

996.  
COUNTY OF SUFFOLK



DOCKETED  
USNRC

PETER F. COHALAN '85  
SUFFOLK COUNTY EXECUTIVE

JUL 29 P12:24

MARTIN BRADLEY ASHARE  
COUNTY ATTORNEY

OFFICE OF SECRETARY OF LAW  
DOCKETING & SERVICE  
BRANCH ADDRESS ALL COMMUNICATIONS  
IN THIS MATTER TO:

July 26, 1985

United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555  
Attn: Commissioner Nunzio J. Palladino,  
Chairman

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

Dear Commissioner Palladino:

Please be advised that the law firm of Kirkpatrick and Lockhart have decided to withdraw as counsel to assist the Suffolk County attorney in all Shoreham related litigation as per the attached letter.

We are meeting with Kirkpatrick & Lockhart on Tuesday, July 30, 1985 to make arrangements for the return of the County's files.

Very truly yours,

MARTIN BRADLEY ASHARE  
SUFFOLK COUNTY ATTORNEY

MBA:sm  
Encs.  
cc: Service List

8507300415 850726  
PDR ADOCK 05000322  
G PDR

DS03

# KIRKPATRICK & LOCKHART

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

ONE BOSTON PLACE  
BOSTON, MA 02108  
(617) 973-5400  
1428 BRICKELL AVENUE  
MIAMI, FL 33131  
(305) 374-8112

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

LAWRENCE COE LANPHER  
(202) 452-7011

July 24, 1985

## VIA FEDERAL EXPRESS MAIL

Martin Bradley Ashare  
Suffolk County Attorney  
H. Lee Dennison Building  
8th Floor  
Veterans Memorial Highway  
Hauppauge, New York 11788

Dear Marty:

We have received your letter of July 22, 1985 and also have reviewed Judge Brown's decision of July 19, 1985 in which he ruled that County Executive Cohalan "acted within the scope of permissible statutory authority in discharging the law firm of Kirkpatrick and Lockhart." This decision appears to resolve the conflict under which we have been laboring, and to uphold the termination of the contract of February 22, 1982 between Suffolk County and this firm, and in the absence of a stay or a reversal, we will take no action inconsistent with the decision.<sup>1/</sup>

I suggest that we meet as soon as possible so that there can be a prompt resolution of outstanding matters. When we meet, there are three primary areas for discussion.

First, we need to discuss the status of various proceedings in which we have represented the County. The proceedings which need to be discussed in greatest detail are: the County appeal of the April 17 ASLB emergency planning partial initial decision (brief due August 30; we have drafts of some portions of the brief and will give you our views of the matters in that decision and in the pretrial phase leading up to that decision which merit the most intense appellate efforts); the LILCO legal authority appeal before the NRC Appeal Board (oral argument in Bethesda on August 12; LILCO scheduled to file last brief on July 25); the Geiler state court proceeding (the postponed June 12 oral argument needs to be rescheduled); the County appeal of the June 14 TDI diesel partial initial decision (County brief filed; oral

-----  
<sup>1/</sup>Although we do not agree with the substance of Judge Brown's decision, Kirkpatrick & Lockhart does not deem it appropriate for the law firm to appeal the decision. We understand that the other petitioners do intend to appeal.

KIRKPATRICK & LOCKHART

Martin Bradley Ashare, Esquire  
July 24, 1985  
Page 2

argument to be scheduled after NRC Staff and LILCO briefs are filed); the ASLB emergency planning relocation center proceeding (post-trial briefs have been filed); and the appeal in the D.C. Circuit of the validity of the low power license (briefs filed; oral argument not yet scheduled). I am sure that other matters will also need to be addressed.

Second, we need to discuss the file situation. We have commenced an inventory to identify all the files which relate to Shoreham matters. I expect that inventory to be completed this week. There will be some files which you may require soon, such as those related to the August 30 emergency planning brief. On the other hand, there are files that you may not want at all (for example, files on some minor safety issues litigated in 1982 as to which no appeals have been taken), and which thus could be destroyed. There are also security-related files which will require special handling.

