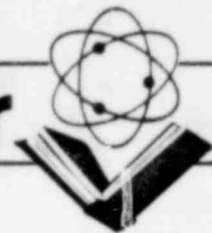


the nuclear law center

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July 20, 1981

Elizabeth S. Bowers, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
The Regents of the University of California
(UCLA Research Reactor)
Docket No. 80-142
(Proposed Renewal of Facility License)



Dear Judge Bowers:

Regarding certain pending matters before the Board, and a related matter:

July 1 Board Order Relative to Discovery as to Contention XX (Security)

On July 1 the Board granted, as to Intervenor's discovery requests relative to Contention XX, a temporary protective order "until the guidelines provided by the Appeal Board on June 9, 1977 have been met." The Board elsewhere in that Order identified the necessary steps for Intervenor to take in that regard.

Intervenor is pleased with this direction, as Intervenor shares the desire to protect sensitive security information while ensuring thorough consideration of security concerns at hearing. Intervenor will shortly report to the Board as to whom it proposes to qualify as witness.

As the procedures in ALAB-410 and ALAB-492 are complex and lengthy, Intervenor wishes to make clear its understanding of the temporary grant of protective order with regards discovery as to Contention XX. Intervenor understands the order to temporarily suspend discovery thereto, pending meeting the provisions of ALAB-410 and ALAB-592, at which point, under an appropriate protective order ensuring non-disclosure, discovery will be opened.

Therefore, Intervenor will not make further discovery requests as to Contention XX until such time as a proper Protective Order, modeled after the Appeal Board guidelines, is in place, but delays that discovery without prejudice to said discovery rights at the time those guidelines are met.

If Intervenor's above understanding is incorrect, it requests that it be so notified.

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July 15 Board Order

The Board Order of July 15 (received by Intervenor July 20) directs Applicant to "inform CEG of its current effort to furnish further information and when it expects to be able to furnish same." The Board also directed Intervenor to update its Motion to Compel as to its Second Set of Interrogatories, based in part on Applicant's report. A report from CEG is to be served "not later than twenty (20) days after receipt of this order." No date was given as to when Applicant should serve its status report to CEG as to the furnishing of further information. As Intervenor is to be in receipt of Applicant's report before making its own report to the Board, Intervenor wishes to make clear that it will be difficult to serve its response by August 10, as requested, if Intervenor is not in receipt of Applicant's report by August 5 at the latest.

July 16 Letter by William H. Cormier as to Qualifications of Daniel Hirsch

Intervenor is most confused by Mr. Cormier's recent letter (July 16) and under what authority it was sent (see final item below.)

On June 12, Mr. Cormier, asserting himself to be the "UCLA Representative," informed the Board, "We have no objection to having Mr. Hirsch interrogate our expert witnesses under the direct supervision of Mr. Pollock." Mr. Cormier, however, requested that he be informed whether his understanding of Mr. Hirsch's formal education was correct. The Board thereafter requested additional information as to said education as well as the nature of the energy courses Mr. Hirsch teaches at UCLA. Intervenor complied on June 30.

In Mr. Cormier's most recent letter, certain of Mr. Hirsch's June 30 statements are criticized. However, Mr. Cormier does not make clear whether the Applicant's previous decision not to object to Mr. Hirsch's interrogation of its expert witnesses has been altered; nor does he directly object at this juncture. He does, however, claim certain sentences in Intervenor's lengthy June 30 filing are "vague and insufficient." These comments of Mr. Cormier's are perplexing to Intervenor and cause Intervenor to inquire whether Mr. Cormier has the legal authority to make said statements on behalf of Applicant.

Mr. Cormier claims, for example, that Mr. Hirsch's description of his current energy course at UCLA is vague and insufficient. However, Mr. Hirsch's statement included the official course description from the UCLA course catalogue, as well as a detailed 10 page syllabus. We don't quite understand how, and in what capacity, Mr. Cormier calls into question the official course description and course syllabus approved by a faculty committee of the UCLA Academic Senate and approved by the appropriate administrative authorities at UCLA.

Mr. Cormier claims that Mr. Hirsch's June 30 statement suggests very limited technical and scientific training and experience, yet Mr. Hirsch made very clear in the statement that he was not addressing himself to his experience but merely to the matters requested by the Board dealing with his

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education and current teaching, and that he would be willing to provide information as to his experience if requested. Aside from the statement by the Los Angeles Federation of Scientists, the June 30 CBG filing did not deal with Mr. Hirsch's experience. And as Intervenor has twice previously made clear, the claim of sufficient technical and scientific understanding to assist counsel in interrogation of witnesses is made on the basis of Mr. Hirsch's knowledge gained from experience, not his formal education.

Mr. Cormier claims that Mr. Hirsch's statements are "insufficient in demonstrating that Mr. Hirsch is qualified to function as an expert respecting any single contention in this proceeding and certainly not all twenty contentions that have been admitted." And yet Intervenor has merely requested Mr. Hirsch's assistance in interrogation of expert witnesses on technical matters beyond counsel's understanding and competence; no request has been made regarding Mr. Hirsch serving as an expert witness as to any contention. Furthermore, due to Intervenor's sensitivity as to unresolved questions involved in in camera proceedings for Contention XX, no request for interrogator status was made thereto.

