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COUNTY OF SUFFOLK

PETER F. COHALAN
SUFFOLK COUNTY EXECUTIVE

MARTIN BRADLEY ASHARE
COUNTY ATTORNEY

DEPARTMENT OF LAW
ADDRESS ALL COMMUNICATIONS
IN THIS MATTER TO:

July 11, 1985

Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Fifth Floor (North Tower)
East-West Towers
4350 East-West Highway
Bethesda, Marylsand 20814

Attention: Administrative Law Judges:
Alan S. Rosenthal, Chairman
Gary J. Edles
Howard A. Wilber

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

Dear Sirs:

By letter dated July 8th, I notified the Appeal Board that the Suffolk County Attorney felt constrained by pending New York State Court litigation from commenting on the "legal authority" group of issues now before the Appeal Board. I also requested the Appeal Board's indulgence with respect to a further submission in the event that future developments warranted.

Such developments have occurred and our position on these issues is as follows: The Suffolk County Executive continues to oppose the notion that LILCO, independent of any governmental involvement, would have the legal authority by itself to implement an emergency plan for Shoreham. The County Executive takes no position with respect to the "immateriality" argument advanced by LILCO.

DS03

With respect to LILCO's "realism" argument, the relevant developments are as follows:

1. On June 26, 1985, the Suffolk County Executive responded to a letter from W. Taylor Reveley, III, Esq., one of counsel for LILCO, with respect to the issue of whether the Suffolk County Executive would respond in the event of a radiological emergency at Shoreham. The County Executive replied that he would so respond "to the best of my ability and in accordance with the duties and obligations placed upon me by Article 2-b of the Executive Law". That exchange of correspondence comprises Enclosures 1 and 2 hereto.

2. On June 20, 1985, the Commission issued an Order in this case, CLI-85-12, denying a pending request from Suffolk County's former attorneys, the firm of Kirkpatrick & Lockhart, that it perform a full-blown NEPA evaluation of low power operation of the Shoreham plant prior to issuance of a license authorizing 5% power testing. In rejecting that request, the Commission stated its expectation that, in the event a full power license were ultimately granted for Shoreham, governments would not refuse to take part, to the extent necessary to protect the public health and safety, in radiological emergency preparedness. CLI-85-12 at p.4. As can be seen from paragraph 1 above, the Suffolk County Executive does not disagree with the Commission's view on this matter.

3. On July 9, 1985, the New York Court of Appeals, by a 4-3 vote, upheld the trial court's invalidation of Suffolk County Executive Order 1-1985. The Court of Appeals' majority opinion included the following passages:

> If the challenged executive order is merely a vehicle for the gathering of information to enable the County Executive to perform his statutorily mandated functions of taking "an active and personal role in the development and implementation of disaster preparedness programs" (Executive Law Sec. 20[1][b]) and giving "advice and assistance" to the local legislative body or other duly appointed planning authority (Executive Law Sec. 23[5]), it is clearly authorized under the statute.

The Court of Appeals went on to find that Executive Order 1-1985, as drafted, went beyond that function and rather constituted the "first step toward implementation of a plan". However, the Suffolk County Executive believes that the quoted portion of the

opinion permits him to take such steps as are necessary to gather sufficient information, during an exercise or otherwise, of an emergency response plan for the purpose of advising the County Legislature concerning the feasibility of the same. The Court of Appeals' slip opinion is Enclosure 3 hereto.

4. On June 20, 1985, the NRC Staff requested the Federal Emergency Management Agency to schedule as full an exercise of the Shoreham emergency plan as is feasible and lawful at the present time. That request is Enclosure 4 hereto.

Taken together, the developments recited above indicate that the Suffolk County Executive would respond in the event of an actual radiological emergency at Shoreham; that the New York Court of Appeals has recognized the existence of statutorily mandated duties on his part in this respect and has refused to proscribe his taking steps to gather information concerning any emergency response plan that would be in effect in such an event; and that an exercise of such a plan now appears to be actively in the planning stage. To this extent, we do not disagree with the "realism" argument advanced by LILCO.

