

Intervenor

4/16/82

COMMITTEE TO BRIDGE THE GAP  
1637 Butler Avenue, Suite 203  
Los Angeles, California 90025  
(213) 478-0829

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

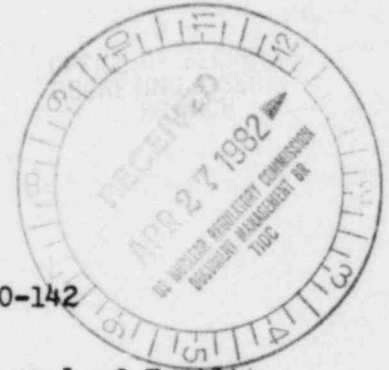
In the Matter of

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

(UCLA Research Reactor)

Docket No. 50-142

(Proposed Renewal of Facility  
License No. R-71)



INTERVENOR'S MOTION FOR DEFERRAL OF IDENTIFICATION OF PROPOSED  
COUNSEL, REPRESENTATIVES, AND WITNESSES AS TO  
THE PHYSICAL SECURITY MATTER

In its April 16, 1982, Memorandum and Order, the Atomic Safety and  
Licensing Board ("Board") directed, inter alia, that

within ten days of the date of service of this Memorandum and Order,  
CBG is to file and serve its proposed affidavit and protective  
order along with identification and qualifications of the experts  
it intends to utilize to evaluate security matters and any  
attorneys or representatives whom it also wishes to have access  
to security information.

CBG hereby requests deferral of the second part of that Board direction until  
the Board has ruled on certain matters relevant thereto--in particular,  
whether all parties should not be required to put forward their witnesses.  
In the attached proposed protective order and Affidavit of Non-Disclosure,  
and accompanying Memorandum, CBG puts forward a number of proposals as to  
methods by which to proceed on the security contention. In the interests of  
both fairness and efficiency in the proceeding, and for the reasons detailed

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herein, CBG respectfully requests deferral pending Board action on the enclosed proposals.

Because of the extremely short time frame (five working days from receipt of the Board's Order until due date for submission), and in order to be in compliance with the Board's direction of April 16 should this motion for deferral be denied, CBG has enclosed for the Board in a separate envelope identification of ten potential witnesses, two potential counsel, and an alternative representative. CBG has not served said materials on the other parties, pending resolution of this motion, but should this motion for deferral be denied, CBG will immediately, upon notification of such denial, serve by express mail those materials.<sup>1/</sup>

All Parties Should Be Required to Put Forward Proposed "Authorized Persons"

CBG proposes in the attached draft protective order and affidavit and accompanying memorandum that all parties be required, and at the same time, to put forward the identities and qualifications of those individuals intended to be considered "authorized persons," as that term is defined in the attached Affidavit of Non-Disclosure. CBG argues that to require only the Intervenor to so identify its witnesses and other such persons, and to permit responses by opposing parties to Intervenor's proposed "authorized persons," but not require similar identification by the other parties and right of comment thereupon by Intervenor would be unfair, prejudicial, and would furthermore provide inadequate protection of protected information.

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<sup>1/</sup> More detailed explanation is contained in the accompanying letter to Judge Frye.

CBG likewise asserts that should its proposed witnesses, counsel or representatives, and clerical personnel be required to execute Affidavits of Non-Disclosure, equity and security concerns dictate that all parties to the proceeding should be so required. Again, imposition of the commitment of non-disclosure on only one of the parties would be both prejudicial and incomplete protection of the sensitive information.

These proposals are explained at greater length in the accompanying Memorandum. Suffice it to say that it would appear unreasonable to require identification of Intervenor's proposed "authorized persons" prior to determination whether the same will be required of the other parties.

Efficient Use of the Time of the Board and Parties Suggests the Propriety of a Brief Deferral

The participation of both potential CBG attorneys and most of the potential CBG witnesses is dependent upon the conditions that will be imposed in the protective order and Affidavit of Non-Disclosure. The two individuals who may enter as counsel of record have clearly indicated they will not do so unless the conditions in the protective order and affidavit are ones they "can live with." A number of potential witnesses have likewise indicated they cannot commit themselves until they know said conditions.

CBG is a very poor organization financially, and should these attorneys enter the case, they would do so pro bono. Thus, conditions of a protective order which might be an acceptable burden to a far better-endowed institution with paid counsel might well be impossible for CBG and its potential pro bono counsel. Justifiably, these attorneys, and most of the potential witnesses, will not commit themselves until they know under what conditions they must work. Thus, CBG cannot in any but a most speculative manner identify counsel,

or, should potential counsel decline to participate, alternative representatives, until determination of the protective order and non-disclosure conditions have been firmly made. The same is true for witnesses.

As a Courtesy to the City of Santa Monica, Which Intends Shortly to Enter the Proceedings as an Interested Municipality, An Opportunity for Their Input Should Be Provided

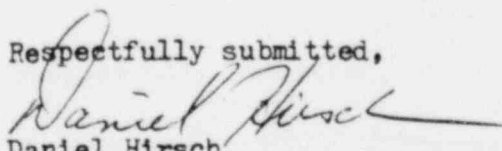
CBG has been informed that the City of Santa Monica intends in the very near future to file a notice of intent to participate in the UCLA reactor proceedings as an "interested municipality" under 10 CFR 2.715(c), and that they intend to participate in the security aspects of the case, including the calling of their own witnesses. Given that impending new development, it would appear that the above-requested deferral would serve to avoid inefficient use of time by having to go through these matters again with regards the City's security participation. Also, as a courtesy, it would seem appropriate to permit them an opportunity to provide input into the proposed protective order and Affidavit of Non-Disclosure.

CONCLUSION

CBG respectfully requests that identification of proposed counsel, representatives and witnesses be deferred pending ruling by the Board on whether all parties should be similarly required and certain related matters. CBG submits to the Board under separate cover identification such as can be made given the above-described situation, so as to be in compliance with the Board's direction of April 8, should the request for deferral be denied. Should said request be denied, CBG requests immediate notification by phone so that it may serve by express mail said identification upon the parties.

dated at Santa Cruz, CA  
April 16, 1982

Respectfully submitted,

  
Daniel Hirsch  
President