

1 DAVID R. PIGOTT
EDWARD B. ROGIN
2 SAMUEL B. CASEY
JOHN A. MENDEZ
3 Of ORRICK, HERRINGTON & SUTCLIFFE
A Professional Corporation
4 600 Montgomery Street
San Francisco, CA 94111
5 Telephone: (415) 392-1122

6 CHARLES B. KOCHER
JAMES A. BEOLETT
7 SOUTHERN CALIFORNIA EDISON COMPANY
P. O. Box 800
8 2244 Walnut Grove Avenue
Rosemead, CA 91770
9 Telephone: (213) 572-1900

10 Attorneys for Applicants,
Southern California Edison Company
11 and San Diego Gas & Electric Company

12 UNITED STATES OF AMERICA

13 NUCLEAR REGULATORY COMMISSION

14 BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

15 In the Matter of)

16 SOUTHERN CALIFORNIA)
17 EDISON COMPANY, ET AL.)

Docket Nos. 50-361 OL
50-362 OL

18 (San Onofre Nuclear Generating)
19 Station, Units 2 and 3))

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR FINAL PREHEARING
CONFERENCE ON EMERGENCY
20 PLANNING CONTENTIONS

21 I.

22 THE BOARD HAS AUTHORITY TO
23 DIRECT A FINAL PREHEARING CONFERENCE

24 Pursuant to 10 C.F.R. § 2.752, the presiding officer
25 of the Atomic Safety and Licensing Board ("Presiding Officer")
26 may direct that a final prehearing conference be convened

1 between the parties or their counsel "within sixty (60) days
2 after discovery has been completed, or such other time as the
3 . . . Presiding Officer may specify." Items that may be con-
4 sidered at such a conference include:

- 5 "(1) Simplification, clarification,
6 and specification of the issues;
7 (2) The necessity or desirability
8 of amending the pleadings;
9 (3) The obtaining of Stipulations
10 and admissions of fact and of the
11 contents and authenticity of documents
12 to avoid unnecessary proof;
13 (4) Identification of witnesses
14 and the limitation of the number of
15 expert witnesses, and other steps to
16 expedite the presentation of evidence;
17 (5) The setting of a hearing schedule;
18 and
19 (6) Such other matters as may aid
20 in the orderly disposition of the pro-
21 ceeding."

22 10 C.F.R. § 2.752(a).

23 Pursuant to 10 C.F.R. § 2.718 the Presiding Officer
24 has the power to:

25 "(h) Hold conference before or during
26 the hearing for settlement, simplifica-
 tion of the issues, or any other proper
 purpose."

27 II.

28 A FINAL PREHEARING CONFERENCE ON 29 EMERGENCY PLANNING CONTENTIONS 30 MAY NOW BE SCHEDULED TO AID IN 31 THE TIMELY AND ORDERLY DISPOSITION 32 OF THESE PROCEEDINGS

33 On April 29, 1981, a special prehearing conference on
34 emergency planning contentions was held in San Diego pursuant
35 to 10 C.F.R. § 2.751a. (TR 407-434). It was generally recognized
36

1 by the parties at that time that a final prehearing conference
2 on emergency planning contentions would be appropriate as soon
3 as the Federal Emergency Management Agency ("FEMA") submitted
4 its overall findings on the status of offsite emergency planning
5 and preparedness for San Onofre Nuclear Generating Station.

6 By Memorandum and Order dated May 8, 1981, the Pre-
7 siding Officer instructed the parties that prior to such a final
8 prehearing conference informal discussions to delineate final
9 emergency planning contentions and otherwise resolve outstanding
10 procedural and substantive matters should be conducted.

11 Discovery on emergency planning contention is now closed
12 pursuant to the Stipulation and Order, dated February 20, 1981.
13 However, before any additional formal discovery may take place
14 the Board has proposed to require an informal prehearing
15 discovery session involving the Board and representatives of
16 the parties and FEMA.

