

KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

1900 M STREET, N. W.

WASHINGTON, D. C. 20036

TELEPHONE (202) 452-7000  
CABLE: HIFHI  
TELEX 440209 HIFH UI  
WRITER'S DIRECT DIAL NUMBER  
(202) 452-7005

March 28, 1983

IN PITTSBURGH  
KIRKPATRICK, LOCKHART, JOHNSON & HUTCHISON  
1500 OLIVER BUILDING  
PITTSBURGH, PENNSYLVANIA 15222  
(412) 355-6500

Mr. Harold R. Denton  
U.S. Nuclear Regulatory Commission  
7920 Norfolk Avenue  
Room P-404  
Bethesda, Maryland 20814

Re: Shoreham Nuclear Power Station, Unit 1, Construction  
Permit No. CPPR-95; NRC Docket No. 50-322

Dear Mr. Denton:

On behalf of our client, Suffolk County, we are responding to the March 22 letter of Mr. W. Taylor Reveley, III, which disputes the need for the NRC immediately to rule that LILCO's Construction Permit for the Shoreham plant cannot lawfully be extended.

1. Mr. Reveley's letter overlooks the basic legal issue raised in our March 15 opposition to LILCO's request to extend the subject construction permit ("CP") -- whether "good cause" for extension of the CP can be shown where no operating license for the plant can be issued.

Contrary to Mr. Reveley's assertion, LILCO has no legal "right" to an extension under 10 C.F.R. Sec. 50.55(b). Both that regulation and Section 185 of the Atomic Energy Act provide that the CP "shall expire" by the construction completion date unless LILCO can show "good cause." The question, therefore, is whether there is "good cause" on the present facts for the NRC to take the extraordinary action of permitting further construction work on the now inherently inoperable Shoreham plant. The County contends that there is not. Indeed, LILCO cannot meet its burden of showing that there is such good cause. As stated in our letter of March 15, the fact that Shoreham cannot be licensed makes its continued construction a mere exercise in futility. Congress clearly did not intend to sanction Federal support for such a futile endeavor and thus specified CP termination unless the requisite good cause is shown.

YE03

Mr. Harold R. Denton  
March 28, 1983  
Page Two

2. Mr. Reveley's letter mischaracterizes Suffolk County's position by fashioning and responding to what Mr. Reveley calls the County's "theory" of a "prerogative to veto Shoreham." Suffolk County is not pursuing a mere "theory" as to whether Shoreham can lawfully be issued an operating license. Instead, the County has placed the weight of its argument on the NRC's regulations, and those regulations explicitly provide that Shoreham cannot operate under the present circumstances. Therefore, the County is asking for a ruling from the NRC that recognizes Shoreham will not operate and that brings its costly construction to a stop. As stated in our March 15 letter, these two issues are closely related and can best be dealt with by the Commission, preferably under an expedited decisionmaking schedule that takes cognizance of the need to end the current state of uncertainty over Shoreham's future.

3. Mr. Reveley's letter mischaracterizes the nature and effect of Suffolk County's determination (in County Resolution No. 111-1983) that the County will not adopt or implement a local radiological emergency response plan. The County took this action, as the Resolution explicitly provides, so as to avoid misleading the public into believing that they were being protected when in fact they were not. It is thus not, as Mr. Reveley states, a matter of the County "saying it won't cooperate in emergency preparedness." Rather, it is a matter of the County taking the only responsible action it could take under its constitutional obligation to protect the health, safety, and welfare of its own citizens. Were the County to do otherwise, it would, as the County Executive has repeatedly stated, betray the public trust of those whose safety the government of Suffolk County was established to protect.

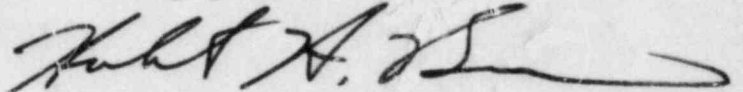
The March 15 opposition of Suffolk County to an extension of LILCO's CP for Shoreham is viewed by the County as a most serious matter. Officials of Suffolk County are prepared to meet with you and your colleagues in order to set the record straight as to what actually has happened at the local level and what must now be done by all other affected parties. Mr. Reveley's letter portrays on LILCO's behalf a self-serving and inaccurate characterization of Suffolk County's governmental activities. This is unfortunate, because it might tend to mislead the Staff into not appreciating the hard work and good faith of the government of Suffolk County. The fact is that Suffolk County has acted to

KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS

Mr. Harold R. Denton  
March 28, 1983  
Page Three

effectuate its legal obligations and it has done so with vigor and spirit befitting public officials who were elected to protect the public welfare.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Herbert H. Brown", with a long, sweeping horizontal stroke extending to the right.

Herbert H. Brown  
Counsel for Suffolk County

cc: NRC Commissioners  
Service List