

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

5/18/82

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OFFICE OF SECRETARY
DOCKETING DIVISION
FRANCIS

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket No. 50-142
)	
THE REGENTS OF THE UNIVERSITY)	(Proposed Renewal of
OF CALIFORNIA)	Facility License)
)	
(UCLA Research Reactor))	

CBG'S RESPONSE TO CERTAIN MATTERS IN APPLICANT'S
"MEMORANDUM CONCERNING DISPOSITION OF THE PHOTOGRAPHS"

Herewith CBG responds to Applicant's arguments against release of an assertedly "irrelevant" photograph and Applicant's counter-proposal regarding the twenty (20) photographs asserted to depict security system features. CBG does not respond to Applicant's arguments regarding the 194-196 remaining photographs, despite Applicant's response to CBG's arguments thereto.

I. INTRODUCTION

The Board Memorandum and Order of April 16, 1982, stated in pertinent part:

UCLA objects to the release of 21 photographs on relevancy and security grounds. One photograph is deemed irrelevant by UCLA; UCLA does not allege that this photograph involves security matters. Consequently, within ten days of the date of service of this Memorandum and Order, UCLA is to furnish CBG and the Board with a

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copy of this photograph together with its specific objections. Should CBG wish to press the issue, it is to respond within ten days of the service of the photograph and specific objections by UCLA. In the event the Board rules in favor of UCLA, CBG will be directed to return this photograph.

The Board also directed UCLA to respond to the specific suggestions made at page 14 of CBG's Motion to Compel of April 8, 1982, regarding ways which UCLA's objections to release of twenty photographs assertedly capturing security system features might be overcome.

By Memorandum dated May 3, 1982, Applicant responded as to these two matters, as well as to the remaining 194 or 196 disputed photographs. As the Board directed CBG to respond within ten days if it wished to press the issue of the one "irrelevant" photograph, and since Applicant, rather than responding to CBG's suggestions regarding the other 20, put forward a counter-proposal of its own, CBG herewith responds to those two items, marked A and B on page 1 of Applicant's Memorandum.

A. The "Bumper Sticker" Photograph Meets the General Relevancy Test and Should be Released to CBG

The photograph in question is of a bumper sticker affixed to the rear of the control panel of the UCLA reactor. It reads, "Clean up the Fruit Fly -- Spray Jerry Brown!" It is a reference to a current member of the Board of Regents of the University of California and the current Governor of the State of California. At the bottom of the bumper sticker are the initials S.F.L.C. and a San Francisco phone number. The bumper sticker is

identical to ones distributed at airports around the country by a political organization headed by Lyndon LaRouche. The organization is noted for its extremist views regarding nuclear power and for a history of acts of political violence, principally in the late nineteen sixties and early nineteen seventies.

A phone call to the number listed on the photograph reveals that the bumpersticker affixed to the UCLA reactor control panel was indeed put out by one of LaRouche's political organizations. The initials S.F.L.C. appearing in the photograph stand, one is told by the woman answering that phone, for the San Francisco Labor Committee, a division of the International Caucus of Labor Committees. It was the ICLC that was most directly linked to the acts of political violence (destroying offices of groups whose policies it opposed and breaking skulls of their members with metal pipes) mentioned above. The S.F.L.C. spokesperson answering the number in the photograph confirmed to a CBG inquirer that the organization is also connected with Lyndon LaRouche's U.S. Labor Party and the Fusion Foundation.

A series of articles on the "ultras", extremist political organizations, in the Los Angeles Daily News last year indicated that the involvement with political violence by LaRouche's organizations, particularly the I.C.L.C., appears not to have ended. The News reported that members of these organizations have recently undergone weapons and explosives training in Mitchell Werbell's Cobray International in Powder Springs, Georgia, noted for "mercenary/spook-type" training.

The allegations regarding this "ultra" organization are voluminous and need not be repeated in detail here. Suffice it to say that a serious security concern would be raised were there any connection between LaRouche's organizations and operators of the UCLA reactor.

A bumpersticker readily available at airports is, of course, extremely limited association between NEL and the ICLC and related organizations. Were that the sole link, little concern would exist.

However, on February 23, La Rouche's organizations' candidate for U.S. Senator (interestingly enough, running opposite Jerry Brown) was sponsored in a public talk at UCLA by an organization working out of the Nuclear Energy Lab at UCLA and supervised by the reactor's chief of security: William Wertz, according to ads placed in the UCLA Daily Bruin on February 22 and 23, spoke, with funding arranged by UCLA reactor operators through the "CPC Mini Fund", a campus funding arm. The organization sponsoring the event is listed in the 1976 Annual Report for the Nuclear Energy Lab as an organization for which NEL "provides space, telephones, and secretarial support." It continues:

Meetings were held periodically in the laboratory lecture area, the elected officers were allowed to make chapter business phone calls, mail was sorted for the officers, and typing and mailing costs for the chapter were borne by the laboratory. When applicable, technical assistance was provided to the chapter by the staff and director of the NEL.

