thing. He is not a section head, however.

Q. Is he within one of the sections or does he report directly to you?

A. Well, for the purposes of daily activity, he reports directly to me.

Q. Does the State Emergency Management Office have local offices?

A. No.

Q. Does it have regional offices?

A. Yes.

Q. Is there a regional office located in Suffolk County?

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A. No.

Q. Is there an employee of the State
Emergency Management Office located anywhere in
Suffolk County?

A. No.

Q. Is there a regional office that is
responsible for emergency responses within your
office's jurisdiction in Suffolk County?

A. Uh-huh.

Q. Is there a regional office located in
Poughkeepsie?

A. There is a district office.

Q. District office?

A. In Poughkeepsie.

Q. What's the difference between a
regional office and a district office?

A. Well, there are six district offices,
each responsible for specified geographic areas of
the state. A region encompasses two districts.

Q. Is Suffolk County encompassed within
any of these regions or districts?

A. No.

Q. Who heads the district office at
Poughkeepsie?

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DeVito

A. The position is vacant at the present time.

Q. Who is running that office while the position is vacant?

A. I have a person who is sort of a program administrative person who takes care of things within her area of responsibility.

Q. And who is that?

A. That is one Barbara Porter, P-o-r-t-e-r.

Q. How many --

A. I also -- well, she handles the district activities or the regional activities there.

Q. How many employees are located at the district office -- at that district office in Poughkeepsie?

A. Let's see, there is one -- Porter. There is a secretary and there is one other person. That person is my New York City Long Island liaison officer.

Q. Who is that?

A. That's one Luciano Salamone, S-a-l-a-m-o-n-e.

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Q. Did you say he was your Long Island liaison officer?

A. That is correct.

Q. What does that title include? What are his responsibilities?

A. The City of New York, Nassau County and Suffolk County.

Q. And is he therefore responsible for maintaining liaison with Suffolk County officials?

A. Yes, in the Suffolk County Emergency Management Office. Whatever that title is, correct title.

Q. Are you familiar with a Mr. Regan?

A. Yes.

Q. Can you tell me what his position is, to your knowledge?

A. He works in Suffolk County. I am not sure exactly what his title is, because I am not sure what their organization's construction is with respect to emergency management.

Q. To your knowledge, is he within the Suffolk County Emergency Planning Office?

A. Again, I don't know what titles they use, and I don't know specifically how they are

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constructed, but he does work in the Emergency Management Office, to my knowledge.

Q. So is he one of the people with whom, I believe it was Mr. Salamone, who maintains liaison on behalf of the State Emergency Management Office?

A. Yes.

Q. Let me just ask one more question.

Mr. DeVito, what role does the State Emergency Management Office play in responding to radiological emergencies at commercial power plants in New York other than Shoreham?

MR. ZAHNLEUTER: Objection; two grounds. One is relevancy, because other nuclear power plants are not relevant to the inquiry in this proceeding dealing with Shoreham.

Also I object to your question because it is vague in that it asks for a response, and the word itself is undefined by you in your question and it hadn't been defined in today's deposition, so that word is vague and subject to interpretation and misinterpretation.

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Q. Can you answer the question?

A. I would have to know what you meant by respond.

For example, if someone asked me to prepare a piece of correspondence and I did so, I would be responding. And in another sense, if someone asked me to go from A to B, I would be responding. So I don't know exactly what you mean.

Q. Let me ask it this way.

What would be the responsibility of the State Emergency Management Office, if any, in responding to a radiological emergency at a nuclear power plant in the State of New York other than Shoreham?

MR. ZAHNLEUTER: Well, I object.

That's exactly the same question that you just asked before and I have the same objections.

A. And I have the same problem.

Q. What would the State Emergency Management Office do, if anything, in the event of a radiological incident at a nuclear power plant in the State of New York other than Shoreham?

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MR. ZAHNLEUTER: I have a continuing objection to all of these questions about other nuclear power plants besides Shoreham.

MR. LANPHER: I have a further objection to what you just asked, Mr. Sisk. You have not defined what you mean by incident. I believe there could be a wide range of various things that are encompassed within that term.

Q. Can you answer the question?

A. Well, absent any specific outline as to what precisely you have in mind, I could only respond in the broadest sense to say that the activities of my office would be directly related to requirements established by the Radiological Emergency Preparedness Group of the State of New York.

Q. Does that mean that your office's role, if any, in the event of a radiological accident in a nuclear power plant other than Shoreham, would be determined by the State Radiological Emergency Preparedness Group?

A. Within the context of very specific

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requirements established in site-specific plants.

Q. And would that be at the direction of the chairman of the Disaster Preparedness Commission?

MR. LANPHER: Can I ask for a clarification? What do you mean by would that be? I don't understand what you mean by that. I think the question is vague.

MR. SISK: I am referring to the witness's previous answer.

Q. Can you answer the question?

A. In the context of what you said, it might, it might not be.

Your assumption appears to be that certain specific players will be in certain specific positions with certain specific responsibilities, and what I am trying to tell you is that is not always the case, and to accommodate that, very specific plans have been developed to outline very specifically what individual organizations and their staffs will do under very specified circumstances, so I can't give you an absolute response without knowing what precisely are we talking about.

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Q. Are these procedures that you are referring to set forth in the New York State radiological emergency preparedness plan and its appendices?

A. What do you mean by appendices?

Q. Up to and including the local plants.

A. To my knowledge, there is a fundamental generic plan and there are very specific plans for precise locations and precise circumstances that are tailored to those specific locations, and all of those constitute the state plan.

Q. And do those plans, as you have just described them, set forth the role of the State Emergency Management Office in the event of a radiological accident at a nuclear power plant in the State of New York?

