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RELATED CORRESPONDENCE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before the Atomic Safety and Licensing Board

84 MAY -9 AIO:33

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

\_\_\_\_\_  
In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station, )  
Unit 1) )  
\_\_\_\_\_

Docket No. 50-322-OL-3  
(Emergency Planning)

SUFFOLK COUNTY MOTION TO COMPEL  
RESPONSE TO REQUEST FOR PRODUCTION  
OF DOCUMENTS BY FEMA

For the reasons set forth below, Suffolk County, pursuant to 10 CFR Section 2.740(f), hereby requests that the Board order FEMA to respond to the Suffolk County Request for Production of Documents by FEMA, dated April 20, 1984.

On Friday, April 20, Suffolk County filed a Request for Production of Documents by FEMA. Counsel for FEMA was served with this document on Monday, April 23.<sup>1/</sup> During the hearing

1/ The document was delivered to FEMA Counsel's New York office by Federal Express on Monday, April 23. The County also hand delivered a second copy to FEMA Counsel in Washington, D.C. on Wednesday, April 25.

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on Thursday, April 26, the County made clear its need for a response to its document request prior to its conducting depositions of FEMA's witnesses, then scheduled for May 8 and 9, and FEMA counsel stated that the response would be provided to the County by May 1 or 2. During numerous conversations with counsel, FEMA counsel has made clear that he does not intend to produce several documents that are responsive to the County's document request; nonetheless, neither a response to that request nor a motion for a protective order has yet been filed by FEMA. In addition, the County has also made clear that it needs the documents requested, or at least a Board ruling upholding FEMA's decision to withhold those documents, in order to be able adequately and effectively to conduct depositions of FEMA witnesses. Without having received either a response to its document request that identifies the documents being withheld and the basis for such non-production, or a motion for a protective order that could be opposed and a Board ruling obtained, the County cannot seek production of any specific documents, and, indeed, also cannot proceed with properly focused depositions of the FEMA witnesses.<sup>2/</sup> Under prior Board

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<sup>2/</sup> As FEMA counsel has mentioned, Suffolk County did file with FEMA a Freedom of Information Act request, and some documents were produced in response to that request on

(Footnote cont'd next page)

rulings in this case, the County is entitled to conduct such discovery prior to having to cross examine the FEMA witnesses during the hearings.

As the Board was made aware on Friday, May 4, 1984, the May 8 and 9 depositions have been cancelled because of FEMA's failure<sup>4</sup> to respond to the County's document request. Suffolk County is attempting to reschedule them during the two week break in the hearing (on May 22 and 23) so that the cross examination of FEMA witnesses can proceed as planned when the hearing reconvenes on May 29, 1984. . However, in order to take the depositions at that time, it will be necessary to receive the FEMA response and obtain whatever Board rulings may be necessary prior to that time. Accordingly, the County requests that FEMA be ordered to respond to the County's document request, and file its motion for a protective order to cover the documents it does not intend to produce by May 10, 1984.

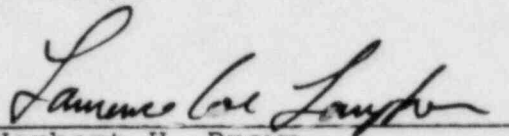
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May 1. A seven page list of documents not produced was also provided on that date. While the County has stated it does not seek to receive two copies of documents that may be responsive to both its FOIA request and its Request for Production of Documents, it is well established that it nonetheless is entitled to receive a response to its Request for Production of Documents, separate and apart from a response to its FOIA request.

Respectfully submitted,

Martin Bradley Ashare  
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A handwritten signature in cursive script, reading "Lawrence Coe Lanpher", written over a horizontal line.

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Attorneys for Suffolk County

Dated: May 8, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before the Atomic Safety and Licensing Board

84 MAY -9 A10:33

In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Docket No. 50-322-OL-3  
(Emergency Planning)

CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY MOTION TO COMPEL RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS BY FEMA dated May 8, 1984, have been served to the following this 8th day of May 1984 by U.S. mail, first class, except as otherwise noted.

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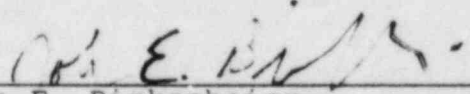
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Dated: May 8, 1984

\* By Federal Express  
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