Two issues related to that of legal authority are now before this Appeal Board: those of conflict of interest on the part of LILCO personnel exercising certain emergency response functions, and the absence of a New York State plan for Shoreham. From what has been stated above, it is clear that the Suffolk County Executive would ensure the response of the Suffolk County government in the event of a radiological emergency at Shoreham. As to the absence of a State plan, the significance of that "defect" is greatly attenuated, given its applicability only to the region more than 10 miles from Shoreham, by the intended participation of the Suffolk County government in response to any actual emergency at Shoreham.

Respectfully submitted,

MARTIN BRADLEY ASHARE
Suffolk County Attorney

By: Eugene R. Kelley
Chief Deputy County Attorney

MBA:ERK:rq
Enclosures
CC: Service List

HUNTON & WILLIAMS
707 EAST MAIN STREET P.O. BOX 1535
RICHMOND, VIRGINIA 23212
TELEPHONE 804-7[illegible]3-8200
TWX-710-956-0061

2000 PENNSYLVANIA AVENUE, N.W.
P. O. BOX 19230
WASHINGTON, D. C. 20036
TELEPHONE 202-955-1500

FIRST VIRGINIA BANK TOWER
P. O. BOX 3889
NORFOLK, VIRGINIA 23514
TELEPHONE 804-625-7700
TELEX 710-956-0061

4011 CHAIN BRIDGE ROAD
FAIRFAX, VIRGINIA 22030
TELEPHONE 703-352-2200

288 PARK AVENUE
NEW YORK, NEW YORK 10171
TELEPHONE 212-880-0200
TELEX 154709

B & T BUILDING, P. O. BOX 109
RALEIGH, NORTH CAROLINA 27602
TELEPHONE 919-828-0731

FIRST TENNESSEE BANK BUILDING
P. O. BOX 951
KNOXVILLE, TENNESSEE 37901
TELEPHONE 615-637-4231

FILE NO.

DIRECT DIAL NO. 804-788-

June 17, 1985

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

Long Island Lighting Company
(Shoreham Nuclear Power Station, Unit 1)

Dear Mr. Ashare:

Suffolk County Executive Cohalan was quoted in the June 15, 1985 New York Times to this effect:

> In that event [i.e., Shoreham becomes radioactive], the county has a duty and responsibility to provide for the health and safety of the residents near the plant.

I write to ask if, in fact, the County Executive will respond fully, in cooperation with LERO, to protect the public health and safety in the event a radiological accident occurs at Shoreham.

Very truly yours,

W. Taylor Reveley, III

126/586

Enc. " "

COUNTY OF SUFFOLK

OFFICE OF THE COUNTY EXECUTIVE

PETER F. COHALAN
SUFFOLK COUNTY EXECUTIVE

JOHN C. GALLAGHER
CHIEF DEPUTY

June 26, 1985

Hunton & Williams
707 E. Main St.
P.O. Box 1535
Richmond, VA 23212
Att: W. Taylor Reveley, III, Esq.

RE: Long Island Lighting Company
(Shoreham Nuclear Power Station, Unit I)

Dear Mr. Reveley:

This is in response to your letter of June 17, 1985. In the event of a radiological accident, I, as the County Executive will respond to the best of my ability and in accordance with the duties and obligations placed upon me by Article 2-b of the Executive Law.

Sincerely,

PETER F. COHALAN
SUFFOLK COUNTY EXECUTIVE

PFC:sm

Enc. "2"

Court of Appeals

Decisions

JULY 09, 1985

CASES

I No. 440 In the Matter of Wayne Prospect, et al., Respondents, v. Peter F. Cohalan, &c., Appellant, Long Island Lighting Company, Intervenor-Appellant. --- In the Matter of the Town of Southampton, et al., Respondents, v. Peter F. Cohalan, &c., Appellant, Long Island Lighting Company, Intervenor-Appellant.	Order affirmed, without costs, in a memorandum. Chief Judge Wachtler and Judges Simons, Kaye and Alexander concur. Judge Titone dissents and votes to reverse in an opinion in which Judges Jasen and Meyer concur.