A. I have not reviewed those documents in some time. As I indicated earlier, I at present don't have a deputy on board. The demands on my time are great, so I have not been involved in anything associated with the plan review for a rather extended period of time. But as I recollect, there are some specific requirements

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for State Emergency Management Office. What they are, I am not prepared to define, without reference to a document.

(Recess taken)

BY MR. SISK:

Q. Mr. DeVito, have you ever been involved in responding to an actual radiological emergency at any nuclear power plant in the State of New York?

A. No.

Q. Have you been involved in any exercises of any radiological emergency plans for any nuclear power plant in the State of New York?

A. Yes.

Q. Which exercises have you been involved in for which?

MR. LANPHER: Dennis, I will have a continuing objection on this line.

MR. SISK: O.K.

Let me shorten this for a moment. I understand it is the position of both governments that any questions relating to plans for other nuclear power plants are not relevant and any questions relating to

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disasters other than radiological emergencies are not relevant, and I will stipulate to that for the record. I think it is understood in the interest of time.

MR. ZAHNLEUTER: And exercises are included in that from my perspective and I think I already entered a continuing objection.

MR. SISK: I understand that. They are preserved, in any event.

Q. Can you answer the question?

A. We have a question on the table?

Q. O.K. Can you tell me which exercises --

A. I got fascinated with the repartee that was going on here, I forgot why we are here.

Q. Same question. Which exercises have you been involved in previously: That is, exercises for emergency response plans for plants in the State of New York?

A. I apologize, but I have no specific recall. I just know that there have been occasions when I have been involved in exercises dealing with specific planned response to an event

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at some facility.

Q. Have you been involved in any exercises for nuclear power plants located outside the State of New York?

A. No. Not to my recollection.

Q. To your recollection, has there ever been an exercise of any response within the State of New York for the Millstone nuclear power plant in the State of Connecticut?

A. Not to my recollection.

Q. Mr. DeVito, did you have any involvement in the exercise for the Ginna plant that was conducted last fall, the fall of 1987?

A. I don't remember. Last fall, you say?

Q. Yes.

A. I don't remember.

Q. Have you been involved in a number of such exercises, Mr. DeVito?

A. Several.

Q. In connection with those exercises, have you ever been involved in activities at the State Emergency Operations Center?

A. Yes.

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Q. In those exercises generally, what is your role in those exercises on behalf of the State Emergency Management Office?

MR. LANPHER: Mr. Sisk, are you asking for his personal role or SEMO's role?

MR. SISK: Right now his personal role.

A. Generally to make myself available to the person who is exercising control in the exercise, to provide advice and counsel when and where appropriate as regards any of the activities that would be within the realm of the State Emergency Management Office.

Q. Does that generally involve going to the state EOC and being personally involved in the activities at the state EOC during the exercises?

A. It involves going to the state EOC, and within the context of what I described a moment ago, involved in activities.

Q. When you say that you are involved with the person in charge of the exercise, is that generally the chairman of the Disaster Preparedness Commission?

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A. No.

Q. Is it safe to generalize who that person is for most of these exercises?

A. Only in the sense that it would be someone representing that gentleman.

Q. Someone representing the chairman of the DPC?

A. That's correct.

Q. In some of the exercises, has that role been played by General Papile from the state REFG?

A. I don't specifically recall any exercise which I observed or participated in in which that was the case, so I couldn't answer it in an absolute.

Q. Is the person in charge generally a person from the state REFG?

A. No. By in charge, getting back to what I said a moment ago --

Q. What do you mean by "in charge"?

A. What do you mean by "in charge"?

MR. LANPHER: I object to the question. You used the term, I think --

MR. SISK: I apologize, I thought

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that was in the witness's previous answer.

Q. With whom do you maintain liaison at the state EOC during these exercises?

A. In the ones in which I have been personally involved, it is with the person who was representing the chairman of the Disaster Preparedness Commission.

Q. And you have functioned in the exercises at the direction of that person from the DPC?

A. In response to requirements established by that person that were incumbent upon my office with respect to our role as defined within those site-specific plans, let's say for whatever facility with which we were dealing.

MR. SISK: Off the record for a moment.

(Discussion off the record)

MR. SISK: Back on the record.

Q. Mr. DeVito, I am going to hand you a document that I will ask the reporter to mark as Exhibit 3 to this deposition.

MR. SISK: It is a document entitled "State and Local Natural and Manmade

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Disaster Preparedness." I will vouch for the record that it is a copy of Article 2B of the New York State Executive Law.

(Document marked DeVito Exhibit 3 for identification, as of this date.)

Q. I will ask the reporter to hand that document to you and then I would like to know whether you can -- whether you are familiar with that document?

MR. LANPHER: The question is whether he is familiar with it, whether he has ever seen it before?

MR. SISK: Yes.

A. I have never seen this particular document before.

Q. Are you familiar with Article 2B of the New York State Executive Law?

A. I am.

Q. And as an official of the State of New York, Mr. DeVito, are you bound by any requirements which may be contained in that law?

MR. ZAHNLEUTER: I object because this question calls for a legal conclusion from the witness.

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MR. SISK: I will ask for the witness's understanding.

MR. ZAHNLEUTER: That's the domain of counsel and not this witness. However, Mr. DeVito may answer the question.

MR. LANPHER: I object for the further reason that your question was, are you bound by any particular provisions of this law. If you would direct his attention to particular provisions, otherwise the witness is going to have to read through the entire law.

Q. Mr. DeVito, my question is, as an official of the State of New York, are you bound by any and all requirements contained in this state law?

