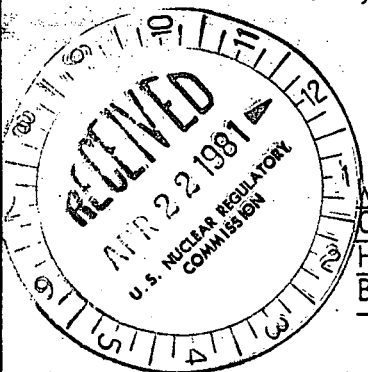


TO: ATOMIC SAFETY AND LICENSING BOARD  
FROM: INTERVENORS, FOE, ET AL  
RE: PROPOSED AGENDA AND REVISED CONTENTIONS SUBMITTED  
PER BOARD ORDER DATED March 31, 1981

This memorandum is submitted in response to the Board's order dated March 31, 1981 requesting that the parties submit proposed agenda items and, where appropriate, revised contentions.

FOE hereby submits proposed agenda items for consideration. The items hereby submitted are not intended to be all inclusive nor meant to rule out consideration of other items. The items submitted herewith are those that Intervenor, FOE, et al wish to be addressed and which we do not contemplate either the Staff or the Applicants will submit in their proposed agenda. The Intervenor, FOE, et al do suggest that Proposed Agenda Item #1 be heard first.

PROPOSED AGENDA ITEM #1



WHETHER A FINAL PREHEARING CONFERENCE UNDER 10 CFR, 2.752 CAN BE HELD WHERE DISCOVERY IS NOT COMPLETE IN THAT NRC STAFF HAS REFUSED TO ANSWER A MAJORITY OF THE INTERROGATORIES SERVED BY INTERVENORS, FOE, ET AL ON FEBRUARY 19, and 20, 1981.

A motion to compel further answers to Interrogatories was filed on April 16, 1981. The Staff answer to said Interrogatories are essential to preparing and wording further contentions and the ruling of this Board on the motion to compel is essential to the framing of contentions for the hearing. Absent such a ruling and absent answers to Intervenor, FOE, et al's final set of Interrogatories it cannot be said that discovery has been completed. 10 CFR, Sec. 2.752 provides that a final prehearing conference held under this section shall be held within sixty (60) days after discovery has been completed. (emphasis added).

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It appears certain that discovery will not be completed by April 29, 1981 due to the Staff's failure to answer 113 of Intervenor's, FOE, et al's Interrogatories most of which have to do with seismic issues.

It also appears that the Board's ruling on Intervenor's motion to compel will be essential to the further specification of contention for hearing.

Absent the Board's ruling and Staff's further answers to Interrogatories along with the Intervenor's having a reasonable amount of time to review and incorporate such answers into their proposed contentions, a final prehearing conference under 10 CFR, 2.752 cannot be held.

Intervenor's again request that the prehearing conference to be held on April 29, 1981, be classified as a Special Prehearing Conference because discovery will not be complete as of that date.

It would seem appropriate that the Final Prehearing conference on both issues be held at the same time.

PROPOSED AGENDA ITEM # 2

WHETHER A SPECIAL PREHEARING CONFERENCE SHOULD BE HELD  
REGARDING THE ISSUES RAISED IN THE FINAL ENVIRONMENTAL  
STATEMENT YET TO BE ISSUED.

At the first prehearing conference FOE, in proposed contention Number 3, raised the following contention:

3. "10 CFR 51.21 and 51.52(b) and NEPA require that the Applicants shall submit an Applicants' Environmental Report - Operating License stage and that such report contain the latest results of the ongoing marine study required under the coastal commission permit. Joint intervenors are entitled to review both the AER-OLS and the Marine study at the operating license stage and may take a position and offer evidence concerning them." (ASLB memo and order P.3)

The Board in their order dated January 27, 1978 stated:

4. "The Applicants have not complied with 10 CFR Part 50, Appendix E regarding emergency plans since because of the jurisdictional diversity of the several state and local agencies involved and

their inadequate fundings and staffing, appropriate and coordinated emergency plans cannot be developed. An operating license should not be granted for SONGS 2 & 3 because the various emergency response plans are so complex, overlapping, and difficult to implement that in the event of a nuclear accident the safety of persons in the surrounding areas will be imperiled." (ASLB memo and order P.4).

The Board specifically stated that a challenge to the Staff's FES would be appropriate when the Statement is issued.

Intervenors have relied on the Board's statement and have not raised these issues because the Staff's FES has yet to be issued.

Intervenors request a Special Prehearing Conference to consider Issues Raised by the Final Environmental Statement when the FES is issued.

