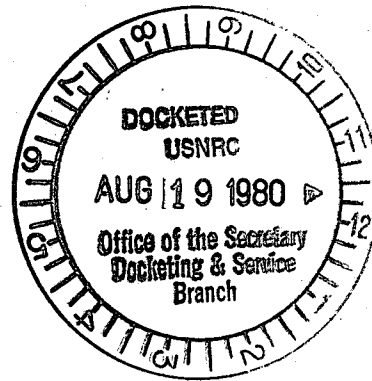


8-15-80



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F.O.E., ET AL

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, et al. (San Onofre ) INTERVENORS STATEMENT OF MATERIAL  
Nuclear Generating Station, ) FACTS REGARDING INTERVENOR F.O.E.  
Units 2 and 3). ) ET AL's CONTENTION 1a (Dewatering  
 ) Wells) AS TO WHICH GENUINE ISSUES  
 ) EXIST TO BE HEARD

Pursuant to 10 C.F.R. §2.749(a) Intervenor F.O.E. ET AL hereby submit their statement of material facts as to which Intervenor claim there exists genuine issues to be heard regarding contention 1a.

1. Intervenor agree with Applicant's Material Statement of Fact #'s 1, 2, 3, 4, and 5.

2. As to Applicant's Material Statement of Fact #6, Intervenor have no independent knowledge that the cavities contain no open voids other than statements of the applicants and cannot agree or disagree with said statement based on such lack of independent knowledge.

3. As to #7, Intervenor cannot state whether N.R.C.

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1 staff has approved or been informed of each step of applicants  
2 program to investigate and demobilize all cavities caused by the  
3 site construction dewatering system. Intervenor cannot state  
4 on behalf of the N.R.C. that the N.R.C. is satisfied that the  
5 cavities caused by applicants construction dewatering of the site  
6 can have no unacceptable adverse effect on the capability of  
7 structures and equipment of SONGS 2 & 3 to withstand the Design  
8 Basis Earthquake. Intervenor cannot submit affidavits setting  
9 forth the position of the N.R.C. staff to rebut the applicants  
10 statement that the N.R.C. approves of all that the applicants  
11 have done. Only the N.R.C. can do that and that is properly done  
12 through the issuance of the staff S.E.R. Under 10 C.F.R. 2.749(c)  
13 the presiding officer may refuse the application where it is  
14 shown that the party opposing the motion cannot, for reasons  
15 stated, present an affidavit essential to justify his opposition.  
16 As set forth in the attached declaration Intervenor are not  
17 competent to testify as to the "approval" or satisfaction of the  
18 N.R.C. staff.

19 4. As to applicants statement #8, Intervenor disagree  
20 that as a matter of law the cavities can have no unacceptable  
21 adverse effect on the capabilities of structures and equipment  
22 of SONGS 2 & 3 to withstand the Design Basis Earthquake in that  
23 it is uncontested that the main triable issue of fact before the  
24 board is whether the assigned design basis earthquake is adequate  
25 in light of new evidence and new scientific findings. If the  
26 design basis earthquake has been underestimated the issue of the  
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1 effects of the dewatering cavities is clearly a triable issue  
2 of fact.

3 Dated: August 15, 1980

4 WHARTON & POGALIES

5  
6 By: Richard J. Wharton  
7 RICHARD J. WHARTON  
8 Attorney for Intervenors F.O.E.  
9 ET AL  
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