Finally, we also need to discuss when we may expect payment to Kirkpatrick & Lockhart for outstanding legal fees and disbursements. The outstanding bills are:<sup>2/</sup>

<u>Date of Bill</u>	<u>Period Covered</u>	<u>Amount</u>
3/27/85	1/27/85-2/23/85	\$223,042.00
4/23/85	2/24/85-3/30/85	\$220,080.10
5/24/85	3/31/85-4/27/85	\$122,789.72
6/28/85	4/28/85-5/25/85	<u>\$ 94,013.40</u>
	<u>TOTAL:</u>	\$659,925.22

-----  
<sup>2/</sup>On July 24, we received payment in the sum of \$106,667.40 for our March 3, 1985 bill which covered the period December 30, 1984 through January 26, 1985. The invoiced amount was \$114,624.50. In accordance with past County practice, we anticipate receipt in several days of an explanation of why \$7957.10 was disallowed. If appropriate, we will contact the County regarding the disallowance.

KIRKPATRICK & LOCKHART

Martin Bradley Ashare, Esquire  
July 24, 1985  
Page 3

Substantial disbursements are also outstanding:

<u>Date of Bill</u>	<u>Period Covered</u>	<u>Amount</u>
9/28/84	7/84	\$45,768.41 <sup>3/</sup>
1/28/85 (resubmitted on 5/14/85)	12/84 (partial)	\$ 4,099.15
3/28/85 (resubmitted on 5/14/85)	2/85 (partial)	\$ 150.00
4/23/85	Ocean Fleets	\$ 1,040.00
5/24/85	4/85	\$14,017.61
6/28/85	5/85	<u>\$11,406.45</u>
	<u>TOTAL:</u>	\$76,481.62

Mr. Scroop of your office has informed me that steps have been taken to process payment of the foregoing invoices. I would appreciate it if you would provide us with a written schedule stating when we may expect to receive payment of our outstanding invoices for fees and disbursements.

-----  
<sup>3/</sup>This disbursement voucher was lost when initially sent, which explains why it has been outstanding for a long time.

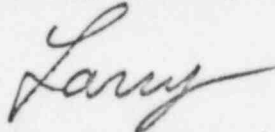
KIRKPATRICK & LOCKHART

Martin Bradley Ashare, Esquire  
July 24, 1985  
Page 4

Subsequent to May 25 (the last date covered by our June 28 voucher), this firm has performed additional work for the County, both prior and subsequent to the June 3 and 19 termination notices. We will submit an invoice next week for work performed between May 26 and July 19, 1985 to advocate positions of the County in Shoreham proceedings, such as work relating to the trial of relocation center issues, opposition to low power testing, the July 11 legal authority brief, the July 17 diesel brief, and matters arising from Executive Order 1985-1. The processing of this invoice may be an additional matter for discussion.

I propose that we meet in Washington, D.C., since you may wish to look over some files during the course of our meeting. Please let me know when we can meet.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Larry", written in dark ink.

Lawrence Coe Lanpher

LCL/dah

July 26, 1985

DOCKETED  
USNRC

CERTIFICATE OF SERVICE

'85 JUL 29 P12:28

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

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

I hereby certify that a copy of the attached letter to the Nuclear Regulatory Commission dated July 26, 1985, was served on the following persons by U. S. Mail, first-class, postage prepaid.

Chairman Nunzio J. Palladino  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner James K. Asselstine  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner Frederick M. Bernthal  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner Thomas M. Roberts  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner Lando W. Zech, Jr.  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

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

Gary J. Edles  
Atomic Safety and Licensing  
Appeal Board  
United States Nuclear  
Regulatory Commission  
Fifth Floor (North Tower)  
East-West Towers  
4350 East-West Highway  
Bethesda, MD 20814

Howard A. Wilber  
Atomic Safety and Licensing  
Appeal Board  
United States Nuclear  
Regulatory Commission  
Fifth Floor (North Tower)  
East-West Towers  
4350 East-West Highway  
Bethesda, MD 20814