PROPOSED AGENDA ITEM # 3

WHETHER CERTIFIED LEGAL INTERVENORS FROM THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW MAY ACTIVELY PARTICIPATE IN THE PRESENTATION OF INTERVERNORS, FOE, ET AL'S CASE.

At the present time, FOE, et al is being represented by Richard J. Wharton as Director of the University of San Diego Environmental Law Clinic. The main purpose of the Environmental Law Clinic is to instruct upper level law students in the practice of Environmental Law by having the students actually participate in litigation. For the past six months students in the Clinic Program have performed research, written interrogations, prepared motions to compel, answered interrogatories, and observed depositions in this proceeding, all under the guidance and supervision of Richard J. Wharton.

Under California law, certified legal interns are permitted to perform all functions of an attorney including arguing before the Supreme Court of the State of California. Students presently in the program have actually argued cases in the Court of Appeal. All of these functions are to be performed under the super-

vision of and actual presence of the supervising attorney.

Under the laws of the State of California, Certified Legal Interns are admitted to practice before every court in the State with the only restriction that they be supervised by and accompanied by their supervising attorney.

Intervenors propose to use Certified Legal Interns in a limited capacity to present their case. This would include preparation of written testimony, research, preparation of points and authorities and, in some cases, presentation of direct testimony and cross-examination. This would be under the supervision of Richard J. Wharton who will be present at all times during actual hearing appearances.

It should be pointed out that applicants will have the services of at least five attorneys available to them. NRC Staff will have their own attorneys and staff. Intervenors, FOE, et al have one attorney and seek to have Certified Legal Interns assist them in the presentation of their case.

The allowing of Certified Legal Interns to participate will assist in the presentation of Intervenor's case, thereby expediting the proceedings; and allow students certified by the State of California to gain valuable experience in the practice of Administrative Law. All of the Interns' work and participation will be closely supervised pursuant to California law.

### PROPOSED CONTENTIONS (ISSUES)

The Intervenor, FOE, et al met with the Applicants, at Applicant's request, on April 16, 1981, to discuss further refinement of contentions. At that time Intervenor presented a list of contentions (Issues) for their consideration. Applicants did not present Intervenor with a list of what they thought the contentions should be.

It was agreed that Applicants would consider our list of contentions for purposes of preparing their own contentions. It was agreed that Intervenor, FOE, et al, Applicants and NRC Staff will meet on April 28, 1981 to discuss further working of the contentions.

The following is a further rewording of the list of contentions/issues which were submitted to Applicants and which we submit to the Board for consideration. Intervenor, FOE, et al realize that the contentions as submitted may need further refinement in wording, and submit them as a statement of the issues regarding geologic and seismic concerns. Intervenor, FOE, et al would suggest to the Board that the contentions be stated as specifically as possible to facilitate the hearing.

### INTERVENOR'S PROPOSED CONTENTIONS/ISSUES

1. Intervenor contend that the Cristianitos Fault is a capable fault, under 10 CFR, Part 100, Appendix A, Section III, (g) (1,2,3).

2. Intervenor contend that the Cristianitos Zone of Deformation (CZD) is a capable fault, under 10 CFR, Part 100, Appendix A, Section III (g) in that the Cristianitos Zone of Deformation (CZD) has a structural relationship with a capable fault, known as the OZD, such that movement on the OZD could be reasonably expected to be accompanied by movement on the CZD. Thus, according to the

definition of a "capable fault" found in the 10 CFR, Part 100, Appendix A, Section III, (g), the CZD is a capable fault.

3. Intervenors contend that the NRC Staff and the Applicants have not conducted adequate investigations to prove that the Cristianitos Fault has not had movement at or near the ground surface at least once during the past 35,000 years, and thus the Cristianitos Fault is a capable fault, as defined in 10 CFR, Part 100, Appendix A, Section III, (g).

4. Intervenors contend that the NRC Staff and the Applicants have not conducted adequate investigations to prove that the Cristianitos Zone of Deformation has not had movement at or near the ground surface at least once during the past 35,000 years, and thus Cristianitos Zone of Deformation is a capable fault, as defined in 10 CFR, Part 100, Appendix A, Section III (g).

5. Intervenors contend that the NRC Staff and the Applicants have not conducted adequate investigations to prove that the Cristianitos Fault has not experienced recurrent movements during the past 500,000 years, and thus the Cristianitos Fault is a capable fault, as defined in 10 CFR, Part 100, Appendix A, Section III (g).

