

AFFIDAVIT OF WILLIAM H. CORMIER

I, William H. Cormier, being duly sworn state as follows:

1. I am an attorney licensed to practice law in the State of California. I am on the staff of the Administrative Vice Chancellor at UCLA and have been designated the UCLA Representative in this licensing proceeding.

2. In the two weeks following the issuance of the Atomic Safety and Licensing Board's order of May 29, 1981 ("Order Relative to Intervenor's Third Motion to Compel"), the University received a number of telephone calls from various media representatives inquiring about the order. These calls were referred to my office. Several of these reporters mentioned that they had learned of the Board's May 29th ruling from Mr. Hirsch. I responded to each of these inquiries by stating that the University's attorneys had simply misunderstood a previous order of the Board with the result that our subsequent actions, which we thought were in strict compliance with the Board's order, were actually not in compliance with the Board's order and that the Board had misinterpreted this non-compliance as deliberate. I stated further that the University's attorneys were in the midst of preparing a formal response to the order (the June 11 response to the Board's order to "show cause") which would contain a fuller explanation of the matter and that I would make this formal response available to anyone who wished to see it after it was submitted. Several of the reporters did call again on June 11 to discuss the formal response of the University and one

1 reporter asked for, and was given, copies of all the relevant
2 pleadings.

3

4 3. My telephone records indicate that on June 11, 1981
5 I took a call from a Mr. Eliot Marshall, who identified himself
6 as a member of the staff of Science magazine. Mr. Marshall's
7 call had been referred to my office by another office of the
8 campus. Mr. Marshall said he had been informed of the pro-
9 ceedings by Mr. Hirsch and that he wanted to know the University's
10 position on certain matters. Our conversation lasted approxi-
11 mately thirty-five minutes.

12

13 4. Most of the information contained in the article
14 was obtained apparently from Mr. Hirsch. Although I was unaware
15 of what Mr. Hirsch had actually communicated to Mr. Marshall and
16 the emphasis of my conversation with Mr. Marshall was on more
17 substantive and technical matters than are reported in the
18 article, most of the remarks which Mr. Marshall chose to excerpt
19 from our conversation were reported fairly. However, in exer-
20 cising his editorial license, Mr. Marshall has quoted certain of
21 my remarks out of their proper contexts and he has attributed
22 to me certain statements that I did not make. In addition, in
23 several places he has paraphrased or summarized what he thought
24 I said and positioned my remarks opposite remarks of Mr. Hirsch
25 so that it would appear that I was responding directly to Mr.
26 Hirsch's statements when, in fact, all I knew of Mr. Hirsch's
27 opinions was what I read in the CBG pleadings. The article
28 actually quotes only eleven words spoken by me and, except for

1 one phrase quoted intact, each of the words is used singly and
2 in a context created, seemingly, to add a certain "flavor" to the
3 article by insinuating a bluntness and terseness to my candid
4 personal comments that is not an accurate characterization of
5 the conversation. These inaccuracies are explained paragraph by
6 paragraph below:

7
8 Paragraph 1. In explaining several of the con-
9 tentions to Mr. Marshall I stated that many of CBG's
10 claims were dependent on the credibility for our
11 facility of the power excursion to core melt-down to
12 reactor explosion accident scenario. At several points
13 I stated that in the collective scientific and tech-
14 nical opinion of the University's staff it was "absurd"
15 and "ridiculous" to consider such a scenario for the
16 University's 100 kw research reactor. The "unfairness"
17 referred to in the first paragraph had to do with the
18 circumstances surrounding the Board's May 29th order
19 and was not mentioned as a criticism of the CBG "case".
20 None of the quoted remarks was my assessment of "the
21 case." The remarks were apparently juxtaposed to
22 create an interesting opening sentence. My estimates
23 of the "costs" to the taxpayers of this licensing
24 action is reported accurately.

25
26 Paragraph 4. My description of our reaction to
27 receiving the Board's May 29th ruling is reported
28 accurately. I explained that we were taken aback not

1 only by the language of the order which amounted to a
2 public reprimand of University's counsel (Mr. Hirsch
3 certain did all he could to give the Board's rebuke
4 the widest possible publicity) but also that the reprimand
5 had been issued before the University had been
6 given time to file a written response and without the
7 prior hearing opportunity which I have understood is
8 required by the Commission's own rules. I did not
9 quote the language of the order nor did I mention the
10 names of the Board members. Mr. Marshall either obtained
11 a copy of the order on his own or got the information
12 from Mr. Hirsch.

