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April 21, 1983

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Richard J. Rawson, Esquire
 Nuclear Regulatory Commission
 7735 Old Georgetown Road
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Dear Rich:

Board Notification 83-44, dated April 4, 1983, "Staff Position Regarding Unresolved Safety Issue A-17," transmitted to the Commission a copy of the Staff's Supplemental Testimony on Contention 7B which was filed in the Shoreham proceeding. By means of Board Notification 83-17, a copy of Mr. Conran's Affidavit was also transmitted to the Commission.

In light of the fact that the concerns raised by Mr. Conran are currently the subject of litigation before the Shoreham - ASLB, certain statements in Mr. Eisenhut's memorandum to the Commission accompanying Board Notification 83-44 appear to violate the Commission's ex parte communications rule. Specifically, Mr. Eisenhut states:

The Staff has considered the concerns raised in [the Conran] affidavit and has determined that there is no basis for any change in the Staff's position regarding USI A-17. . . . We now consider this issue to be resolved.

In ruling on SC/SOC Contention 7B, the Shoreham Board will make a determination as to the validity of both Mr. Conran's concerns as set forth in his Affidavit, and the Staff's position regarding USI A-17 as set forth in the Staff's testimony. In our view Mr. Eisenhut's communication to the Commission thus concerns "a substantive matter at issue in a proceeding on the record . . . pending before the NRC," and therefore, is improper under 10 CFR §2.780.

XA Copy Has Been Sent to PDR

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Enclosure 19

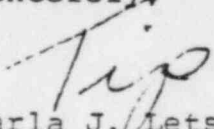
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As you know, Suffolk County has expressed its opinion regarding USI A-17, including its agreement with Mr. Conran and its disagreement with the Staff's position, in testimony recently filed in the Shoreham proceeding. Since the Staff has now placed before the Commission the corresponding written submissions made by the other parties to the proceeding, we believe that the Staff should also provide the Commission with the Suffolk County Supplemental Testimony on Contention 7B. In our view, such action is necessary in the interest of full and fair disclosure to the Commission, particularly in light of the conclusory statements made to the Commission on this issue by Mr. Eisenhut.

Accordingly, we hereby request that the Staff promptly provide the Commission and other recipients of Board Notifications 83-17 and 83-44, with a copy of the County's testimony dated March 23, 1983. Please let me know the Staff's response to this request as soon as possible.

I am enclosing for your information a copy of a letter sent today to Darrell G. Eisenhut on a related matter.

Sincerely,


Karla J. Letsche

KJL/dc
Enclosure

cc: T. S. Ellis, III, Esquire
Darrell G. Eisenhut
James H. Conran