

304

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before the Atomic Safety and Licensing Board '84 MAY 24 A10:30

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

_____ )	
In the Matter of )	
LONG ISLAND LIGHTING COMPANY )	Docket No. 50-322-OL-3
(Shoreham Nuclear Power Station, )	(Emergency Planning)
Unit 1) )	
_____ )	

SUFFOLK COUNTY'S NOTIFICATION  
TO THE BOARD REGARDING  
POTENTIAL SCHEDULING PROBLEMS

On May 18, 1984, this Board issued a Memorandum And Order Ruling On Suffolk County Motion To Compel Production Of Documents By FEMA which granted, in large part, the County's May 17 Motion to Compel. Also on May 18, this Board granted FEMA's request for a temporary stay until 5:00 p.m. May 21. At approximately 4:00 p.m. on May 21, the Appeal Board entered, ex parte, an emergency stay of this Board's May 18 Order. The question whether the emergency stay should be continued pending full consideration and disposition of FEMA's appeal from the May 18 Order will be argued before the Appeal Board at 11:00 a.m. on Wednesday, May 23.

These recent events have had, and may continue to have, an impact on the scheduling of depositions for FEMA's witnesses, which in turn could impact the present hearing schedule. Suffolk County wishes to bring these potential problems to the attention of the Board.

8405240395 840522  
PDR ADOCK 05000322  
G PDR

DS03  
DS03

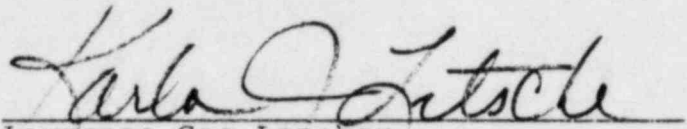
The County and FEMA had previously agreed that FEMA's witnesses would be deposed on Wednesday and Thursday, May 23 and 24, 1984. With oral argument now scheduled for Wednesday, May 23 before the Appeal Board, the depositions scheduled for that date must be canceled. Furthermore, it appears unlikely that depositions could take place on Thursday, May 24. Even if the Appeal Board were to affirm the Board's May 18 order on Wednesday, the documents at issue would have to be produced by FEMA and reviewed by the County prior to depositions. If the documents were actually provided on Wednesday, the depositions could begin on Friday and continue next week. The only circumstances under which the depositions could take place on Thursday, as scheduled, would be if on Wednesday the Appeal Board reversed this Board and ruled completely in FEMA's favor. We have contacted counsel for FEMA regarding the need to reschedule the FEMA depositions. A copy of that letter is attached hereto.

The previously scheduled cross-examination of the FEMA witnesses beginning on May 29 may also need to be changed, depending upon when their depositions are re-scheduled. A change in next week's hearing schedule could have a substantial "ripple" effect on other scheduling considerations. Obviously, the extent of any required changes in the trial schedule depends upon the Appeal Board's ruling on Wednesday and the extent of any further delay

in the County's receipt of the FEMA documents. The County will keep the Board informed on this matter.

Respectfully submitted,

Martin Bradley Ashare  
Suffolk County Attorney  
H. Lee Dennison Building  
Veterans Memorial Highway  
Hauppauge, New York 11788

A handwritten signature in cursive script, reading "Karla J. Letsche", written over a horizontal line.

Lawrence Coe Lanpher  
Karla J. Letsche  
Christopher M. McMurray  
KIRKPATRICK, LOCKHART, HILL,  
CHRISTOPHER & PHILLIPS  
1900 M Street, NW  
Washington, DC 20036

Attorneys for Suffolk County

Dated: May 22, 1984

KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

1900 M STREET, N. W.

WASHINGTON, D. C. 20036

1428 BRICKELL AVENUE  
MIAMI, FLORIDA 33131  
(305) 374-8112

TELEPHONE: (202) 452-7000  
TELEX: 440209 KIPH UI

1500 OLIVER BUILDING  
PITTSBURGH, PENNSYLVANIA 15222  
(412) 355-6500

WRITER'S DIRECT DIAL NUMBER

(202) 452-7064

May 22, 1984

BY TELECOPIER

Stewart M. Glass, Esquire  
Regional Counsel  
Federal Emergency Management  
Agency  
26 Federal Plaza, Room 1349  
New York, New York 10278

Dear Stewart:

In light of the oral argument scheduled before the Appeal Board in Bethesda tomorrow (May 23), we clearly cannot go forward with the depositions of FEMA witnesses which had been scheduled for tomorrow. I know that neither you nor I can be in two places at once. It also appears doubtful that we could go forward with depositions on Thursday (May 24) unless the Appeal Board rules definitively on Wednesday on the substance of your appeal and completely reverses the ASLB's order.

