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KIRKPATRICK & LOCKHART

1900 M STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 452-7000
TELEX 440209 KUPH UI
TELECOPIER (202) 452-7052

ONE BOSTON PLACE
BOSTON, MA 02108
(617) 973-5400
1428 BRUCKELL AVENUE
MIAMI, FL 33131
(305) 374-8112
1500 OLIVER BUILDING
PITTSBURGH, PA 15222
(412) 355-6500

LAWRENCE COE LANPHER
(202) 452-7011

June 17, 1985

DOCKETED
USNRC

BY HAND

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Alan S. Rosenthal, Esquire, Chairman
Gary J. Edles, Esquire
Mr. Howard A. Wilber
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Re: Long Island Lighting Company
(Shoreham Nuclear Power Station);
Docket Number: 50-322-OL

Gentlemen:

The State of New York and Suffolk County are in receipt of your Order entered this morning. In view of the Appeal Board's action, we have advised the U.S. Court of Appeals that it needs to take no action on the Emergency Stay Motion at this time. See attached letter.

In the event the Appeal Board decides to deny the County/State stay motion, we reiterate the request (set forth at pages 10-12 of our Appeal Board motion) to maintain the present stay in effect until July 2 and thus to allow expeditious D.C. Circuit review of the stay issue.

Sincerely yours,

Lawrence Coe Lanpher

Lawrence Coe Lanpher

LCL/dah
enclosures
cc: Service List

8506190437 850617
PDR ADOCK 05000322
PDR

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KIRKPATRICK & LOCKHART

1900 M STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 452-7000
TELEX 440209 KIPK LU
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MIAMI, FL 33131
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1500 OLIVER BUILDING
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(412) 355-6500

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(202) 452-7011

June 17, 1985

Clerk of Court
United States Court of Appeals for
the District of Columbia Circuit
U.S. Courthouse, 5th Floor
333 Constitution Avenue, N.W.
Washington, D.C. 20001

ATTENTION: Ms. Bateman

Re: Cuomo v. NRC (Docket No. 85-1042)

Dear Ms. Bateman:

This letter confirms an oral notification which I provided earlier today to you. The NRC Appeal Board this morning entered an ex parte stay, which has the effect of staying operation of Shoreham until the Appeal Board has ruled on the Suffolk County/State of New York stay motion filed with the Appeal Board. It appears that the earliest time for an Appeal Board ruling would be Wednesday, June 19. A copy of the Appeal Board's Order is attached.

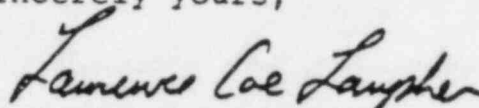
In view of the Appeal Board's stay, we do not request the Court of Appeals to rule at this time on the Emergency Stay Motion filed this morning with the Court. Rather, it is appropriate to wait until the NRC Appeal Board has ruled. If the Appeal Board denies the County/State stay motion, we intend to ask the Court of Appeals then to rule on the Emergency Stay Motion. We are requesting that if the Appeal Board should deny our stay motion, it will nonetheless continue the stay of operation of Shoreham for sufficient time to permit this Court to obtain responses from the NRC and Long Island Lighting Company and a reply memorandum from Petitioners. Should the Appeal Board refuse to extend its stay, however, we may be forced to seek a Court ruling on our Emergency Motion on a very expedited basis once again.

KIRKPATRICK & LOCKHART

Ms. Bateman
June 17, 1985
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We will keep you fully informed of all developments.

Sincerely yours,

A handwritten signature in cursive script, reading "Lawrence Coe Lanpher".

Lawrence Coe Lanpher
Attorney for Suffolk County

LCL/dah
enclosure
cc: All Counsel of Record

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judge:

Alan S. Rosenthal, Chairman

June 17, 1985

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,)
Unit 1))

Docket No. 50-322-OL-4
(Low Power)

ORDER

Intervenors Suffolk County and the State of New York have filed a motion for a stay of the effectiveness of the Licensing Board's June 14, 1985 partial initial decision,¹ in which the Director of the Office of Nuclear Reactor Regulation was authorized to issue a license permitting the operation of the Shoreham nuclear facility at levels up to five percent of rated power. Responses to that motion are to be in the hands of this Board by 10:00 a.m. on Wednesday, June 19, 1985.

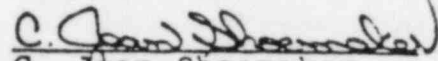
So as to preserve the Board's jurisdiction over the motion in the interim, and for that reason alone, the effectiveness of the June 14 partial initial decision is hereby stayed ex parte pending further order of the Board.

¹ LBP-85-18, 21 NRC ____.

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It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker -
Secretary to the
Appeal Board

This action was taken by the Appeal Board Chairman under the authority of 10 CFR 2.787(b) (1).