A. As a state employee and as my understanding -- my limited understanding of this particular piece of legislation goes, I would assume that I am required to comply with certain provisions of this law, at least those provisions that would seem to impact upon my specific areas of responsibility.

Q. Mr. DeVito, I will ask you to turn

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quickly to Section 22 of this statute. Section 22
Subdivision 1 states, and I will quote a portion
of it, "The commission shall prepare a state
disaster preparedness plan and submit such plan to
the governor for approval no later than one year
following the effective date of this act."

MR. SISK: I will vouch for the
record that "the commission" refers to the
State Disaster Preparedness Commission.

Q. Mr. DeVito, is it your understanding,
as the head of the State Emergency Management
Office, that this provision requires the
preparation of the state disaster preparedness
plan to which you alluded earlier?

MR. LANPHER: Same objection.
Calling for a legal conclusion. Also, are
you asking whether this provision requires
SEMO to prepare it or someone other than
SEMO?

MR. SISK: I believe my question
stated the Disaster Preparedness
Commission.

MR. ZAHNLEUTER: I have the same
objection and we will make it a continuing

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objection.

MR. LANPHER: My objection is he is not the Disaster Preparedness Commission, also.

A. That's the point that I was going to raise. This says, "The commission shall prepare." That's what it says here. But again, the commission encompasses a whole host of indices.

Q. In your understanding, as the head of the State Emergency Management Office, is the state disaster preparedness plan, to which we referred earlier in the deposition, prepared pursuant to this provision of state law?

A. That was done prior to my coming on board, so my response would be an assumption. I would assume that it was done pursuant to this provision of the law.

Q. When your office revises and updates the state disaster preparedness plan, do you or people in your office make reference to Article 2B in making those updates?

A. I don't recall during my tenure as director that we have engaged in specific updates to the document. That may have been done, but I

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have no specific recollection of it.

Q. But did you state earlier that that would be a responsibility of your office?

A. It might be a responsibility of my office, depending upon what the commission determined.

Q. So the Disaster Preparedness Commission may delegate all or part of a revision task to your agency, is that correct?

A. That would be an assumption on my part.

Q. Has that ever occurred in your tenure at the State Emergency Management Office?

A. I have no --

MR. LANPHER: I object to that question. I don't know what you mean by "delegate." That's a term of legal art. I don't think this witness is qualified to answer that, Counselor, the question using that term.

Q. Has the State Disaster Preparedness Commission or the commissioner ever requested you to assist in any way with updating the state disaster preparedness plan during your tenure at

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DeVito

SEMO?

A. To my recollection, no.

Q. To your recollection, have there been any revisions of the state disaster preparedness plan during your tenure at SEMO?

A. That's what I thought I said a moment ago. To my recollection, no.

This is supposedly a current copy of 2.

MR. SISK: I will vouch for the record that to the best of my information and belief, it is.

Q. Mr. DeVito, what types of disasters are covered by the New York State disaster preparedness plan?

A. There is, as I recall -- and I go back to something I said earlier, it has been a while since I reviewed any of these plans -- but as I recall, there were a number of disaster types that were specified within the plan.

Most, if not the overwhelming preponderance of them, as I recollect, are related to natural phenomena.

Q. Does the state disaster preparedness

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plan also cover disasters caused by manmade causes?

MR. LANPHER: Counsel, I didn't hear. Will you repeat your question?

Q. Does the state disaster preparedness plan also cover disasters caused by manmade causes?

A. I hesitate, Counsel, because I am trying to visualize the list in my mind to see if there is anything that I can recall that specifically addresses a -- I don't know why we don't call them personmade, by the way, that's a continuing objection that I have -- I don't recall anything specific that says this type of nonnatural phenomena or that type of nonnatural phenomena.

I apologize for that.

Q. Mr. DeVito, does it include or does that plan cover a plan for civil defense?

A. Not to my recollection.

Q. Mr. DeVito, if you will turn to the second page of this exhibit, it is under Section 20, Subsection 2A, there is a definition in the statute of "disaster." I will ask you to briefly

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review that subsection defining the word
"disaster."

To your knowledge as the head of the
State Emergency Management Office, does the state
disaster preparedness plan cover those types of
phenomena that are referenced in the definition of
disaster in the statute?

MR. LANPHER: You want to know

whether each one of those is covered?

Q. Let's start with all.

A. Again, I don't specifically recall,
and I apologize for that, but I don't specifically
recall whether each of these phenomena are
contained in that plan. The list does look
familiar, but I cannot equate it to specific
portions of the plan.

Q. Very well.

Now I believe you stated earlier, Mr.
DeVito, that the state disaster preparedness plan
includes local plans for some but not all
localities within the State of New York. Is that
correct?

A. No. That is not correct and I don't
believe I said that.

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Q. Does the New York State disaster preparedness plan include as part of that plan, any local disaster preparedness plan?

A. To my knowledge, no.

Q. Does it make reference to any local disaster preparedness plan?

A. I am not aware of any reference to any specific local plan.

Q. Do you know whether a local disaster preparedness plan exists for Nassau County?

A. I don't know.

Q. Do you know whether any local disaster preparedness plan exists for the Town of Brookhaven?

A. I have absolutely no idea.

Q. Is there anyone within the State Emergency Management Office whom you supervise who would know?

A. I doubt if anybody on my staff would be aware of whether or not any town in the State of New York has a plan. If they did, it would be by accident, not by design.

Q. Is there anyone on your staff who would know whether a Nassau County plan exists?

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A. Again, the same kind of situation would apply with respect to any specific local government plan. We don't maintain copies unless the locality chooses to share them with us.

Now, whether those localities that you have referenced have undertaken any such activity that you can characterize as a local government plan or not, I don't know.