13
14 Paragraph 5. The paragraph distorts this part
15 of the conversation. I described the discovery questions
16 permitted by the Board (that is, CBG's interrogatories)
17 as "sloppy," meaning that in my opinion Intervenor's
18 questions were drafted carelessly and that the vagueness
19 of CBG's questions was the source of the dispute. I
20 did not describe the Board's procedural order as a
21 "judgment," which would be a mistake in usage obvious
22 to an attorney, and I didn't state that any "judgment"
23 or "order" was "sloppy." I did state that the Board's
24 order resulted from our misunderstanding of the Board's
25 previous order as we had just explained (in our June 11
26 memorandum) to the Board. I discussed the contents of
27 our June 11 memorandum and in particular our argument
28 that the Board's March 10, 1981 order was simply

1 unclear. I did not state that the University had
2 "given up the required data," which would have implied,
3 incorrectly, that we had refused to disclose any
4 information. I did state that even though there was
5 no requirement to do so we had apologized to the Board
6 because we felt that the circumstances warranted an
7 apology. I did explain that we believed that our in-
8 terpretation of the Board's previous order was reasonable,
9 that our mistake was unknowing and that the Board's
10 reprimand in our opinion was unfair. I then tried to
11 explain in layman's terms the discovery option provided
12 us by Rule 33(c) of the Federal Rules of Civil Pro-
13 cedures and that our response offering our records was
14 legally proper according to that rule. I did not say,
15 since it is not true, that the University "simply dumped
16 30,000 pages of logs and a pile of financial data in
17 CBG's lap." I assume that that remark is properly
18 attributable to Mr. Hirsch.

19
20 Paragraph 6. Mr. Marshall has paraphrased my
21 remarks here and has done so with several inaccuracies.
22 My statement was "we do not dispute that 60 percent of
23 last year's reactor port-hours of usage were logged to
24 extramural users of the facility. The rest of the para-
25 graph is essentially correct, although I did not use
26 the words "commercial" and "business" in describing the
27 research reactor operations.

1 Paragraph 7. The paragraph is essentially
2 accurate, although I do not know where Mr. Marshall got
3 the data he includes in the parentheses. My remark was
4 that UCLA's technicians were "hysterical with laughter,"
5 which was my exaggerated description of the levity
6 created when the UCLA staff considered CBG's hypotheti-
7 cal and preposterous series of events, described in
8 its interrogatories, that supposedly would result in a
9 serious accident.
10

11 5. The Board should be aware of the considerable
12 publicity that has attended these proceedings. (I have attached
13 a copy of the most recent newspaper article which is typical.)
14 Not only does Mr. Hirsch repeatedly seek to alarm the community
15 with his suggestion, which we regard as irresponsible, that a
16 TMI-type event or other "serious accident" could occur at the
17 facility but he has also gone to the press with each of the
18 Board's wholly procedural discovery orders where "news" of our
19 procedural disputes could be expected to embarrass the University
20 either directly or by innuendo. The University's representatives
21 have not sought to debate any of the issues in this proceeding
22 in the public arena nor draw media attention to procedural matters
23 which we regard as singularly unnewsworthy. On the contrary,
24 our general position has been that since CBG has "intervened" in
25 this licensing action we would abide by its choice of the legal
26 forum and we would not seek to "litigate" the complex procedural
27 and substantive issues of the proceeding in the daily newspapers.
28 However, when the language of the Board's May 29, 1981 order was

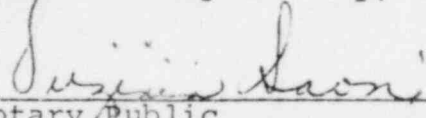
1 made available to the press the University could not avoid re-
2 sponding. Because of the actions of CBG in suggesting a greater
3 significance to the procedural dispute than that matter deserved,
4 I was placed in the position of having to respond without ad-
5 vance notice to a number of inquiries from various reporters. I
6 was open and candid in my responses although I knew that the
7 risk of being misinterpreted when discussing such complex matters
8 was great.

9
10 I attest that the foregoing affidavit is true and
11 correct to the best of my knowledge and belief.

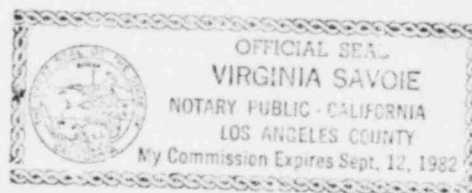
12
13 Dated: July 9, 1981.

14
15 
16 William H. Cormier

17
18 Subscribed and sworn to before me
19 this 9th day of July, 1981.

20 
21 Notary Public

22 My commission expires:



UCLA reactor battle rages

Re-licensing challenged over safety

By NELLIE HENDERSON
Evening Outlook Staff Writer
WESTWOOD — Although many Westside residents may be unaware of the nuclear reactor in their backyard, interested parties across the country are closely watching the protracted and precedent-setting battle being waged over the UCLA reactor's re-licensing.