Exc. 3

State of New York
Court of Appeals

No. 440

In the Matter of Wayne Prospect, et al.,
Respondents,
v.
Peter F. Cohalan, &c.,
Appellant,
Long Island Lighting Company,
Intervenor-Appellant.

In the Matter of the Town of Southampton, et al.,
Respondents,
v.
Peter F. Cohalan, &c.,
Appellant,
Long Island Lighting Company,
Intervenor-Appellant.

MEMORANDUM

(and)Robert L. Collick, Garden City, for appellant.
K. Dennis Elsas, Mineola, & David F. Marshall, NYC, for intervenor-appellant LILCO.
Irving Like & Lester E. Zaretsky, Babylon, for respondent Legislators.
Stephen E. Latham, Riverhead, for respondent Town.
Robert Abrams, Attorney General (Alfred B. Karadell of counsel & Brian Lee Levit, Poughkeepsie, for Governor-Washington, amicus.

MEMORANDUM:

The order of the Appellate Division should be affirmed, without costs.

Article 2-B of the Executive Law, notwithstanding its articulated policy of involving local chief executives in the development and implementation of disaster preparedness programs (Executive Law § 20[3][b]), does not vest in them the ultimate responsibility for the preparation of county disaster plans.

Section 23(1) specifically provides that "[e]ach county *** is authorized to prepare disaster preparedness plans". It is clear that the delegation of power to each county is to its

legislative, not its executive branch. In other sections of article 2-B, the context clearly indicates that references to the "county", without more, signify the legislative branch. Section 27, for example, provides in pertinent part that "[e]very county *** shall have the power to provide by local law *** for its continuity". Similarly, § 28-a provides that, in the event of a declaration of a state disaster emergency, "any county *** shall prepare a local recovery and redevelopment plan, unless the legislative body of the municipality shall determine such plan to be unnecessary or impractical". In stark contrast, when the Legislature intended to vest authority of any kind in a county executive, it has specified the role of the chief executive, defined as "a county executive or manager of a county" (Executive Law § 20[1][l]) (see, e.g., Executive Law §§ 24[1]; 25[1],[2],[3],[4],[6]; 26[1][3]).

Moreover, the use of the term "is authorized" in §23(1) unequivocally signals a legislative intent that the preparation of county plans is optional, not mandatory. The provisions authorizing the chief executive of a county to act upon the declaration of a radiological accident do not necessarily presuppose the existence of a plan (Executive Law §§24; 25; 26; 28[1]; 29-b[2]). We read Executive Law §20(3)(b) as merely manifesting a policy preferring consideration of the county executive's views in the development of disaster preparedness programs, which policy implicitly recognizes that primary responsibility for such development is lodged elsewhere and agree with the conclusion of the Appellate Division that the term "county" in Executive Law §23(1) does not include "county executive".

If the challenged executive order is merely a vehicle for the gathering of information to enable the county executive to perform his statutorily mandated functions of taking "an active and personal role in the development and implementation of disaster preparedness programs" (Executive Law §2[3][f]) and giving "advice and assistance" to the local legislative body or other duly appointed planning authority (Executive Law §23[5]), it is clearly authorized under the statute. However, we read Executive Order 1-1985 as representing a first step toward the implementation of a plan and therefore we find it to be a clear usurpation of the legislative function (cf. Under 21 v City of New York, ___NY2d___ [decd June 28, 1985]).

MATTER OF PROSPECT v COMALAN

No. 440

V. J. T.

TITONE, J. (dissenting)

The issue before us is not whether Executive Law § 23(1) confers ultimate responsibility for the promulgation of a disaster preparedness plan upon the executive branch or the legislative branch of county government, for the challenged Executive Order does not purport to promulgate such a plan. It simply directs the Commissioner of Police and the Commissioner of Planning to study a proposed plan that is not in effect and may never go into effect. The real question, then, concerns the proper role of the judiciary in this emotionally charged dispute. Because the County Executive clearly possesses express and implied authority to issue the Executive Order in question and

the alleged illegal acts sought to be enjoined have not taken place and are contingent upon future events that may or may not come to pass, the purported challenge is "nonjusticiable as wholly speculative and abstract" (New York State Inspection, Security & Law Enforcement Employees v Cuomo, 64 NY2d 233, 240).* Accordingly, the order of the Appellate Division should be reversed and the petitions dismissed.