6. Intervenors contend that the NRC Staff and the Applicants have not conducted adequate investigations to prove that the Cristianitos Zone of Deformation has not experienced recurrent movements during the past 500,000 years, and thus the CZD is a capable fault, as defined by 10 CFR, Part 100, Appendix A, Section III. (g).

7. Intervenors contend that the Cristianitos Fault is one of several faults within the Cristianitos Zone of Deformation (CZD).

8. Intervenors contend that the "control width" of the Cristianitos Zone of Deformation includes the site where SONGS 2 and 3 are being constructed,

based on the definition of "control width" found in 10 CFR, Part 100, Appendix A, Section III (k).

9. Intervenors contend that the NRC Staff has not required the Applicants to conduct, and that the Applicant has not conducted on its own, adequate investigations to obtain the geologic and seismic data necessary to determine site suitability in regards to the Cristianitos Zone of Deformation and Intervenors further contend that because of the inadequate investigation of the Cristianitos Zone of Deformation, the NRC and the Applicants cannot provide reasonable assurance that the SONGS 2 and 3 reactors can be operated at the San Onofre site without undue risk to the health and safety of the public, as required in 10 CFR, Part 100, Appendix A, Section II, Scope.

10. Intervenors contend that the NRC Staff has not conducted the "Required Investigations" regarding the SONGS 2 and 3 site and that the NRC Staff has not required the Applicants to conduct the "Required Investigations" and that the Applicants have not voluntarily conducted the "Required Investigations" as provided for in 10 CFR, Part 100, Appendix A, Section IV, subsections (a) "Required Investigations for Vibratory Ground Motions" and (b) "Required Investigations for Surface Faulting."

11. Intervenors content that the CZD is a complex secondary fault zone in the wrench fault system known as the OZD or Santa Monica to Baja Zone of Deformation.

12. Intervenors contend that the controlling tectonic structure for the "seismic design bases" of the SONGS Units 2 and 3, including the "Determination of the Design Basis for Vibratory Motion", should be the tectonic structures known as the CZD and the OZD, a wrench tectonic fault system.

13. Intervenors contend that the maximum magnitude earthquake that could occur \* (is credible) on the OZD is equal to or greater than magnitude 8.0.

14. Intervenors contend that the OZD is structurally related to the plate tectonic boundary between the North American Plate and the North Pacific Plate, located on the spreading centers in the Gulf of California in Baja California, Mexico.

15. Intervenors contend that the D.O.I. report entitled, "Geological-Seismological Factors Pertaining to the Proposed Construction of Nuclear Power Plant at Bolsa Island, California," is admissible evidence in this Proceeding, because it analyses the risk to public health and safety of siting a nuclear reactor along the Newport-Inglewood Fault Zone in Southern California and because it estimates the SSE for the same fault zone that passes about four miles offshore from SONGS 2 and 3.

16. Intervenors contend that the NRC Staff has not required the Applicants to conduct adequate investigations to determine the maximum vibratory ground motions at the site during an earthquake on the Cristianitos Fault Zone of Deformation.

17. Intervenors contend that the CZD merges with the OZD and exists in a structural relationship with the OZD.

18. Intervenors contend that there is a zone of faults, known since August, 1980, as the Cristianitos Zone of Deformation or CZD, which forms a structural relationship between the Cristianitos Fault (restricted use) and the OZD.

19. Intervenors contend that there is a structural relationship between the Cristianitos Fault and the OZD.

20. Intervenors contend that the OZD extends south of the Rose Canyon Fault Zone, and forms a structural relationship with the Agua Blanca Fault Zone in Baja California.

21. Intervenors contend that the Rose Canyon Fault Zone branches near San Diego and extends south of Tijuana in a structural relationship onshore with the Vallecitos-San Miguel Fault Zone in Baja California.



22. Intervenors contend that there is a structural relationship between the Rose Canyon Fault Zone and the Vallecitos-San Miguel Fault Zone.

23. Intervenors contend that there is a relationship between the OZD and the plate tectonic boundary (between the North American Plate and the North Pacific Plate) which is well documented in Southern California and in the Gulf of California in Baja California, such that an earthquake on the plate boundary could generate an earthquake of magnitude 6.5 or larger on the OZD and cause vibratory ground motions in excess of the .67 g horizontal and .44 g vertical.

24. Intervenors contend that the .67 g horizontal and .44 g vertical seismic design bases for SONGS 2 and 3 are inadequate and do not represent the maximum vibratory ground motions that could be experienced at the SONGS site during the lifetime of the SONGS 2 and 3 reactors.