The history of the conflict over UCLA's Boelter Hall reactor is complex. The parties involved are numerous. The contentions debated are highly technical. And the stakes of the outcome are high.

UCLA's 20-year-old reactor is the first research reactor to have its license renewal application challenged. The fate of argonaut reactors at five other universities, and the well-being of UCLA's neighbors may depend on the outcome of this case.

Opposing the re-licensing is the Committee to Bridge the Gap (CBG), "a non-profit, educational organization based near UCLA," which believes the reactor's construction and operation endanger public health and safety in a variety of ways.

Among other things, CBG alleges that

- The reactor emits excessive and harmful amounts of radioactive Argon-41 into the surrounding area, particularly classroom buildings next to Boelter Hall.

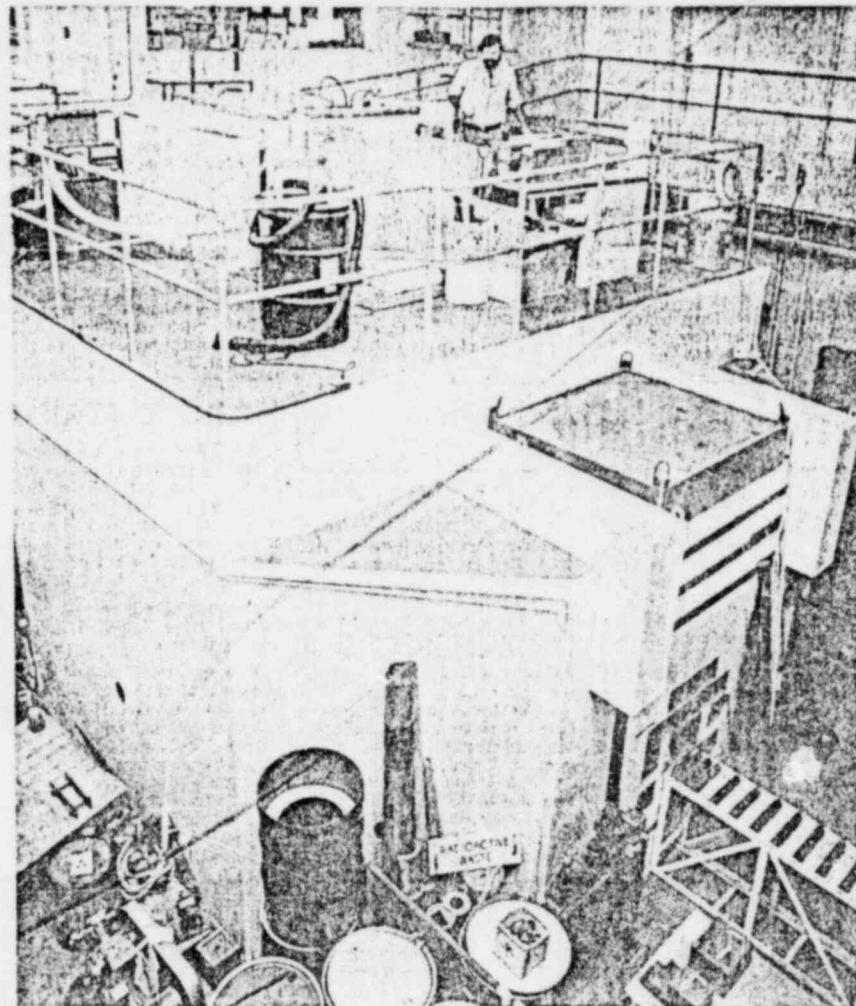
- The reactor could not withstand an earthquake.

- The potential for a serious accident, known as a "power excursion," could occur due to technical features of the reactor's design.

- Security is inadequate for a facility that uses bomb-grade uranium.

Although primarily concerned with safety issues, CBG also alleges that the reactor is operated 60 percent of the time for commercial rather than research purposes, in violation of its research license.

However, the legal and technical staff of the Nuclear Regulatory Commission has just concluded a safety evaluation and environmental impact appraisal of the reactor, and based on



UCLA's nuclear reactor located in Boelter Hall is up for re-licensing

those findings will recommend the reactor be re-licensed.

Staff attorney Colleen P. Woodhead said the reports, completed June 19, cover each of the safety issues raised by CBG, and will support UCLA's license renewal application.

The NRC's Atomic Safety and Licensing Board will hold hearings

on the matter this fall and will consider the arguments of the NRC staff, UCLA, and CBG when it decides the matter.