Q. Mr. DeVito, I will now hand to the reporter and ask him to mark as Exhibit 4 to this deposition a document which is under cover of a memorandum from James D. Papile, Director, REPG. It is dated September 1, 1987. The letterhead is that of the New York State Disaster Preparedness Commission. The subject of the memorandum is "Revised New York State Plan."

And I will ask you to take a look at this document and tell me whether you can identify it?

(Document marked DeVito Exhibit 4 for identification, as of this date.)

MR. LANPHER: Mr. Sisk --

MR. SISK: Let me ask the witness if he can identify the entire document.

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Q. And Mr. DeVito, to save time in flipping through all of the pages, I will just ask you to look at the document very briefly. I will vouch for the record that I believe this is a true and accurate copy of what the document purports to be according to the cover memorandum.

Do you have any familiarity with this document at all?

A. Not specifically, no.

Q. Have you ever before seen the New York State radiological emergency preparedness plan for commercial power plants?

MR. LANPHER: Do you mean this version or any version, Mr. Sisk?

MR. SISK: Any version.

A. In the past, I seem to recall reviewing in broad, general terms a document that was referred to as the New York State radiological plan or some such similar type.

Q. Have you ever seen a document entitled "New York State Radiological Emergency Preparedness Plan for Commercial Power Plants" dated Rev. 8/87?

A. I don't recall seeing -- I assume

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that is this document, and I don't recall seeing this specific document or reviewing it.

Q. Does the State Emergency Management Office have any role in reviewing or commenting on revisions of the New York State radiological emergency preparedness plan for commercial power plants?

A. If any plan calls for any action on the part of the New York State Emergency Management Office, I would hope that we have a role to play in its review.

Q. Mr. DeVito, I will refer very briefly to your page 1 of the executive summary of this document, which is about five pages into the document that you have been handed.

It states, "The New York State radiological emergency preparedness plan has been written to assist in protecting the health and safety of the inhabitants of New York State in the event of an emergency at a commercial nuclear power plant. The New York State disaster preparedness plan addresses radiological emergencies in general terms, whereas this NYS radiological emergency preparedness plan fills in

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the specific details.

"This plan also contains seven county plans, county and state implementation material and procedures necessary to carry out adequate protective action responses, should a radiological emergency occur" -- "should a radiological emergency at a nuclear power plant occur. All components of this plan are designed to provide a preplanned coordinated effort by emergency managers."

Have I read that correctly?

A. Yes.

Q. Is it correct, Mr. DeVito, that the New York State disaster preparedness plan, as stated in this document, addresses radiological emergencies in general terms?

A. As I indicated to you earlier, I have no specific recollection of each of the components of the plan and whether one of those components is radiological.

We went over that whole list of things that were identified as possible disasters in the state, and while I indicated that some lists seemed to be somewhat familiar, I couldn't

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specifically say that I recalled that that particular plan, New York State disaster preparedness plan, has a section that specifically addresses radiological in general terms.

This says that it does. I have no reason to dispute this statement.

Q. Mr. DeVito, I will ask you to turn to one of the procedures in this document. It is near the end, Procedure K, page K-4. It is about four-fifths of the way through the bulk of the document.

MR. SISK: I will vouch for the record that page K-1 of this document is entitled, or this portion of the document is entitled "Radiological Ingestion Exposure Procedure."

MR. LANPHER: Mr. Sisk, I am confused. I have haven't found it yet, but right after K-1, I find page K-22 at one point.

MR. SISK: Off the record.

(Discussion off the record)

MR. SISK: We have discovered that there has been a copying problem with

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respect to the order of pages in the document that has been handed to the witness. The witness has located page K-4 to the document.

Q. Now Mr. DeVito --

A. Which version of K-4 are we talking about?

Q. It bears a notation in the lower right-hand corner "Rev. 8/87."

A. I have that.

Q. Under Section 3.0 contained on that page, there is a paragraph which states, in part, "Upon confirmation by radiological accident assessment personnel that radiological ingestion is of concern, SEMO will implement procedures for alerting and notification of all potentially affected local governments.

"State radiological assessment personnel will provide a listing of those counties within the actual or potentially affected areas and continual status updates. SEMO will notify Radiological Emergency Preparedness Group, appropriate state agencies who send representatives to the state and the district,

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EOC's and potentially affected local governments."

Mr. DeVito, have you ever reviewed this particular procedure before?

A. I have no specific recollection of having done that, no.

Q. Is that a correct statement of the State Emergency Management Office's duties, as described in that particular passage?

A. It reflects in a general sense activities that we have undertaken in the past.

Q. Referring to two paragraphs below that, the paragraph beginning with the words "In the event," that paragraph refers to the National Warning System. It states, "NAWAS provides the capability for simultaneous notification of local governments on the circuit."

Mr. DeVito, can you describe for me the National Warning System?

A. Briefly, the National Warning System is a federally designed system for, as the name implies, providing warning to the states from the federal government, the basis for it being national security.

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Q. Can that system be employed in the event of a radiological emergency at a nuclear power plant?

MR. LANPHER: Could I have the question read back, please.

(Record read)

MR. LANPHER: I would like a clarification. Are you including the Shoreham nuclear power plant in your question?

MR. SISK: I am including any nuclear power plant located in the State of New York, which would include Shoreham, if necessary.

A. And what was the direct question again?

MR. SISK: Can you read the question back once again.

(Record read)

A. If by that, a nuclear power plant means any nuclear power plant, I would have to say no.

Q. Why is that?

A. It could be for any number of

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reasons: The most fundamental, I suppose, being that there is no nuclear power plant operational at Shoreham.