17 On May 13, 1981, a full-scale exercise testing
18 Applicants, State and local emergency plans was conducted as
19 cooperative effort between Applicants, and involved State and
20 local emergency response agencies. Over forty representatives
21 of FEMA observed the exercise for formal evaluation purposes.

22 On May 14, 1981, FEMA held a meeting on the record
23 in San Clemente City Hall to deliver its informal evaluation
24 of the exercise to the exercise participants and to receive
25 the comments of the exercise participants. Representatives of
26 all the parties, with the possible exception of FOE, et al.,

1 attended this meeting. The transcript of this meeting is being
2 made available to the parties by Applicants.

3 On May 18, 1981, FEMA held a public meeting on the
4 record in San Clemente City Hall pursuant to the procedure set
5 forth in proposed 44 C.F.R. § 350.10. 45 Fed. Reg. 42346
6 (June 24, 1980). The meeting was attended by representatives
7 of all parties, as well as the responsible officials of the
8 involved State and local offsite emergency response agencies.
9 Counsel for Intervenor, as well as the Intervenor themselves,
10 actively participated in the meeting, asking questions of FEMA
11 and other attending agency representatives and providing FEMA
12 with various comments on the exercise and existing emergency
13 planning. At the conclusion of this meeting, FEMA announced
14 that it would provide a copy of its informal comments on the
15 offsite emergency response plans, dated April 27, 1981, upon
16 request to representatives of the Intervenor. FEMA also
17 announced that it would be providing its formal findings on
18 the state of offsite emergency planning and preparedness for
19 San Onofre Nuclear Generating Station pursuant to the
20 Memorandum of Understanding between FEMA and NRC "within
21 fifteen days." The transcript of this meeting will be made
22 available to the parties by FEMA within about ten days.

23 In keeping with the Board's suggestions, Applicants
24 and Intervenor have agreed to meet informally on May 28, 1981
25 to discuss delineation of final emergency planning contentions,
26 need for additional discovery, potential witness identification,

1 the potential for settlement under 10 C.F.R. § 2.759, and any
2 other procedural or substantive matters whose resolution may
3 expedite hearing on this subject.

4 In addition, Applicants propose that the Board-
5 proposed informal prehearing discovery session involving the
6 Board and representatives of the parties and FEMA, if still
7 necessary after the above-discussed informal discussions, be
8 conducted in San Diego on June 9, 1981, at a mutually agree-
9 able time and place to be later specified. Applicants
10 believe that conduct of this informal discovery session the
11 day before the proposed final prehearing conference on
12 emergency contentions will expedite the conference and
13 generally conform to the convenience of the parties who will
14 be in San Diego about that time for commencement of hearings
15 on the seismic contentions.

16 Given the foregoing circumstances, Applicants
17 believe that prior to the date of the proposed Final Pre-
18 hearing Conference the parties will have had ample opportunity
19 to refine contentions, simplify hearing procedures, review
20 FEMA findings, and identify witnesses they seek to present on
21 this issue before the Board. As was the case in scheduling a
22 final prehearing conference on seismic contentions, any delay
23 in the scheduling of a final prehearing conference on emer-
24 gency planning contentions poses a significant threat of
25 substantial, additional costs to the construction and
26 licensing program for the subject facility. Absent

1 substantial health and safety concerns to the contrary,
2 such delays should be avoided. Applicants, therefore,
3 submit that a final prehearing conference is now appro-
4 priate and necessary to clarify issues, set a date for
5 commencement of hearings on emergency planning contentions
6 as soon after completion of seismic hearings as possible,
7 identify witnesses and resolve any other matters that will
8 aid in the orderly disposition of this proceeding in a
9 timely manner.

10

III.