25. Intervenors contend that the SONGS 2 and 3 design bases should be modified for surface faulting beneath the reactors on the onshore extension of the Cristianitos Zone of Deformation or CZD.

26. Intervenors contend that the Cristianitos Fault and the Cristianitos Zone of Deformation could experience sympathetic faulting, aftershock faulting, and surface faulting during and following a major magnitude 7.0 to magnitude 8.0 earthquake on the OZD near SONGS.

27. Intervenors contend that the consequences associated with the occurrence of an earthquake, such as surface faulting or ground displacement at the SONGS site, are within the scope of this proceeding.

28. Intervenors contend that a structural relationship between the two fault zones known at the OZD and the CZD near SONGS is a tectonic structure and can be considered as a controlling structure in the discussion of the seismic design basis and vibratory ground motions for the SONGS site.

29. Intervenors contend that the behavioral response of SONGS 2 and 3 reactor personnel during and following an earthquake is at issue in these Proceedings.

30. Intervenors contend that the seismic hazards and seismic design bases regarding the spent fuel rod pools at SONGS 2 and 3 should be a matter of contention and admissible evidence in this proceeding.

31. Intervenors contend that the quantity and quality of research that the NRC Staff required from the Applicant regarding geologic and seismic hazards to the SONGS site between the 1963 application for a permit to site a group of reactors (then projected to eventually include five reactors, including the SONGS 2 and 3) and the 1973 issuance of the permit to construct SONGS 2 and 3 should be an issue of contention in this proceeding, in terms of site suitability analysis and selection of the seismic design basis for the design, construction and operation of SONGS 2 and 3.

32. Intervenors contend that the NRC has failed to make timely requests to the USGS to have federally employed earthquake scientists conduct research that is independent of the Applicant's research, regarding the geoseismic hazards to the SONGS site.

33. Intervenors contend that the NRC Staff has not required the Applicants to conduct an adequate investigation in the consideration of the structural relationships between the Cristianitos Fault, the CZD, and the OZD, for determining the SSE and the maximum vibratory ground motions at the site.

34. Intervenors contend that the NRC Staff has not required the Applicants to conduct an adequate investigation in the consideration of the structural relationships between the OZD and the Agua Blanca and the Vallecitos-San Miguel Fault Zones in Baja California for the purposes of assigning the SSE and for determining the maximum vibratory ground motions at the site.

35. Intervenors contend that the NRC Staff has not required the Applicants to conduct an adequate investigation in the consideration of the structural relationships between the OZD, the CZD, the Cristianitos Fault and the Whittier-Elsinore Fault Zone, for the purposes of assigning the SSE and for determining the maximum vibratory ground motions at the site.

36. Intervenors contend that the NRC Staff has not required the Applicants to conduct an adequate investigation in the area offshore from SONGS 2 and 3 which are labeled as data voids on the Greene and Kennedy map of September, 1980.

37. Intervenors contend that the Applicants designed and constructed SONGS 2 and 3 with a seismic design basis in mind that the maximum SSE on the OZD would be a magnitude 6.5, and that it was not until December 31, 1980, that the NRC Staff took the position that the SSE should be raised from magnitude 6.5 to magnitude 7.0.

38. Intervenors contend that neither magnitude 6.5 nor magnitude 7.0 are adequate for the SSE for SONGS 2 and 3.

39. Intervenors contend that the NRC Staff has not adequately considered and has not required the Applicant to conduct adequate investigations in regards to the onshore projection of the Cristianitos Zone of Deformation.

40. Intervenors contend that the NRC Staff has not adequately investigated the natural phenomena of directivity or seismic focusing in its determination of the seismic design bases and the maximum vibratory ground motions for the SONGS 2 and 3 reactors.

41. Intervenors contend that the NRC Staff has not required the Applicants to conduct adequate investigations regarding the effects of directivity and seismic focusing on the seismic design bases and the maximum vibratory ground motions for SONGS 2 and 3.

42. Intervenors contend that the NRC Staff has not required the Applicants to perform adequate investigations since the discovery of the CZD regarding the

question "Would movement on the OZD be reasonably expected to be accompanied by movement on the CZD?"

43. Intervenors contend that the SONGS 2 and 3 structures, systems and components essential to protect the public health and safety are not adequately designed to withstand an earthquake with vibratory ground motions higher than .67 g horizontal and .44 g vertical.

44. Intervenors contend that the Slip-Rate Methodology used by the Applicants and the NRC for estimating the SSE for SONGS 2 and 3 is unproven, unjustified, untested and unapproved by the peer review process.