Q. If that plant were operational and there was an accident at that plant, could the National Warning System be employed as provided in this procedure?

MR. ZAHNLEUTER: I object on the ground that that calls for speculation. There is no basis for that hypothetical.

Q. Technically could it be employed?

MR. ZAHNLEUTER: Technically, I object to that clarification, because there has been no basis or explanation of what techniques you are referring to.

Q. Can you answer the question?

A. Not really, because the National Warning System, as with all other communication systems that we have, is designed to be used in conjunction with a planning or planned efforts, and there is no plan for that particular contingency that you described.

Q. Now Mr. DeVito, if you will turn to page K-8, I will see if we can find it.

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That is also a part of Procedure K, Subpart 7.0 at the top of the page is entitled "Public Information Responsibilities."

The next to the last paragraph on the page states, "To provide effective public information releases to the general public, the New York State Emergency Broadcast System, (EBS) can be activated if determined to be necessary. The primary means for accessing EBS for dissemination of protective action recommendations will be with the assistance of local access (county) personnel. If the EBS cannot be accessed locally or if a large region must be notified simultaneously, SEMO will coordinate the issuance of the message via EBS as appropriate."

Now Mr. DeVito, can that procedure -- technically, can that procedure be employed in the event of a nuclear accident at the Shoreham plant?

MR. ZAHNLEUTER: I object. It calls for speculation about Shoreham and I also object to the -- the second time, the use of the word "technically."

There is no basis in the deposition so far to state what the techniques are.

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Q. Can you answer the question?

A. I am not a communicator and I don't own or operate a radio station so, technically, I couldn't answer.

Q. Can you answer the question as the head of the State Emergency Management Office, whether this system could be employed in the event of a nuclear incident at the Shoreham nuclear power plant?

A. No.

Q. Are you stating it could not?

A. Yes.

Q. Why could it not?

A. Because this system, as is reflected in a couple of references we have gone into so far, indicates that these are in response to specific plans for specific areas -- I believe it said seven of them -- and therefore anything that goes beyond that parameter couldn't be done.

Q. Is that because there is no Suffolk County plan for the Shoreham plant?

A. That is because there is no plan for the -- as I understand it, for the Shoreham facility. None.

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Q. Now, Mr. DeVito, please turn to page K-9, which is the next page. It is a map.

I will vouch for the record that it is Attachment 1 to Procedure K.

The legend on the map, in the upper left-hand corner, indicates that the area shaded by dots is the 50-mile EPZ around certain nuclear power plants.

I will direct your attention to the lower right-hand corner of that map which contains a circle with large dots around the Millstone nuclear power plant located in Connecticut.

To the best of your ability in reviewing that map, Mr. DeVito, does that shaded area, which according to the map encompasses the 50-mile EPZ for Millstone, include all or any part of Suffolk County?

MR. ZAHNLEUTER: I object to the question and note that Long Island doesn't even appear on this map.

Q. I believe that counsel's statement is incorrect, but let me ask the witness if he can make out the outlines of the geography of the map.

A. Vaguely, I can see some outlines.

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geographic outlines.

Q. Does the 50-mile EPZ for the Millstone plant encompass, according to this map, all or part of Suffolk County?

A. If I am to assume that that's the proper location of the Millstone facility, it appears to.

Q. To your knowledge, as the head of the State Emergency Management Office, does the 50-mile EPZ for the Millstone plant actually encompass all or part of Suffolk County?

A. I have absolutely no idea. I have had no interaction with the Millstone facility.

Q. Mr. DeVito, I now ask you to turn quickly to page K-15.

A. Keep going in the opposite direction?

Q. Yes.

MR. LANPHER: Wait.

Off the record.

(Discussion off the record)

Q. Now again, I will vouch for the record, this is a page which in the upper right-hand corner says "Attachment 4." It is Attachment 4 to Procedure K of this document.

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The title is, "Ingestion Exposure Pathway Alert Notification Procedure, Indian Point Nuclear Power Plant Sites."

It states at the top, "Upon confirmation of an ingestion exposure pathway concern from the Indian Point nuclear power plant sites, the State Emergency Management Office, SEMO headquarters staff will employ the following alert and notification procedure."

Mr. DeVito, there is then a chart which on the lower left-hand side contains a box which says "SEMO Southern District." There is then an arrow down from that box to a listing of counties. Within that listing of counties is Suffolk.

There is a note at the bottom of the page which says, "The SEMO district offices notify their regional state agency liaisons and other local emergency management offices as appropriate."

Now, as head of the State Emergency Management Office, Mr. DeVito, can you explain to me the notification procedure depicted here and particularly the reference to Suffolk County?

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MR. LANPHER: I object to the question as calling for speculation.

This witness has already testified that he is not intimately familiar with this document.

You are asking him to explain this document.

Q. Can you explain it?

A. Only in a very broad sense and by pure speculation, trying to get into the mind of whoever came up with this list.

This indicates that the headquarters would contact the district and that the district would contact these various locations, and I have no reason to dispute why they put this in here.

As I indicated earlier, I have no facility on Long I land. This may have been an expedient move but, again, I would be speculating why they did that, as opposed, for example, to calling from some other location.

Q. What is the SEMO Southern District office?

A. That is the facility that you referred to as the Poughkeepsie office.

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Q. Does that office encompass within its jurisdiction all of the counties listed?

A. No.

Q. What is the SEMO -- where is the SEMO headquarters staff located?

A. In Albany.

Q. Now again, Mr. DeVito, this appears to be Attachment 4 to to Procedure . . . I will ask you to flip back very briefly to page K-4.

Page K-4, under portion 3.0, "Alert and Notification," the third paragraph down states, "Attachments 4, 5 and 6 comprise SEMO's procedures for alert and notification by operating nuclear power plant site for the ingestion exposure pathway."