This litigation revolves around a nuclear power plant located at Shoreham on Long Island. It appears that the plant cannot become operational in the absence of an emergency evacuation plan. The Suffolk County Legislature has consistently taken the position that no plan would be feasible and eventually passed a resolution, signed by the present County Executive, appellant Peter Cohalan, which "terminated" Suffolk County's "radiological emergency planning process" and directed that "no local radiological emergency plan * * * be adopted or implemented."

Blocked by local governmental obstinance, the utility submitted its own plan to the Nuclear Regulatory Commission. After the Commission rejected the plan as beyond the utility's legal powers, appellant Cohalan issued Executive Order 1-1985, which reads as follows:

> "By the power vested in me under Article IV-B of the New York State Executive Law and § 302 of the SUFFOLK COUNTY CHARTER, I hereby determine that it is necessary for me to cause to be reviewed and evaluated the Local Emergency Response Plan for Suffolk County presently before the United States Nuclear Regulatory Commission and the Federal Emergency Management Agency.

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* Although the parties have not urged nonjusticiability, since the issue implicates subject matter jurisdiction (New York State Inspection, Security & Law Enforcement Employees v Cuomo, 64 NY2d 233, 241 n 3), we raise the issue on our own motion (Robinson v Oceanic Steam Navig. Co., 112 NY 315, 324; Siegel, NY Prac, § 81).

> "I therefore direct the Commissioner of Police and Commissioner of the Suffolk County Planning Department to use whatever resources of the government of the County of Suffolk are necessary in order to complete a review and evaluation of the above Local Emergency Response Plan and carry out and cause to be conducted a test and exercise of the above said Plan in conjunction with the Local Emergency Response Organization (LERO). I further direct that agents of the County of Suffolk assume the function of command and control with implementation of police powers of the County of Suffolk over the conduct of said test and exercise."

Charging that Cohalan betrayed them, petitioners, several individual Suffolk County legislators and four Suffolk County towns, brought separate suits to annul the Executive Order on the ground that it usurps the power of the Suffolk County Legislature to develop and implement a disaster preparedness plan. They have been successful at Special Term and at the Appellate Division, obtaining a judgment, which the Appellate Division affirmed, declaring the Executive Order void and enjoining Cohalan, his agents and employees from taking any action "to enforce, implement or carry out the directives, policies, or terms" of the order "or any directive or instruction relating thereto." We conclude that the determinations below rest upon a speculative premise concerning future events and, therefore, would reverse.

There can be no doubt that the Suffolk County Executive has the power -- indeed the responsibility -- to review the utility's proposal. Executive Law § 20(2)(b) expressly declares state policy to be that "local chief executives take an active and personal role in the development and implementation of disaster preparedness programs and be vested with authority and responsibility in order to insure the success of such programs." In "preparing such plans," the State Legislature has specified that "cooperation, advice and assistance" be sought from "local

government officials, regional and local planning agencies, [and] police agencies * * *" (Executive Law § 23[5]). That is all Executive Order 1-1985 does.

Under the Suffolk County Charter, the County Executive is chief administrative officer and administrative head (Suffolk County Charter § 3021, and, as such, is obligated "to manage the operations of the division of the executive branch" (New York State Inspection, Security & Law Enforcement v Cuomo, 64 NY2d 733, 739, supra). In addition to other responsibilities, the Charter directs the County Executive to "present to the county legislature from time to time such information and recommendations concerning the affairs of the county as he may deem necessary or as the county legislature may by resolution request" (Suffolk County Charter § 303[g]).