45. Intervenors contend that the NRC Staff review of the SSE and the maximum vibratory ground motions is inadequate and incomplete.

46. Intervenors contend that the SONGS 2 and 3 structures, systems, and components that have been identified in 10 CFR, Part 100, Appendix A. Section VI (a) (1) as being necessary to remain functional during the maximum vibratory ground motions that would result from the maximum credible earthquake or SSE, have not been designed to withstand and remain functional during the maximum vibratory ground motions that would result from the maximum credible earthquakes on the tectonic structures which have been identified near the site, as required by 10 CFR, Part 100, Appendix A, Section VI (a) (1).

47. Intervenors contend that the SONGS 2 and 3 structures, systems, and components that are considered by federal regulations to be necessary to protect the public health and safety during earthquakes, have not been designed adequately to withstand the effects of surface faulting beneath the reactors on either the Cristianitos Fault, the A, B, C, D fault features, or the CZD, as required by 10 CFR, Part 100, Appendix A, Section VI (b) (3).

48. Intervenors contend that additional geologic and seismic investigations and more conservative determinations than those included in the Appendix A "Seismic and Geologic Siting Criteria for Nuclear Power Plants" should be required for the SONGS 2 and 3 site because the site is located in an area

having more complex geology and higher seismicity than any other nuclear power plant site in the United States, as provided for in 10 CFR, Part 100, Appendix A, Section II.

49. Intervenors contend that the Cristianitos Zone of Deformation (CZD) is a "zone requiring detailed faulting investigations" as defined by 10 CFR, Part 100, Appendix A, III (j) Appendix A, V, (b).

50. Intervenors contend that the structural relationship between the OZD and the CZD (as mapped by Greene and Kennedy for the NRC in 1980) is a "tectonic structure" as defined in 10 CFR, Part 100, Appendix A, III (i).

51. Intervenors contend that the CZD is the closest point to the SONGS 2 and 3 site that is on the boundary of the "tectonic province" which includes the OZD, other wrench tectonic faults, and the plate boundary "tectonic province" as described in 10 CFR, Part 100, Appendix A.

52. Intervenors contend that the NRC should require the Applicants to modify the design of SONGS 2 and 3 to withstand the effects of surface faulting beneath the reactors on the CZD.

53. Intervenors contend that the NRC should require the Applicants to modify the design of SONGS 2 and 3 to withstand the effects of surface faulting beneath the reactors on the A, B, C, and D fault features as described and identified in the NRC Staff SER of 1980 and the NRC Staff Report of 1975, regarding the A, B, C, D, geologic features. As a part of this contention, the Intervenors content that the A, B, C, D features have structural relationship with the CZD.

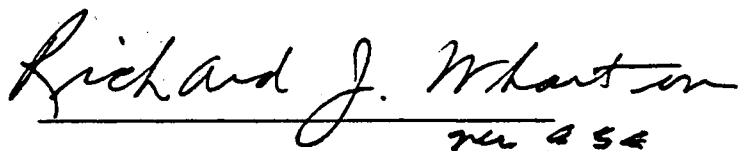
54. Intervenors contend that the NRC and the Applicant have not conducted the required detailed faulting investigations regarding the Cristianitos Fault Zone, the A, B, C, D fault features, and the CZD and the areas between the mapped zones of these three tectonic structures to clearly justify a determination

that surface faulting on any of these three fault zones need not be taken into account in the OL Proceedings regarding SONGS 2 and 3, particularly in regard to characterizing the Safe Shutdown Earthquake and the maximum vibratory ground motions, as required by 10 CFR, Part 100, Appendix A, Section IV (b) "Required Investigations for Surface Faulting" and Sections V (b) and VI (b).

55. Intervenors contend that the effects of the SSE as characterized by the Intervenors and the potential for surface faulting beneath SONGS 2 and 3 have not been adequately considered in the design of the SONGS 2 and 3 "Cooling Water Supply" in order to provide "Assurance of adequate cooling water supply for emergency and long-term shutdown decay heat removal" as required by 10 CFR, Part 100, Appendix, A, Section V (d) (3).

56. Intervenors contend that the NRC Staff and the Applicants have not complied with 10 CFR, Part 100, Appendix A, Section V (a), because the NRC Staff and the applicants have not assumed for seismic design purposes that the epicenter of the postulated Safe Shutdown Earthquake (SSE) on the OZD would be located at a point on that tectonic structure which is 7 kilometers from the site.

Respectfully submitted,

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*April 17, 1981*