To your knowledge, as the head of the State Emergency Management Office, does Attachment 4 comprise SEMO's procedures for alert and notification for the Indian Point nuclear power plant, and I am asking for your knowledge?

MR. LANPHER: I object to the question as calling for speculation.

Which was Attachment 4?

Q. K-4, the one we were just referring

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to.

A. As I indicated, I have no reason to dispute what is in this plan.

The plan is developed by the Radiological Emergency Preparedness Group and I would have to assume -- in coordination with those agencies affected, including my own, as to why that particular listing is indicated the way it is.

I don't know why they did that and for me to conjure up why at this point in time would be pure speculation on my part.

Q. Mr. DeVito, to your knowledge is there any procedure within SEMD for alert and notification for any ingestion pathway response within Suffolk County for the Millstone plant?

A. To my knowledge, no.

Q. To your knowledge, is there any plan for responding within the ingestion pathway of the Millstone plant, within Suffolk County?

A. To my knowledge, no.

Are you asking for a state or county response?

Q. For any plan for any response,

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whether it's state or county.

A. From a state perspective, to my knowledge, no.

From a county perspective, you have to talk with the county.

Q. So you don't know with respect to the county?

A. No. I don't know.

Q. And it is your belief that there is no such state plan?

A. I have never seen one and I have never heard one discussed.

Q. So, to your knowledge, has there ever been any training or exercise for such a response?

A. I am not aware of any.

(Recess)

Q. Mr. DeVito, to your knowledge, is the State Emergency Management Office involved in any way in training state or local personnel in connection with any radiological emergency response plans for nuclear power plants in the State of New York other than Shoreham?

A. I am not aware that we do any radiologic training specifically to qualify people

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to deal with a response at a nuclear power plant other than Shoreham.

Q. What training activities of state and local personnel does the State Emergency Management Office engage in?

A. Engages in a host of training and awareness activities relating to a variety of issues.

We do those sometimes at the request of localities, sometimes by direction from the federal government based upon their -- remember I mentioned that there is that string tied to the funding that's received -- based upon what they have established as their annual requirements, and sometimes based upon in-house analysis as to what is the next level of training that we should be engaging in.

Q. And is that training funded -- is that training always funded in part by the federal government?

MR. LANPHER: I object.

What training are you referring to?

MR. SISK: The training referred to here in the answer to the previous

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question.

MR. LANPHER: There was a lot of training. You mean any or all --

MR. ZAHNLEUTER: I object to the relevancy of where the funding comes from for this type of training.

Q. Let me ask you, just with respect to all of the types of training you referred to in the answer to the previous question, is that training always funded in part by the federal government?

A. To some degree or another, yes.

Q. And to some degree or not, all of that training is also funded in part by the state government, is that correct?

A. Not always.

Q. Not always?

Are there occasions when the federal government provides 100 percent of the funding for the training?

A. Yes.

Q. Are there occasions when the local government provides some of the funding for the training?

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A. I am not aware of any.

Q. Mr. DeVito, I will now hand to the reporter and ask him to mark, I believe Exhibit 5 to this deposition, a document entitled, "County of Suffolk, Disaster Preparedness Plan." It is dated January 1, 1981 and contains, at the bottom of the first page, the title "William E. Regan," R-e-g-a-n, "Director, Department of Emergency Preparedness."

I will ask if you have ever seen this document before?

(Document marked as DeVito Exhibit 5 for identification, as of this date.)

MR. LANPHER: Mr. Sisk, was the question whether he has ever seen this document before?

MR. SISK: Yes.

MR. LANPHER: Thank you.

A. I have no recollection of ever having seen this document.

Q. Mr. DeVito, have you ever seen a document, any document, to the best of your recollection, which purports to be a disaster preparedness plan for Suffolk County?

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A. No.

Q. Mr. DeVito, I will now hand to the reporter a document entitled, "Civil Defense Basic Emergency Plan for Suffolk County and Its Townships and Villages, New York."

I will ask you to tell me if you have ever seen that document before. I believe that's Exhibit 6.

(Document marked as DeVito Exhibit 6 for identification, as of this date.)

Q. Mr. DeVito, have you ever seen that document before?

A. No, I have absolutely no recollection of it.

Q. Have you ever, to the best of your recollection, ever seen a document which purports to be a civil defense plan for Suffolk County?

A. No.

Do you have a date on this plan, Counselor?

Q. I'm sorry?

A. Do you have a date on this plan or a time frame?

Q. As it appears on the document.

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Mr. DeVito, I will now hand to the reporter a document which I will ask him to mark as Exhibit 7 to this deposition.

It is under cover of a letter dated December 29, 1986 with the letterhead of the Town of Brookhaven, New York, Department of Public Safety. It purports to be a cover from the Commissioner of the Department of Public Safety for the Town of Brookhaven.

The document itself, on page 2, is entitled, "Town of Brookhaven, New York, Emergency Preparedness Basic Plan."

I will ask you to tell me whether you have ever seen this document before.

(Document marked as DeVito Exhibit 7 for identification, as of this date.)

Q. Have you ever seen that document before?

A. No.

Q. Have you, to the best of your recollection, ever seen a document purporting to be an emergency preparedness plan for the Town of Brookhaven?

A. No.

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Q. That's all for the moment on that exhibit.

Mr. DeVito, are you aware of the existence of a radiological emergency preparedness plan for the Shoreham plant that was prepared by the Long Island Lighting Company?

A. No, other than -- let me clarify.

I know what I read in the newspapers and I know what I see referenced in other documents, but I am not aware of any plan.