If, however, the Appeal Board either grants an additional stay or does not rule on the appeal on Wednesday, the depositions would have to be postponed pending its ultimate ruling. Even if on Wednesday the Appeal Board were to affirm the ASLB's Order, we would be unable to take depositions on Thursday, since we would need time to review the FEMA documents beforehand. If we received the FEMA documents on Wednesday, however, we could begin the depositions on Friday, and continue them on Tuesday. I suggest you attempt to arrange schedules for that possibility.

It also seems clear that the pending Appeal Board proceedings may have an impact on the hearing schedule for next week. I have informed the Laurenson Board of that possibility. See attached Notification.

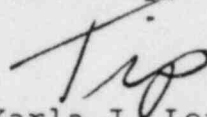


KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS

Stewart M. Glass, Esq.  
May 22, 1984  
Page Two

Obviously, we will have to re-schedule the depositions depending upon and following the actions of the Appeal Board on Wednesday. I wanted to be sure you knew, however, that we cannot go forward on Wednesday so you can inform your witnesses accordingly.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Tip' or 'Tio', written over a horizontal line.

Karla J. Letsche

KJL:so  
Attachment

cc: Richard Zahnleuter, Esq.  
Donald P. Irwin, Esq.  
Bernard M. Bordenick, Esq.  
Stephen B. Latham, Esq.  
Ralph Shapiro, Esq.  
James B. Dougherty, Esq.

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-3  
(Emergency Planning)

CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY'S NOTIFICATION TO THE BOARD REGARDING POTENTIAL SCHEDULING PROBLEMS dated May 22, 1984, have been served to the following this 22nd day of May 1984 by U.S. mail, first class, except as otherwise noted.

James A. Laurenson, Chairman \*  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Ralph Shapiro, Esq.  
Cammer and Shapiro  
9 East 40th Street  
New York, New York 10016

Dr. Jerry R. Kline \*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

James B. Dougherty, Esq.  
3045 Porter Street, N.W.  
Washington, D.C. 20008

Mr. Frederick J. Shon \*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

W. Taylor Reveley, III, Esq.#  
Hunton & Williams  
P.O. Box 1535  
707 East Main Street  
Richmond, Virginia 23212

Mr. Jay Dunkleberger  
New York State Energy Office  
Agency Building 2  
Empire State Plaza  
Albany, New York 12223

Edward M. Barrett, Esq.  
General Counsel  
Long Island Lighting Company  
250 Old Country Road  
Mineola, New York 11501

Mr. Brian McCaffrey  
Long Island Lighting Company  
Shoreham Nuclear Power Station  
P.O. Box 618  
North Country Road  
Wading River, New York 11792

Marc W. Goldsmith  
Energy Research Group, Inc.  
400-1 Totten Pond Road  
Waltham, Massachusetts 02154

Joel Blau, Esq.  
New York Public Service Commission  
The Governor Nelson A. Rockefeller  
Building  
Empire State Plaza  
Albany, New York 12223

Martin Bradley Ashare, Esq.  
Suffolk County Attorney  
H. Lee Dennison Building  
Veterans Memorial Highway  
Hauppauge, New York 11788

Atomic Safety and Licensing Board  
Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Bernard M. Bordenick, Esq. \*  
David A. Repka, Esq.  
Edwin J. Reis, Esq.  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Stephen B. Latham, Esq.  
Twomey, Latham & Shea  
P.O. Box 398  
33 West Second Street  
Riverhead, New York 11901

Ms. Nora Bredes  
Executive Coordinator  
Shoreham Opponents' Coalition  
195 East Main Street  
Smithtown, New York 11787

MHB Technical Associates  
1723 Hamilton Avenue  
Suite K  
San Jose, California 95125

Hon. Peter F. Cohalan  
Suffolk County Executive  
H. Lee Dennison Building  
Veterans Memorial Highway  
Hauppauge, New York 11788

Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Jonathan D. Feinberg, Esq.  
Staff Counsel  
New York State Public  
Service Commission  
3 Rockefeller Plaza  
Albany, New York 12223

Stuart Diamond  
Business/Financial  
New York Times  
229 W. 43rd Street  
New York, New York 10036

Stewart M. Glass, Esq. #  
Regional Counsel  
Federal Emergency Management  
Agency  
26 Federal Plaza, Room 1349  
New York, New York 10278

Fabian Palomino, Esq. #  
Special Counsel to  
the Governor  
Executive Chamber, Room 229  
State Capitol  
Albany, New York 12224

Spence Perry, Esq. \*  
Associate General Counsel  
Federal Emergency Management  
Agency  
Washington, D.C. 20472

Eleanor L. Frucci, Esq. \*  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555



Karla J. Letsche  
KIRKPATRICK, LOCKHART, HILL,  
CHRISTOPHER & PHILLIPS  
1900 M Street, N.W., Suite 800  
Washington, D.C. 20036

Dated: May 22, 1984

\* By Hand  
# By Telecopier