Finally, Mr. Cormier claims that Mr. Hirsch has not been explicit about his scientific and engineering formal education, whereas Mr. Hirsch makes very clear that his educational background has been in public policy, and that like many public policy specialists he has had to acquire, after the ending of his formal education, knowledge of the technical and scientific aspects of the policy issues he addresses (energy, with a focus on nuclear). A resolution from the Los Angeles Federation of Scientists appended to his statement attested that that knowledge is creditable and asserted that the quality of the evidentiary aspects of the licensing proceedings "will be greatly enhanced by his expert participation."

Intervenor can only assume that it is precisely because of Mr. Hirsch's abilities that Mr. Cormier raises his questions; that Mr. Cormier believes that Mr. Hirsch's technical knowledge and familiarity with this particular reactor may be a significant asset to Intervenor's counsel and thus put Applicant at some sort of disadvantage. Intervenor is sensitive to the situation Applicant would be placed in were university employees, testifying on behalf of the Applicant, to be cross-examined by another employee, a Lecturer in energy issues, assisting an opposing party in this case. But the crucial issue is how to present a full evidentiary record for the Board, and Intervenor respectfully submits that record would be enhanced by Mr. Hirsch assisting counsel in interrogation.

Counsel for Intervenor must reiterate what he said in his June 30 Declaration: I have no background in technical aspects of nuclear reactors, have relied heavily on Mr. Hirsch in these technical matters, and would be unable, without Mr. Hirsch's assistance, to competently represent Intervenor's interests before the Board.

Counsel also reiterates what was said in Intervenor's initial motion: that Intervenor at that time anticipated no objections (and indeed, Applicant thereafter stated for the record it had no objections), and therefore a detailed statement of Mr. Hirsch's experience was not provided. As Mr. Hirsch said in his June 30 statement, additional detail and support will be provided if so requested. It also must be pointed out, however, that Intervenor has already been forced to delay plans for depositions because of the unavailability to date of Mr. Hirsch to assist in said depositions.

In sum, Intervenor believes the request for Mr. Hirsch's assistance to Intervenor's counsel in interrogation of witnesses is a modest one and one for which he is well qualified; should not enough information be available for the Board to make that judgment at this time, Intervenor would be pleased to provide additional information.

Authority of Mr. Cormier to Make Legal Representations for the UC Regents

Intervenor had intended to ignore this last matter, as we understood the licensing proceedings to be somewhat informal and wished to in no way restrict other parties' participation in said proceedings. But recent events cause Intervenor to feel obliged to raise the following concern.

We note that throughout the proceedings Mr. Woods and Ms. Helwick have acted as the attorneys of record for the Regents. We were under the impression that Mr. Cormier was an administrative representative for UCLA (one of the nine campuses operated by the UC Regents) and was involved in these proceedings as a staffperson to Vice Chancellor Hobson, the particular responsible administrator as the particular campus for which the Regents have requested the license in question.

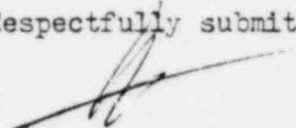
Mr. Cormier, although an attorney, was, we understood, not appearing as counsel for the Regents but as an administrative representative. We note that although Mr. Reidhaar, Mr. Woods, and Ms. Helwick have been identified on the legal filings in this proceedings as attorneys for the Regents, as well as being listed on the stationery of the Regent's Counsel, Mr. Cormier has not and is not.

We have seen no notice of appearance of counsel for Mr. Cormier in this proceeding. We note that while Reidhaar, Woods, and Helwick have always been identified in the pleadings as "Attorneys for the Applicant, the Regents of the University of California," Mr. Cormier has not so identified himself, instead identifying himself as the "UCLA Representative." We do not know what is meant by that term, nor what authority it provides to represent the Regents, as opposed to the UCLA administration, in NRC proceedings.

We note that until recently, pleadings in this case were filed by Mr. Woods or Ms. Helwick, but that recently certain pleadings have been filed by Mr. Cormier, as "UCLA Representative." It is our understanding that reactor license R-71 is held by the Regents and that it is the Regents who have requested the renewal of said license. It therefore seems useful to clarify precisely who are the attorneys of record in this proceeding.

We therefore respectfully suggest that clarification is in order as to the following matters: 1) Does Mr. Cormier have power of attorney for the UC Regents in this proceeding before the Board, 2) Is Mr. Cormier an attorney of record for the Regents in this proceeding, and 3) Precisely what is meant by the term "UCLA Representative" and what powers and authority does the term grant? While we trust that Mr. Cormier has had the authority to take the actions he has to date on behalf of the Regents, clarification of these matters would be most useful.

Respectfully submitted,


Mark Pollock
Attorney for Intervenor
COMMITTEE TO BRIDGE THE GAP

cc: service list

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