Q. Have you ever seen a copy of that plan?

A. No.

Q. Has anyone in your office reviewed that plan?

A. No.

Q. Have you ever had any discussions with anyone with regard to whether your office should or should not review that plan?

A. No.

Q. I take it, then, that to the best of your knowledge, no one within the State Emergency Management Office has a copy of the LILCO plan for Shoreham?

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A. That is correct.

Q. Now let me ask you a hypothetical,
Mr. DeVito.

I want you to assume the following facts: The Nuclear Regulatory Commission has issued a license for full power operation of the Shoreham nuclear power plant. The NRC has issued that license based on its approval of the LILCO plan. The NRC's decision to issue the license has been upheld on appeal in the courts.

The Shoreham plant is in operation. An emergency occurs. LILCO has notified the chairman of the State Disaster Preparedness Commission that an accident has occurred and LILCO has recommended evacuation of the 10-mile emergency planning zone around Shoreham.

Now, finally, the chairman of the Disaster Preparedness Commission has instructed you to respond to the best of your capability, using all the resources and agencies available to you to protect the public health and safety.

Mr. DeVito, assuming those facts, can you tell me what you would do?

MR. ZAHNLEUTER: Now, I have several

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objections to this hypothetical.

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The first one is that the hypothetical is improper because it assumes facts that are not in issue and it assumes facts that have been not yet approved. For example, the NRC approval of the LILCO plan has not occurred, so that fact does not exist.

Similarly, the hypothetical assumes that the chairman of the Disaster Preparedness Commission has been notified by LILCO. That fact has no basis in the record. The assumption is unfounded.

There are other similar defects in this hypothetical.

I also object because the hypothetical contains vague terms. One such vague term was that an emergency occurred without a definition of the kind of emergency.

The hypothetical is so vague that it is improper and can't be answered.

Also, the word "you" appeared in the hypothetical. I am not clear if that means

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Mr. DeVito as a person, as a professional, as a director of SEMO. You might mean SEMO. That's another example of how the hypothetical is too vague to be properly answered.

So I object on all those grounds.

BY MR. SISK:

Q. Let me clarify the hypothetical to this extent, Mr. DeVito.

By "you," I mean you, Mr. DeVito, as the director of the State Emergency Management Office and in that official capacity.

Can you answer the question?

MR. ZAHNLEUTER: Nevertheless, my objection still stands on numerous assertions that I have already made.

MR. LANPHER: I would like the record to note that I join in the objection.

I think there are additional bases to object. Also, that it hasn't been established that it would be a normal -- normal in any sense, that the chairman of the DPC -- I guess you are referring to Dr.

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Axelrod -- would turn to SEMO to direct some response in this situation.

Q. Can you answer the question, Mr. DeVito?

A. No, I can't, Counselor.

With all due respect, you have constructed for me not one, but a whole series of hypothetical situations and you are asking me to speculate on a whole series of hypotheticals without the benefit of any preplanned concept to deal with that whole series of hypotheticals, and founded on the basic premise that I don't accept, and that is, the plant would be licensed.

So anything I do would be pure off-the-wall speculation.

Q. Mr. DeVito, can you tell me what resources -- and by that I mean departments, agencies, personnel -- within the State of New York, what resources could be employed to respond to such a radiological emergency if the chairman of the Disaster Preparedness Commission directed that they being employed?

MR. ZAHNLEUTER: I wish to object again. Make it a continuing objection, I

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guess, if you persist in asking questions based on this hypothetical.

But this question has now introduced new terms which are vague. I think the term "resources" and the term "response" has need of further clarification.

Q. Can you answer the question, Mr.

DeVito?

A. Again, absent a plan for the purpose, I have absolutely no idea what resource might be called upon to be utilized under a whole host of circumstances.

Q. Now Mr. DeVito, the circumstance that I have described is predicated on a recommendation for evacuation of the 10-mile emergency planning zone.

Let me ask you to assume all the facts that I have stated and add the following fact: That is, the State Disaster Preparedness Commission and the REPG have independently determined that the ten-mile emergency planning zone should be evacuated.

Now, can you tell me what resources, departments, agencies, instrumentalities,

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personnel of the State of New York could be employed to accomplish that task?

I understand all of the objections.

MR. LANPHER: I would like to state an additional objection because I believe it's clear that New York State does not have evacuation responsibilities, in any event, for nuclear power plants in the State of New York, so you are calling for a degree of speculation beyond even what was called for before.

MR. SISK: I don't understand that objection, but it's noted.

Q. Can you answer the question, Mr. DeVito?

A. You are saying if I assume that all of your hypotheticals are facts?

Q. Yes.

A. No, I can't answer the question.

Q. You can't tell me what resources would be available?

A. I would have no idea.

MR. LANPHER: What resources would be available to accomplish -- for the state

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to assist in accomplishing a 10-mile EPZ
evacuation?

Q. To accomplish such an evacuation or
assist in accomplishing such an evacuation.

MR LANPHER: And my objection is
the State of New York does not have a role
in 10-mile evacuation.

I think your question assumes facts
which this witness can't possibly know.

MR. ZAHNLEUTER: The question also
misses facts relating to, for example,
county actions in such a hypothetical.

Q. Are you able to answer that question?

A. I just said no.

Q. And I assume, therefore, that you
would be unable to tell me the timing under which
state resources could be employed in responding to
such an emergency?

A. That's correct.

Q. Now, can you identify for me the
state resources that could be employed in
responding to the 50-mile ingestion pathway for
Shoreham, in the event that you were ordered to
respond appropriately in the event of a

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radiological emergency at Shoreham?

