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FILE NO.

DIRECT DIAL NO. 804-788-

March 22, 1983

Harold R. Denton
Director of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Shoreham Construction Permit No. CPPR-95
NRC Docket No. 50-322 (OL)

Dear Mr. Denton:

We have received Herbert H. Brown's letter to you alleging that the Long Island Lighting Company's request for an extension of Shoreham's construction permit "cannot lawfully be granted and the CP must expire on March 31, 1983" Mr. Brown's theory is that his client (Suffolk County, New York) has a prerogative to veto Shoreham simply by saying that the County will no longer help assure offsite emergency preparedness for the plant.

There are two short answers. First, Mr. Brown's theory is wrong. A local government does not, simply by saying it won't cooperate in emergency preparedness, have a legal right to cancel a nuclear plant. Whether the plant can meet federal requirements with or without local cooperation is a question of

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fact to be determined by federal authorities, not by local entities.^{1/}

Second, Mr. Brown's letter ignores the right of a permittee under 10 CFR § 50.55(b) to an extension of its CP if good cause exists for its not having completed construction -- if the delay results from "acts beyond the control of the permit holder." It is not necessary, in order to obtain a CP extension, to show that operation of the facility will be safe. A permittee pursues work under a construction permit at its own risk; a permittee is allowed to do so because continued construction, despite questions regarding the safe operation of the plant, does not pose any danger to the public health and safety.^{2/} Mr. Brown's letter ignores the factors relevant under § 50.55(b) to the present request for a CP extension; the letter talks only about emergency planning questions germane, not to the present application, but to Shoreham's safe

^{1/} LILCO's rebuttal of Mr. Brown's hypothesis appears in the Company's March 18, 1983 filing with the Shoreham Licensing Board, entitled "LILCO's Brief in Opposition to Suffolk County's Motion to Terminate this Proceeding and for Certification."

^{2/} See, e.g., Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-82-41, 15 NRC 1295, 1298 (1982).

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operation. Accordingly, Mr. Brown's remarks are irrelevant to whether or not Shoreham's CP should be extended.3/

One final point. Mr. Brown asks in his last paragraph that you forward "this opposition to LILCO's request for an extension of its Shoreham completion date to the Commissioners for their early consideration." It is not clear what Mr. Brown wants. As the "cc's" on his letter indicate, he himself has already sent his letter to the Commissioners.4/

Thus, it appears that either (a) he hopes that you will act quickly on the CP extension request, so that the matter may then go to the Commissioners should they choose to review it,

3/ Perhaps Mr. Brown really meant to suggest that Shoreham's construction should be suspended pending resolution of the validity of his legal theory. If so, he should have proceeded under 10 CFR § 2.206. But even then any such suggestion would have lacked merit. Assuming Mr. Brown's theory were valid, which it is not, its vindication could take years. Having spent over a decade building Shoreham, having committed billions of dollars to it, and with its existence essential to Long Island, LILCO will defend the plant in all necessary forums -- a lengthy process. Moreover, so far as the ultimate quality and cost of the plant are concerned, it would be grossly counterproductive to suspend construction now, thereby disrupting the skilled, complex effort that is only months away from completing the facility. In other words, no persuasive argument could be made for suspending construction -- for disbanding the thousands of people who now have Shoreham virtually built -- so as to wait and see if Mr. Brown's hypothesis might possibly come true years from now.

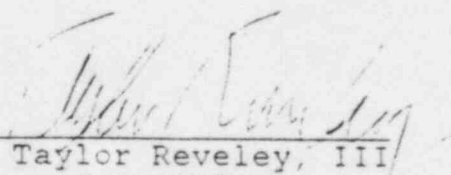
4/ Accordingly, we have sent them this letter.

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or (b) he wants you to send the extension application to the Commissioners without acting on it first. If (a), LILCO believes that it has shown good cause for the extension of Shoreham's CP, and would obviously appreciate prompt receipt of the requested relief. If (b), Mr. Brown's emergency planning theory is now pending before the Shoreham Licensing Board, not the Commission. In the same manner that LILCO sees no compelling reason for excluding the Board from the agency's consideration of Mr. Brown's theory, neither does the Company see any good reason to exclude you from action on the CP extension request. Thus, we ask that the normal legal process prevail -- that the Director of Nuclear Reactor Regulation make the decision in the first instance on LILCO's CP extension request, just as he makes it on other such requests.

Very truly yours,


W. Taylor Reveley, III
One of LILCO'S Counsel

cc: The Commissioners
The Licensing Board
The Parties