11

CONCLUSION

12

It is respectfully submitted that in order to assure
13 a timely completion of the licensing process, a final pre-
14 hearing conference on emergency planning contentions pursuant

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

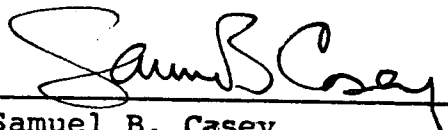
1 to 10 C.F.R. § 2.752 should be convened by this Board on June
2 10, 1981 in San Diego or soon thereafter as may be scheduled.

3 DATED: May 20, 1981

4 DAVID R. PIGOTT
5 EDWARD B. ROGIN
6 SAMUEL B. CASEY
7 JOHN A. MENDEZ
8 Of ORRICK, HERRINGTON & SUTCLIFFE
9 A Professional Corporation

10 CHARLES R. KOCHER
11 JAMES A. BEOLETT
12 SOUTHERN CALIFORNIA EDISON COMPANY

13 By

14 
15 Samuel B. Casey
16 One of Counsel for Applicants
17 Southern California Edison
18 Company and San Diego Gas &
19 Electric Company
20
21
22
23
24
25
26

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in the City and County of San Francisco, California.

I am over the age of eighteen years and not a party to the within entitled action; my business address is 600 Montgomery Street, 11th Floor, San Francisco, California 94111.

On May 20, 1981, I served the attached MOTION FOR ORDER SETTING FINAL PREHEARING CONFERENCE ON EMERGENCY PLANNING CONTENTIONS in said cause, by placing a true copy thereof enclosed in the United States mail at San Francisco, California, addressed as follows:

James L. Kelley, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Cadet H. Hand, Jr.
Administrative Judge
c/o Bodega Marine Laboratory
University of California
P.O. Box 247
Bodega Bay, California 94923

Mrs. Elizabeth B. Johnson
Administrative Judge
Oak Ridge National Laboratory
P.O. Box X, Building 3500
Oak Ridge, Tennessee 37830

David W. Gilman
Robert G. Lacy
San Diego Gas & Electric Company
P.O. Box 1831
San Diego, California 92112

Robert Dietch, Vice President
Southern California Edison
Company
P.O. Box 800
2244 Walnut Grove Avenue
Rosemead, California 91770

Alan R. Watts, Esq.
Rourke & Woodruff
California First Bank Building
10555 North Main Street
Santa Ana, California 92701

Lawrence J. Chandler, Esq.
Office of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Janice E. Kerr, Esq.
J. Calvin Simpson, Esq.
Lawrence Q. Garcia, Esq.
California Public Utilities
Commission
5066 State Building
San Francisco, California 94102

Mr. Lloyd von Haden
2089 Foothill Drive
Vista, California 92083

Mrs. Lyn Harris Hicks
G U A R D
3908 Calle Ariana
San Clemente, California 92801

James F. Davis
State Geologist
Division of Mines and Geology
1416 Ninth Street, Room 1341
Sacramento, California 95814

Richard J. Wharton, Esq.
University of San Diego
School of Law
Alcala Park
San Diego, California 92110

Phyllis M. Gallagher, Esq.
1695 W. Crescent Avenue, Suite 222
Anaheim, California 92801

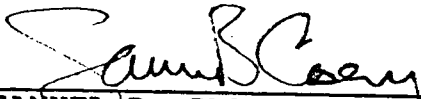
Atomic Safety and Licensing
Board

U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Richard K. Hoefling, Esq.
U.S. Nuclear Regulatory
Commission
Office of the Executive
Legal Director
Washington, D.C. 20555

Charles E. McClung, Jr., Esq.
23521 Paseo de Valencia,
Suite 308
Laguna Hills, California 92653



SAMUEL B. CASEY
One of Counsel for Applicants
SOUTHERN CALIFORNIA EDISON COMPANY
and SAN DIEGO GAS & ELECTRIC CO.