A. No; the same reasons.

Q. And similarly, you wouldn't be able to tell me what kind of timing would be involved?

A. That's correct.

Q. Mr. DeVito, does the statement "radiological emergency preparedness plan" identify any state resources that could be employed to respond within the ingestion pathway of Shoreham in the event of an emergency at Shoreham?

A. I believe I have indicated on more than one occasion, Counselor, I am not an expert in the state's radiological emergency preparedness plan.

That is precisely why we have established in this state a Radiological Emergency Preparedness Group to deal with those kinds of issues because they are such specific issues, so I don't have that kind of expertise.

Q. Do you have a role, however, in emergency response with respect to radiological emergencies in the State of New York?

MR. LANPHER: I would like a

2 clarification. At plants other than
3 Shoreham?

4 Q. At plants other than Shoreham.

5 A. Again, I go back to something I said
6 before, if not more than once, at least once.

7 And that is, my role would be to
8 support the chairman of the DPC and the
9 Radiological Emergency Preparedness Group as
10 specified in very site-specific plans to deal with
11 whatever supportive role my organization would
12 have to carry out the state's responsibilities.

13 Q. Mr. DeVito, could the generic state
14 disaster preparedness plan, in combination with
15 the state radiological emergency response plan and
16 a Suffolk County disaster plan, be employed to
17 respond to a radiological emergency at Shoreham?

18 MR. ZAHNLEUTER: I object.

19 MR. LANPHER: I object to the
20 question.

21 The gentleman has already stated
22 that he has never seen the Suffolk
23 County -- any Suffolk County disaster
24 preparedness plan.

25 So you are asking him to speculate

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about a document that he has already told you he doesn't know about.

Q. Can you answer the question?

A. I am not aware of any local government plan and anything that says, "What we would do if," would be pure speculation on my part.

Q. Mr. DeVito, does the State Emergency Management Office, and by that I mean the personnel that you had described earlier in your planning department, review local disaster preparedness plans that are submitted to the State Emergency Management Office?

MR. ZAHNLEUTER: Objection.

MR. LANPHER: Mr. Sisk, are you asking about radiological plans or plans in general?

Q. Plans in general, disaster plans.

MR. ZAHNLEUTER: I think it has been asked and answered, but you may answer.

A. If they are submitted to us in a general sense, we might review them if there was sufficient time to do that and sufficient resources that could be made available for the

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task. It's not a given, however.

Q. Is it necessary for your office to approve such plans in order for them to obtain federal funding for the training activities you described earlier?

A. No.

MR. LANPHER: I object to the question.

I don't understand what you mean by "approve such plans."

The witness can go ahead and try and answer.

Q. I think the witness has.

A. The answer is no.

MR. LANPHER: Sorry. I didn't hear.

Q. Does a local disaster preparedness plan have to be approved by, to your knowledge, any agency within the state government in order to receive federal funding for the training activities we referred to earlier?

MR. LANPHER: Same objection.

A. I can only speak for my own organization and we do not approve local government plans.

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Q. Do you know whether any other agency of the state government does perform that task?

A. I don't believe so, but I am not aware as an absolute that there is any requirement.

Q. Do such local plans have to be approved, to your knowledge, by the Federal Emergency Management Agency in order to receive funding for the training activities referred to earlier?

A. I am not a federal bureaucrat, so I can't --

Q. I am simply asking for your knowledge.

A. Based on my knowledge, I know of no circumstance where plan approval, to date, has been a requirement for federal funding.

Q. Do you know whether any training of Suffolk County personnel has -- by that I mean training with respect to responding to emergencies in general -- has ever been funded in accordance with the procedures you described earlier?

MR. LANPHER: I object to the question as vague.

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What procedures are you talking about? I don't know what you mean by "training."

The witness hasn't even testified whether he knows whether any training has been carried out for emergencies in Suffolk County.

Q. Has any training been carried out for emergencies, to your knowledge, of Suffolk County personnel?

A. I am not aware of any specific training that has been accomplished.

Q. Do you know whether anyone within your office has engaged in any training activities with respect to emergencies for any Suffolk County personnel?

MR. ZAHNLEUTER: I object.

Is this question receiving training or giving training?

Q. Has your office been engaged in any training activities for Suffolk County personnel?

A. Depending upon how you define the term "training."

We are continuously involved in

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awareness activities to make local government officials throughout the state aware of various problems and concerns and concepts associated with emergency management.

If that is your definition of "training," we do have training statewide.

And whether or not specific employees of the Suffolk County government have availed themselves of that training or not, without looking at an attendance roster, I couldn't tell you.

Q. Could you describe those activities for me generally?

A. For example, the advent of a particular season of the year would necessitate calling everyone's attention to the fact that that season approaches and might carry with it certain hazards relating to natural phenomena. We might then go statewide or in specific geographic areas and outline what those concerns might be.

Local government officials are free to attend or not, so again, who would be there, I wouldn't know without looking at the list.

Q. Who is in charge of those activities

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within the State Emergency Management Office?

A. My training section.

Q. And are these types of activities, did you say, conducted periodically throughout the state?

A. That is correct.

(Discussion off the record)

MR. SISK: I am happy to say that concludes my questioning.

MR. LANPHER: I have no questions.

MR. ZAHNLEUTER: Please give me a minute.

MR. SISK: Sure.

MR. ZAHNLEUTER: I will go back on the record.

I have no questions.

Subscribed and sworn to before me
this ___ day of _____, 198__.

1 109
2 April 29, 1988

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6 E X H I B I T S

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11 3 Document entitled,
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15 5 Document entitled,
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18 6 Document entitled,
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20 Suffolk County and
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21 Villages, New York" 90
22 7 Letter dated 12/29/86
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