Samuel J. Chilk  
Secretary of the Commission  
United States Nuclear  
Regulatory Commission  
Washington, D.C. 20555

Dr. Peter A. Morris  
Atomic Safety and Licensing  
Board Panel  
United States Nuclear  
Regulatory Commission  
4350 East-West Highway  
Fourth Floor (West Tower)  
Bethesda, Maryland 20814

Dr. George A. Ferguson  
Atomic Safety and Licensing  
Board  
School of Engineering  
Howard University  
2300 6th Street, N.W.  
Washington, D.C. 20555

Morton B. Margulies, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
East-West Tower, Rm. 461A  
4350 East West Highway  
Bethesda, MD 20814

Dr. Jerry R. Kline  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
East-West Tower, Rm. 427  
4350 East-West Tower  
Bethesda, MD 20814

Mr. Frederick J. Shon  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
East-West Tower, Rm. 430  
4350 East-West Highway  
Bethesda, MD 20814

Lawrence Brenner, Esq.  
Atomic Safety and Licensing  
Board Panel  
United States Nuclear  
Regulatory Commission  
4350 East-West Highway  
Fourth Floor (West Tower)  
Bethesda, Maryland 20814

Judge James L. Kelley  
Chairman, Atomic Safety and  
Licensing Board  
U.S. Nuclear Regulatory Comm.  
Fourth Floor  
East-West Towers (West Tower)  
4350 East-West Highway  
Bethesda, MD 20814

Judge Glenn O. Bright  
Atomic Safety and Licensing  
Board,  
U.S.. Nuclear Regulatory Comm.  
Fourth Floor  
East-West Towers (West Tower)  
4350 East West Highway  
Bethesda, MD 20814

Judge Elizabeth B. Johnson  
Oak Ridge National Laboratory  
Building 3500  
P.O. Box  
Oak Ridge, Tenn. 37830

Bernard M. Bordenick, Esq.  
Robert G. Perlis, Esq.  
Edwin J. Reis, Esq.  
U.S. Nuclear Regulatory Comm.  
7735 Old Georgetown Road  
(to mailroom)  
Bethesda, MD 20814

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

Mary Gundrum, Esq.  
Assistant Attorney General  
2 World Trade Center  
Room 4614  
New York, New York 10047

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

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

Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, New York 12224

Jonathan D. Feinberg, Esq.  
New York State Department of  
Public Service, Staff Counsel  
Three Rockefeller Plaza  
Albany, New York 12223

Spence W. Perry, Esq.  
Associated General Counsel  
Federal Emergency  
Management Agency  
500 C Street, S.W.  
Room 840  
Washington, D.C. 20472

Donna Duer, Esq.  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Comm.  
East-West Tower, North Tower  
4350 East-West Highway  
Bethesda, MD 20814

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

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

Mr. Martin Shubert  
c/o Congressman William Carney  
1113 Longworth House Office  
Building  
Washington, D.C. 20515

Docketing and Service  
Branch (3)  
Office of the Secretary  
U.S. Nuclear Regulatory Comm.  
Washington, D.C. 20555

Hunton & Williams, Esqs.  
707 East Main Street  
Richmond, Virginia 23219

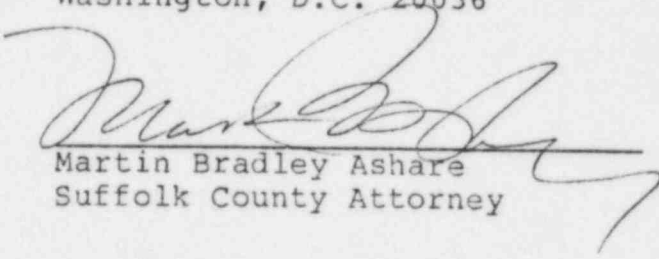


Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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

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

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



Martin Bradley Ashare  
Suffolk County Attorney

Department of Law  
County of Suffolk  
H. Lee Dennison Building  
Veterans Memorial Highway  
Hauppauge, New York, 11788

Dated: July 26, 1985