Although County Executive Cohalan has acted within the parameters of these statutory and charter provisions, the argument is made that since the Suffolk County Legislature has consistently expressed its intention not to approve any plan, the courts should now hold that, as a matter of statutory construction, the power to promulgate and implement a disaster preparedness plan is solely a legislative function, and, inasmuch as the Suffolk County Legislature will not do so, the County Executive's powers are vitiated. This begs the question.

County Executive Cohalan has not promulgated any plan. His Executive Order merely directs that a proposal be evaluated. After the proposal is studied, he may well conclude that it is not viable and that will end the matter. If, on the other hand, he concludes that the proposal is workable and should be implemented, he could submit it to the Suffolk County Legislature for its consideration and agree to abide by its determination. Again, the question of statutory construction would be moot.

Only if County Executive Cohalan implements the proposal by executive fiat in the face of legislative disapproval will the issue pressed upon us be ripe for judicial resolution. By no stretch of logistic legerdemain can it be read as some sort of first step toward a grandiose scheme to impose the plan on the county.

There are other "ifs" here as well. We are told that it is absolutely certain that the Suffolk County Legislature will withhold its consent. But the only thing absolutely certain in political matters is that nothing is absolutely certain. Attitudes are shaped by current events. Another energy crisis, with its long gasoline lines and brown-outs, may cause a quick change in legislative consensus. The legislators could, at least theoretically, be swayed by expert reports, especially if, by virtue of some sort of federal preemption, it is determined that the plant is to open (cf. British Airways Bd. v Port Authority of New York and New Jersey, 564 F2d 1002 [local noise limitation standard utilized to bar SST invalidated]). A resolution by definition, is "an act of a temporary character not prescribing a permanent rule of government" (Matter of Collins v City of Schenectady, 256 App Div 388, 392) (emphasis supplied) which "continues for a reasonable period only, and in such a case a formal repeal is not, of course, required to terminate its operation (5 McQuillin, Municipal Corporations [3d ed], § 15.42)" (Quaglia v Inc. Vil. of Munsey Park, 54 AD2d 434, 439, affd 44 NY2d 772). Indeed, this litigation itself, fueled by the adoption of a more flexible posture by the County Executive, is itself telling. In short, we are reminded of Byron's Julia, who "whispering, 'I shall ne'er consent,' consented" (Don Juan, Canto I, stanza 117).

All these "ifs" render it both unnecessary and improper for us to express any view on whether a disaster preparedness plan may be put into effect absent the imprimatur of the local legislature. Courts should not involve themselves in challenges to executive acts where "the harm sought to be enjoined is contingent upon events which may not come to pass [because] * * * the claim to enjoin the purported hazard is nonjusticiable as wholly speculative and abstract" (New York State Inspection, Security & Law Enforcement Employees v Cuomo, 64 NY2d 233, 240, supra). To paraphrase our holding in New York Public Interest Research Group v Carey (42 NY2d 527, 531, supra), until the County Executive attempts to implement a plan in the teeth of legislative opposition, any declaration on our part "'would be premature'" (quoting Borchard, Declaratory Judgments, p 63; see also, Connor v Siebert, 56 NY2d 674). "Jurisdiction exists that rights may be maintained. Rights are not maintained that jurisdiction may exist" (Berkovitz v Arbib, 230 NY 261, 272).

An actual antagonistic assertion of rights which are ripe for adjudication is an indispensable safeguard, essential to the integrity of the judicial process (see, Matter of State Ind. Comm., 224 NY 13 [Cardozo, J.]). "This is not merely a question of judicial prudence or restraint; it is a constitutional command defining the proper role of the courts under a common-law system" (New York Public Interest Research Group v Carey, 42 NY2d 527, 530-531, supra).

