

RELATED CORRESPONDENCE

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SUFFOLK COUNTY, 12/6/84

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing

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

SUFFOLK COUNTY'S REPLY TO LILCO'S
RESPONSE TO SUFFOLK COUNTY'S MOTION TO COMPEL

1. LILCO's characterization of the position of McCrone Associates (LILCO's Response at 3-4) is incorrect. McCrone believes reliable results can be obtained, particularly if McCrone "shaves" the oxide from the crack sample and undertakes whatever tests it deems appropriate. McCrone has informed the County that LILCO's inquiries limited McCrone to non-destructive testing of the crack sample.

2. There is no reason why the McCrone testing must be non-destructive. LILCO has represented that the crack section from cam gallery No. 7 which was subjected to fractography is representative of all cam gallery cracks. If LILCO wishes to preserve that particular section, for whatever reason, the County can be supplied with another section of the crack from cam saddle No. 7 (for example, the section shown in the photograph in the County's

Diesel Exhibit 81).^{1/} In fact, McCrone would prefer to itself fracture the crack sample for analysis, thereby ensuring that all proper procedures are followed.

3. LILCO's proposed test protocol is unnecessary and unacceptable to the County, for the following reasons.

(a) There is no reason to put limitations, as LILCO proposes, upon the tests which McCrone wishes to perform to ascertain the nature of the oxide layer. Because McCrone is a recognized leading expert on x-ray diffraction testing and is totally independent, the County intends to request that McCrone, without input from the County or Dr. Anderson, determine what procedures are most appropriate to yield reliable results. As noted in the County's Motion (at 3), if the Motion is granted we will invite LILCO's and the Staff's experts to discuss with McCrone the details of the tests McCrone may decide to perform.

(b) There is no reason for LILCO to retain possession of the crack sample to be supplied to McCrone. The County's Motion to Compel was necessitated by LILCO's refusal to supply a sample voluntarily. The County has no objection to permitting representatives of the parties to witness the testing, if there is no interference with McCrone's procedures, and we will instruct McCrone to supply documentation and raw data from the tests to the parties.

(c) LILCO's desire to have other laboratories test crack samples is irrelevant to the County's Motion. LILCO has control

^{1/} The County's Motion to Compel was intentionally drawn to give LILCO this option.

over all of the samples and can have whomever it selects perform whatever tests they want. We would expect only that if LILCO has additional tests performed, all parties should receive test documentation.

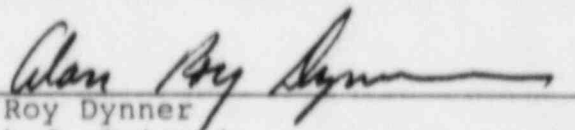
(d) LILCO's proposed "criteria" (LILCO's Response at 8-10) are a transparent attempt to control the test results and impose on the County consequences as to the cylinder block contentions. The County has, pursuant to the Board's direction, stated how the County will alter its cylinder block contention if the tests demonstrate that the oxide is at least 15% magnetite or wustite (Motion at 3-4). LILCO fails to propose any consequences at all to LILCO, such as the scrapping of the blocks, if 86% or more of the oxide layer is comprised of low temperature oxides, and thus the cracks are shown to be propagating. This demonstrates LILCO's one-sided approach to the issue.

4. In short, the County simply wants the opportunity to do what LILCO had and still has the opportunity to do -- to have a reknowned independent laboratory determine the nature of the oxide in the cam gallery crack. It is clear from LILCO's vigorous objections to the County's requests and Motion that LILCO is frightened to have the x-ray diffraction test performed. LILCO's attempt to impose unwarranted limitations on the procedures McCrone might decide to follow, if the Board grants the Motion, is further evidence of the desirability of having the tests performed as McCrone determines is best, after hearing from LILCO's and the Staff's consultants.

5. Finally, LILCO argues that the County's Motion should be denied because (i) the test is unnecessary, (ii) may not be definitive, and (iii) the County's Motion is untimely. The County, in its Motion to Compel, has shown the requisite relevancy and good cause under 10 C.F.R. §§ 2.740 and 2.741. LILCO's arguments (i) and (ii) are not proper standards for denying a motion to compel under Section 2.740(f) or for granting a protective order under Section 2.740(c). LILCO has not shown any conceivable way in which the granting of the Motion would annoy, embarrass, oppress, or be an undue burden or expense upon, or otherwise prejudice, LILCO. For the reasons given in the Motion, it is clear that the Motion arose out of testimony by expert witnesses during cross-examination at the hearing in November, and was therefore timely. LILCO's objection of untimeliness is unjustified and particularly inappropriate, given LILCO's own tardiness in disclosing any information about the cam gallery cracks until mid-way through the hearing. LILCO should welcome an independent test that can prove definitively which party is right.

Respectfully submitted,

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December 6, 1984

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NUCLEAR REGULATORY COMMISSION

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LONG ISLAND LIGHTING COMPANY)

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CERTIFICATE OF SERVICE

I hereby certify that copies of SUFFOLK COUNTY'S MOTION FOR LEAVE TO REPLY TO LILCO'S RESPONSE TO SUFFOLK COUNTY'S MOTION TO COMPEL and SUFFOLK COUNTY'S REPLY TO LILCO'S RESPONSE TO SUFFOLK COUNTY'S MOTION TO COMPEL, both dated December 6, 1984, have been served on the following this 7th day of December 1984 by U.S. mail, first class, except as otherwise indicated.

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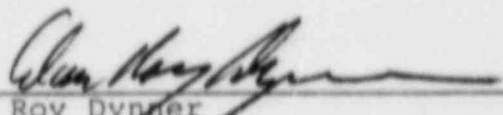
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DATE: December 7, 1984

By Federal Express
* By Hand Delivery