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May 6, 1983

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Lawrence Brenner, Chairman  
Administrative Judge  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Comm.  
Washington, D.C. 20555

Dear Judge Brenner:

This letter will formally register my objection to the Board's exclusion of the Town of Southampton from a conference call held on Wednesday afternoon, May 4, 1983, concerning off-site emergency planning and other matters. This objection was expressed personally to you by phone late Wednesday afternoon.

At about 4:30 p.m. on March 4, 1983, I received a call from Lawrence Lanpher, special counsel to Suffolk County, who advised me that the Board had just concluded a conference call involving Suffolk County, LILCO, NRC Staff and the Board. I understand that the conference call had been convened on the Board's initiative and that matters to which Southampton is not a party, such as OQA and the Teledyne Study were also discussed. The discussion involving off-site emergency planning apparently focused on a motion recently filed by Suffolk County requesting a modification to the off-site emergency planning schedule set forth in the Board's Order denying the County's motion to terminate the Shoreham operating license proceeding, dated April 20, 1983.

As I understand from my conversation with you Wednesday afternoon, no effort was made by the Board to contact my office concerning my availability for the conference call. No party to that conference call was asked the extent to which the County's motion had been previously discussed with Southampton or whether Southampton had authorized the County or any other party to express the Town's views on the County's motion. I understand that this same error was made with regard to

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the Shoreham Opponent's Coalition, the North Shore Committee and the State of New York. I do not know whether a representative of FEMA was involved in the conference call.

The Board's exclusion of Southampton and other parties is a serious matter which we will assume was an unintended oversight. As you pointed out during our conversation yesterday afternoon, the Board has required close cooperation among the intervenors to this proceeding. On a variety of levels, that requirement has been rigorously followed. At the Board's insistence, Suffolk County has accepted the responsibility to notify other intervenors of hearing matters which affect those intervenors' interests, an obligation that has been no small burden to the County. When required by the Board, parties have utilized Express Mail service and conference calls to expedite decisions on numerous matters when time has been of the essence.

Although the County was not required to serve its motion by Express Mail, I received it by Federal Express at noon on Wednesday. The County did not previously discuss the contents of its motion with me, nor was it under any obligation to do so, since the rules expressly afford parties an opportunity to respond within ten (10) days after service and LILCO's new plan is not due to be received until May 16th or later. Ironically, at the time the conference call was apparently taking place, I was discussing the substance of the County's motion with a representative of the Town in order to determine Southampton's scheduling needs so that I could reply to the County's motion. I am chagrined, to say the least, to discover that I could have spent my time more productively on other matters.

If the exclusion of Southampton from the conference call was intentional, that would cast serious doubts on the fairness of the Board's proposed hearings on off-site emergency planning issues. As a party to those issues, Southampton expects to be notified of any communication involving the Board and any other party concerning off-site emergency planning so that it can participate if it chooses. If Southampton disagrees with the Board's ground rules for participation, we will make our views known. If we choose not to participate, we are aware of the consequences.

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If the Board chooses to suspend the normal rules of practice and to instead substitute some expedited hearing process, the Board will have to accept the inconvenience of giving other parties an opportunity to participate, no matter how "minor" a role the Board feels they may have.

I have taken the liberty of expressing my views at this time because several of the comments made by you to me on Wednesday suggested that future decisions on whether to involve parties other than the County, Staff and LILCO in conference calls on off-site emergency planning matters might be made on a somewhat "ad hoc" basis.

For example, you mentioned that you had assumed that the County had discussed its motion with Southampton prior to filing it. Even had that been the case, that would not have entitled the Board to exclude Southampton, without notice, from a discussion of that motion initiated by the Board, which culminated in a Board ruling. You also mentioned that the ruling which the Board issued during the conference call was not a "firm ruling" but was "tentative" in nature. That ruling apparently extended the time from three to four weeks for the filing of contentions, and added a two week period after receipt of LILCO's new off-site plan for the parties to discuss whether four weeks will be adequate.

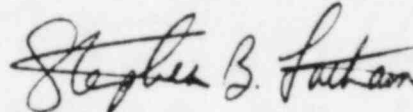
I am unaware of any provision in the Commission's Rules of Practice which would permit the Board for any reason to exclude parties from a conference call pertaining to that party's case. Southampton will take strong exception to any effort to exclude it from any discussion of off-site emergency planning which involves the Board, whether or not the Board characterizes any subsequent ruling as "tentative" or "final".

In view of the action taken Wednesday by the Board, Southampton will hold its substantive comments on the scheduling of off-site emergency planning hearing mat-

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ters until receipt of the new LILCO plan and discussion  
of that document with other intervenors.

Yours truly,

A handwritten signature in cursive script, reading "Stephen B. Latham".

Stephen B. Latham

SBL:lam

cc: Judge Morris  
Judge Carpenter  
NRC Commissioners  
Hon. Martin Lang  
50-322 Service List

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
LONG ISLAND LIGHTING COMPANY )  
 )  
(Shoreham Nuclear Power Station, )  
Unit 1) )

Docket No. 50-322 (OL)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Letter from Stephen B. Latham to Chairman Lawrence Brenner In Objection to Board's Exclusion of the Town of Southampton from Conference Call of May 4, 1983", dated May 6, 1982, submitted by the Town of Southampton, in the above captioned proceeding, have been served on the following, by deposit in the United States mail, first class, this 6th day of May, 1983.

Lawrence Brenner, Chairman  
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Board Panel  
U.S. Nuclear Regulatory Comm.  
Washington, D.C. 20555

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Administrative Judge  
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Atomic Safety and Licensing  
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U.S. Nuclear Regulatory Comm.  
Washington, D.C. 20555



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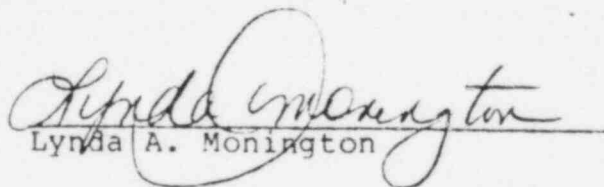
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