DAVID R. PIGOTT
EDWARD B. ROGIN
SAMUEL B. CASEY
JOHN A. MENDEZ
Of ORRICK, HERRINGTON & SUTCLIFFE
A Professional Corporation
600 Montgomery Street
San Francisco, CA 94111
Telephone: (415) 392-1122

CHARLES R KOCHER
JAMES A. BEOLETT
SOUTHERN CALIFORNIA EDISON COMPANY
P. O. Box 800
2244 Walnut Grove Avenue
Rosemead, CA 91770
Telephone: (213) 572-1900

Attorneys for Applicants,
Southern California Edison Company
and San Diego Gas & Electric Company

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket Nos. 50-361 OL
)	50-362 OL
SOUTHERN CALIFORNIA)	
EDISON COMPANY, <u>ET AL.</u>)	NOTICE OF APPEARANCE
(San Onofre Nuclear Generating)	
Station, Units 2 and 3))	
)	

Notice is hereby given that the undersigned attorney
herewith enters an appearance in the above captioned proceeding.
In accordance with 10 CFR §2.713, the following information
is provided:

Name	Edward B. Rogin
Address	Orrick, Herrington & Sutcliffe A Professional Corporation 600 Montgomery Street San Francisco, CA 94111
Telephone	(415) 392-1122

Admissions

Before the United States Supreme
Court and the Supreme Court of
the State of California

Name of Parties
Represented

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770

San Diego Gas & Electric Company
101 Ash Street
San Diego, CA 92101

Edward B. Rogin

Edward B. Rogin
One of Counsel for
SOUTHERN CALIFORNIA EDISON COMPANY
and SAN DIEGO GAS & ELECTRIC CO.

Dated: May 20, 1981

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in the County of Los Angeles, California.

I am over the age of eighteen years and not a party to the within entitled action; my business address is 600 Montgomery Street, 11th Floor, San Francisco, California 94111.

On May 20, 1981, I served the attached NOTICE OF APPEARANCE in said cause, by placing a true copy thereof enclosed in the United States mail at Los Angeles, California, addressed as follows:

James L. Kelley, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Cadet H. Hand, Jr.
Administrative Judge
c/o Bodega Marine Laboratory
University of California
P.O. Box 247
Bodega Bay, California 94923

Mrs. Elizabeth B. Johnson
Administrative Judge
Oak Ridge National Laboratory
P.O. Box X, Building 3500
Oak Ridge, Tennessee 37830

David W. Gilman
Robert G. Lacy
San Diego Gas & Electric Company
P.O. Box 1831
San Diego, California 92112

Robert Dietch, Vice President
Southern California Edison
Company
P.O. Box 800
2244 Walnut Grove Avenue
Rosemead, California 91770

Alan R. Watts, Esq.
Rourke & Woodruff
California First Bank Building
10555 North Main Street
Santa Ana, California 92701

Lawrence J. Chandler, Esq.
Office of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Janice E. Kerr, Esq.
J. Calvin Simpson, Esq.
Lawrence Q. Garcia, Esq.
California Public Utilities
Commission
5066 State Building
San Francisco, California 94102

Mr. Lloyd von Haden
2089 Foothill Drive
Vista, California 92083

Mrs. Lyn Harris Hicks
G U A R D
3908 Calle Ariana
San Clemente, California 92801

James F. Davis
State Geologist
Division of Mines and Geology
1416 Ninth Street, Room 1341
Sacramento, California 95814

Richard J. Wharton, Esq.
University of San Diego
School of Law
Alcala Park
San Diego, California 92110

Phyllis M. Gallagher, Esq.
1695 W. Crescent Avenue, Suite 222
Anaheim, California 92801

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

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Richard K. Hoefling, Esq.
U.S. Nuclear Regulatory
Commission
Office of the Executive
Legal Director
Washington, D.C. 20555

Charles E. McClung, Jr., Esq.
23521 Paseo de Valencia,
Suite 308
Laguna Hills, California 92653

Edward B Rogin
EDWARD B. ROGIN
One of Counsel for Applicants
SOUTHERN CALIFORNIA EDISON COMPANY
and SAN DIEGO GAS & ELECTRIC CO.