The Suffolk County Legislature's pertinacity cannot, in any sense, interdict the County Executive from undertaking his obligation to "take an active and personal role in the development and implementation of disaster preparedness programs" (Executive Law § 20[1][b]). When the study is completed, the County Legislature must at least "listen" to his report, even if

it does not like what it "hears" (see, Suffolk County Charter § 303[g]). The Suffolk County Legislature's resolutions on the subject constitute but temporary, ministerial declarations, not legislation finally and unequivocally disapproving the proposed plan (see, City of Troy Unit of Rensselaer County Chapter of Civ. Serv. Employees Assn. v City of Troy, 36 AD2d 145, 147, affd 30 NY2d 549; Queglia v Inc. Vil. of Muttontown Park, supra; Matter of Collins v City of Schenectady, supra; cf. Matter of Jewett v Luan-Wyack Corp., 31 NY2d 298, 305-306).

Perhaps the Suffolk County Legislature can curb the County Executive's ability to function in this area through the power of the purse, by refusing to allocate sufficient funds for the project. But even that question is not before us. At this stage, the County Executive is plainly within his powers, and the "lawful acts of executive branch officials, performed in satisfaction of responsibilities conferred by law, involve questions of judgment, allocation of resources and ordering of priorities, which are generally not subject to judicial review * * *. This judicial deference to a coordinate, coequal branch of government includes one issue of justiciability generally denominated as the 'political question' doctrine" (New York State Inspection, Security & Law Enforcement Employees v Cuomo, 64 NY2d 233, 239, supra).

Acceptance of the Suffolk County Legislature's argument here would establish a far-reaching and mischievous precedent that cannot be confined to litigation involving a power plant in Suffolk County. It would abrogate the separation of powers doctrine at the local level, and, in its place, substitute a parliamentary system (see, People v Tremaine, 281 NY 1), because it would enable the legislative branch to turn a power of consent or confirmation into a power of appointment. To strip the

executive of his power to designate a police commissioner, for example, the legislature need only pass a resolution to the effect that it will not confirm anyone other than "X" and if the executive attempted to seek or interview other applicants, the legislature need only call upon the judiciary to enjoin him from acting in contravention of its resolution. Through this artifice, the executive would be compelled to nominate "X", the legislature's "nominee" (see, Suffolk County Charter § 1202[3]; cf. Matter of County of Suffolk, 43 NY2d 968, revg 56 AD2d 301).

The United States Supreme Court recently rebuffed similar attempts by Congress to straightjacket the President through the use of the legislative veto (Immigration & Naturalization Service v Chadha, 462 US 919). In Chadha, the Court invalidated § 244(c)(2) of the Immigration and Nationality Act (8 USC § 1254[c][2]) which authorized either House of Congress, by resolution, to overturn the decision of the Executive Branch, pursuant to authority delegated by Congress to the Attorney General, to allow a particular deportable alien to remain in this Country. It reasoned that this legislative veto provision violated integral parts of the constitutional design for the separation of powers. As so well put, "the hydraulic pressure inherent within each of the separate Branches [of Government] to exceed the outer limits of its power, even to accomplish desireable objectives, must be resisted" (Immigration & Naturalization Service v Chadha, supra, 951). There is no reason why this Court should hold otherwise.

We would prefer not to express our thoughts on what the 1978 State Legislature thought on a question that they possibly never thought about. By applying established rules of nonjusticiability, we give time for the political process to operate. Having identified a gap in the legislation, it would be best to

allow the State Legislature to fill it (see, McKinney's Statutes § 193 [b]).

To find, as does the majority, that Executive Order 1985-1 constitutes an impermissible "first step" in implementing the plan, is, in actuality, an inquiry into the County Executive's state of mind. It is basic law, however, that the courts have no power to investigate the motives of the executive branch, absent a demonstration of fraud or the like (see, 2 McQuillin, Municipal Corporations [3d ed], §§ 10.35, 10.36, 10.37). On this record, petitioners have not overcome the presumption that the executive has acted with the sole purpose of accomplishing permissible constitutional and statutory goals (see, 2 McQuillin, Municipal Corporations [3d ed], § 10.351.

For those reasons, the order of the Appellate Division should be reversed and the petitions dismissed.

* * * * * * * * * * *

Order affirmed, without costs, in a memorandum. Chief Judge Wachtler and Judges Simons, Kaye and Alexander concur. Judge Titone dissents and votes to reverse in an opinion in which Judges Jasen and Hancock concur.