CBG President Dan Hirsch said the staff's findings were "completely expected, no surprise." However, he stressed that the staff and the board operate independently and therefore

the findings of the staff should not be interpreted as those of the decision-making body.

Hirsch also suggested a conflict of interest may undermine the validity of the findings because they were based on studies conducted by

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Column 1

Nuclear

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University of California employees.

"They claim no serious accident could occur because several things would have to go wrong simultaneously," he said. "According to their assumptions, Three Mile Island could not have occurred."

Independent investigations by the NRC's inspection and enforcement division support the NRC staff's conclusions.

An operations inspection conducted just last week found "no operational items in non-compliance," said inspector Tolbert Young.

"We will write a good report," Young said, adding that past violations have been corrected and some minor security violations remain.

Although those problems "never endangered the public," Young said he found an overall improvement in the administration of the reactor.

A health and physics inspection conducted in November 1980 also found the reactor operating within NRC guidelines, in contrast to problems experienced in the past.

In January of 1975 the NRC cited the reactor for incorrect calibration of effluent monitors, which led to underestimation of Argon-41 emissions, said inspector Frank Wenslawski, who reported the problem.

Although the reactor was emitting more radioactive gas than allowed by NRC limits, an NRC review found no health effects as a result, and amended UCLA's license to allow the emissions to continue, Wenslawski said.

The NRC also cited the reactor for losing a 1974 maintenance log of calibration records and for emitting the Argon-41 through a stack that violated height specifications.

However, Wenslawski said "unequivocally" that the problems posed no danger to the public and that the university has "shown interest and initiative" in correcting the problems. "They brought (the violations) to my attention," he added.

CBG disagrees. The group says the emissions still pose "a potential

health hazard" and criticizes the NRC for changing regulations rather than enforcing them.

Hirsch also asserts the reactor is "a completely unnecessary threat" because it is used primarily for commercial purposes, rather than research and education as required by its license.

The reactor could not meet the stricter requirements of a commercial license, he added.

Indeed 60 percent of the reactor's operation hours in 1979 were spent in commercial use, according to a letter sent by Walter West, UCLA Director of Research and Occupational Safety, to the NRC in May of 1980.

Reactor rental to geochemists, gem dealers and engineering firms took 264 of the reactor's 446 hours that year, the letter says.

The licensing board granted CBG intervenor status, which allows the group to help the board gather information by submitting "interrogatories," questions that UCLA must answer regarding all aspects of the reactor.

UCLA's application will remain in limbo until the licensing board decides it has received all pertinent information.

The board has granted three motions to compel the university to answer the first set of CBG's interrogatories, which focus on the issue of commercial use.

"UCLA's letter of May 1, 1981, is unacceptable and blatantly insulting from a great university to this board," the board said in its last order on May 29. The order also directed UCLA to show cause why sanctions should not be imposed.

The university responded quickly, but the board has issued no statement on the adequacy of the response, and has imposed no sanctions.

Hirsch said the university's response was "still pretty evasive" but said CBG would submit several more sets of questions.

"While all these shenanigans go on, the damn thing is still running," Hirsch said. "The operator could make a mistake tomorrow."

1 (DECLARATION OF SERVICE BY MAIL (CODE CIV. PROC. §§1013a & 2015.5)

2 I, the undersigned, say: I am a citizen of the United States,
3 over 18 years of age, employed in Alameda County, California, in
4 which county the within-mentioned mailing occurred, and not a party
5 to the subject cause. My business address is 590 University Hall,
6 2200 University Avenue, Berkeley, California 94720. I served
7 the attached: APPLICANT'S RESPONSE TO THE BOARD'S
8 ORDER RELATIVE TO THE ARTICLE IN SCIENCE
9
10

11 by placing a copy thereof in a separate envelope for each addressee
12 named hereafter, addressed to each such addressee respectively
13 as follows:

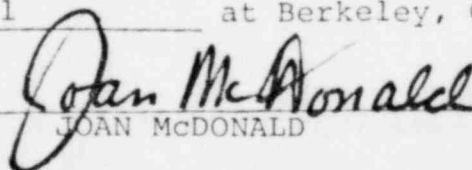
14 See Attached List
15
16
17

18 Each envelope was then sealed and with the postage thereon
19 fully prepaid deposited in the United States mail by me at
20 Berkeley, California, on July 10, 1981.

21 There is delivery service by U.S. mail at each place so
22 addressed or regular communication by U.S. mail between the place
23 of mailing and each place so addressed.

24 I declare under penalty of perjury that the foregoing is true
25 and correct.

26 Executed on July 10, 1981 at Berkeley, California.


JOAN McDONALD

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