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May 13, 1985 OFFICE OF SECRETARY
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Nunzio J. Palladino, Chairman
Thomas M. Roberts
James K. Asselstine
Frederick M. Bernthal
Lando W. Zech, Jr.
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

Re: Shoreham Nuclear Power Station;
Docket No. 50-322-OL-4

Dear Mr. Chairman and Messrs. Commissioners:

Enclosed herewith is the joint Suffolk County/State of New York Reply Brief Concerning Physical Security Issues, filed pursuant to the Commission's April 23 Order. This Reply Brief demonstrates that the Appeal Board was correct in ruling that the alternate AC power system at Shoreham performs safety functions and, thus, must be protected as "vital equipment." Out of caution, we have treated the Reply Brief as containing safeguards information, pending any determination by the Commission to the contrary. Accordingly, service of the brief is limited to authorized persons.

The State and County again wish to reiterate their view that the Commission should cease consideration of a low power license for Shoreham. The recent decisions of the New York State Supreme Court (i.e., ruling that LILCO lacks legal authority to implement its emergency plan), the U.S. District Court, E.D.N.Y. (i.e., ruling that Suffolk County's emergency planning position is lawful, rationally based, and not preempted by federal law), and the ASLB (i.e., ruling that there is no preemption of State laws which preclude LILCO from implementing its emergency plan) prevent the issuance of a full power license for Shoreham. Under these circumstances, there is no legitimate reason for the Commission to consider issuance of a low power

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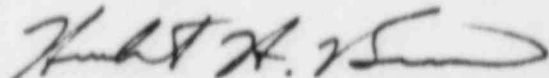
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and Commissioners
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testing license, which would cause the irretrievable contamination of Shoreham and the waste of more than \$100 million. In this regard, we also refer the Commission to the long-standing and repeated requests of the County and State that the NRC prepare a Supplemental EIS before deciding whether to issue a low power license for Shoreham. The recent decisions of the courts and ASLB underscore the need for a Supplemental EIS.

If the Commission should decide at any point to issue a low power license for Shoreham, the County and State request that the Commission stay the effective date of such license to allow at least seven days for the County and State's filing of an emergency stay motion with the United States Court of Appeals and additional time for other parties' responses and for an orderly Court of Appeals decision. The complexity and seriousness of the issues would require such an accommodation.

Sincerely yours,



Herbert H. Brown

cc: Service List