Decided July 9, 1985

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JUN 2 0 1985

MEMORANDUM FOR: Richard W. Krimm
Assistant Associate Director
Office of Natural and Technological
Hazards Programs
Federal Emergency Management Agency

FROM: Edward L. Jordan, Director
Division of Emergency Preparedness
and Engineering Response
Office of Inspection and Enforcement

SUBJECT: SCHEDULING OF EMERGENCY PLAN EXERCISE
FOR SHOREHAM

In response to LILCO's standing request to schedule an exercise of its emergency plan for Shoreham, the Commission, in a memorandum to the Executive Director for Operations dated June 4, 1985 (Enclosure 1), stated that it sees no reason why the licensee (i.e., LILCO) should not be allowed to exercise those parts of the plan which may be legally exercised. Further, the Commission indicated that it does not disagree with the view that an exercise of the LILCO plan could yield meaningful results, even though such an exercise may not satisfy all of the requirements of NRC's regulations. The exercise could, as a minimum, identify the impact of the limitations of LILCO's plan when executed under the state and county restrictions.

Accordingly, we request that FEMA schedule as full an exercise of the LILCO Local Emergency Response Organization (LERO) plan as is feasible at the present time giving appropriate consideration to the Suffolk County Executive's May 30, 1985 Executive Order and subsequent developments relating to emergency planning activities by the County. In determining those portions of the LERO plan that might be appropriate for inclusion in an exercise at this time, we suggest that FEMA emphasize evaluation of the functional areas of emergency preparedness related to the demonstration of response capabilities within the plume exposure (10 mile) Emergency Planning Zone.

Contact: F. Kantor, IE
492-9749

Enc. "4"

In the event FEMA determines that an exercise is not currently possible, we request that FEMA provide a response which addresses the five issues identified in the memorandum from the Secretary of the Commission. Commissioner Asselstine's views on this matter are provided as Enclosure 2.

Edward L. Jordan, Director
Division of Emergency Preparedness
and Engineering Response
Office of Inspection and Enforcement

Enclosure:
1. Memorandum from the
Secretary of the Commission
dtd. 06/04/85
2. Commissioner Asselstine's Views

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal 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 a letter to the Atomic Safety and Licensing Appeal Board, dated July 11, 1985, have been served on the following this 11th day of July, 1985, by U.S. Mail, First Class.

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

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

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

Stuart Diamond
Business/Financial
NEW YORK TIMES
229 W. 43rd Street
New York, New York 10036

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

Stewart M. Glass, Esq.
Regional Counsel
Federal Emergency Manageme
Agency
26 Federal Plaza
New York, New York 10278

Morton B. Margulies, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

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

Mr. L. F. Britt
Long Island Lighting Company
Shoreham Nuclear Power Station
P.O. Box 628
North Country Road
Wading River, New York 11792

Nora Bredes
Executive Director
Shoreham Opponents Coalition
195 East Main Street
Smithtown, New York 11787

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

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

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

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

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

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

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

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

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

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

Edwin J. Reis, Esq.
Bernard M. Bordenick, Esq.
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Fabian G. Paolmino, Esq.
Special Counsel to the Governo
Executive Chamber, Room 229
State Capitol
Albany, New York 12224

Spence Perry, Esq.
Associate General Counsel
Federal Emergency Management Agency
Washington, D.C. 20471

Mary Gundrum, Esq.
New York State Department
of Law
2 World Trade Center, Room 46
New York, New York 10047

Kirkpatrick & Lockhart, Esqs.
1900 M Street, N.W.
Washington, D.C. 20036

MARTIN BRADLEY ASHARE
Suffolk County Attorney
H. Lee Dennison Building
Veterans Memorial Highway
Hauppauge, New York 11788

By: Eugene R. Kelley
Eugene R. Kelley
Chief Deputy County Attorney

Sworn to before me this
11th day of July, 1985.

Teresa M. Quaies

TERESA M. QUAIES
NOTARY PUBLIC, State of New York
No. 4713369, Suffolk County
Term Expires March 30, 1986