It should be made clear that the above-described campus organization being supported by NEL merely sponsored the UCLA talk by LaRouche's aide and arranged funding for it, and that they arranged for an opposing view to be presented

at another time. The link, however, indicates that the bumpersticker may be relevant to evidence that may be admissible at hearing. If there is a connection between LaRouche's organization and staff of the UCLA reactor, particularly the security officer, a serious question about screening and about security precautions is raised because of those organizations' alleged involvement with political violence.

In addition, UCLA regulations prohibit posting of items such as the bumpersticker anywhere except on approved bulletin boards and in one's own personal office; for the former category, the organization listed on the item must be a registered campus organization. The posting of such a bumper sticker raises questions--potentially useful, for example, in cross-examination at hearing--about the administrative and managerial controls at the facility (a matter in contention in the proceeding) that would permit UCLA regulations to be violated (in particular regarding a member of the UC Regents and the ultimate responsible officer for this state-run institution).

The test as to whether particular matters are discoverable is one of "general relevancy." This test will be easily satisfied unless it is clear that the evidence sought can have no possible bearing on the issues. Commonwealth Edison Co. (Zion Station, Units 1 & 2), ALAB-185, 7 AIC 240 (1974). For discovery between parties other than Staff, the discovery rules are to be construed very liberally. Zion supra.

It is clear that Applicant has not met its burden of demonstrating that the photograph can have no possible bearing on the issues in this proceeding. This is especially true because the photograph is not UCLA's, but CBG's, taken in an area readily accessible to the public and apparently able to be photographed by others not a party to this proceeding (as evidenced by the details of permitted photographing in CBG's April 26 Memorandum). Given several criticisms of NEL in NRC inspection reports for "poor housekeeping," the apparent violation of university regulations by permitting the posting of the bumpersticker, and possible links with an organization that would raise security concerns, the matter seems to clearly meet the test of general relevancy in that it may well lead to evidence that could be admissible at hearing. In the absence of any substantive objection, CBG's photograph should be released to it unconditionally.^{1/}

^{1/} CBG is not asserting at this time that there are substantive links with Lyndon LaRouche's organizations nor that necessarily any link would compromise facility security. CBG asserts that these are, however, discoverable matters that may be relevant at hearing. CBG would not wish to suggest guilt by association; however, this is a nuclear reactor we are talking about and a detailed link would be of concern. Discovery on the matter is appropriate.

B. APPLICANT'S COUNTER-PROPOSAL REGARDING THE TWENTY PHOTOS

In its April 8 pleading, CBG suggested that either it be permitted to retake the photographs in question with the objected-to items covered or outside the camera angle, or that Applicant block out the feature on the original print or negative. CBG indicated that if either approach was unacceptable to Applicant, Applicant should be required to keep the photos and negatives taken by CBG until resolution of the matter by the Board.

In its May 3 response, Applicant does not respond to either CBG suggestion but makes one of its own: that it (Applicant) retake the photos. For reasons detailed below, this would not be acceptable to CBG unless certain conditions were attached thereto.

It is unlikely that Applicant would know what Intervenor was intending to capture in the photos in question and therefore not certain that in retaking the photos Applicant would duplicate the location, camera angle, lighting, and so forth. This may not be of consequence, but it may also be. Furthermore, without seeing the original photo, CBG would have no way of knowing that indeed Applicant's version is a duplicate of what CBG took, with the only exception the removal of the supposed security features inadvertently captured.

Thus, CBG opposes Applicant's suggestion that it retake the photos. CBG's opposition might be mitigated if Applicant were to bring, say to the June pre-hearing conference, its version of the photos, and CBG's, and permit inspection of both sets to determine that they indeed duplicate, with the

exception of the security features, the photos taken by CBG. We note that CBG's representatives saw whatever features are supposedly objectionable in the photos, in fact have seen those features several times on different tours, that the public is permitted to view those features and the media when photographing cannot help but get some of the same features in their pictures. The features Applicant is most likely objecting to (sensors and the alarm box) are, in fact, impossible not to notice on public tours. CBG could, if the Board wished, describe those features at the prehearing conference just to indicate that permitting us brief comparison of our original photos against the ones Applicant wishes to substitute for them would not show us anything we haven't already seen, several times. But we must make clear that it would be unacceptable to accept, without verification, that the versions Applicant proposes to substitute are indeed identical with the exception of the supposed security features. And if there is question as to their being identical, we would wish the right to have them taken again. Our preference remains that CBG, which knows what it wished to capture in the photos in question, simply be permitted to retake them with the questionable features covered in some fashion. The Applicant's alternative would only be acceptable with the conditions described above.

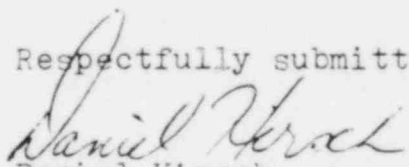
II. CONCLUSION

CBG respectfully submits that Applicant has failed to demonstrate that the objected-to single photograph clearly can have no possible bearing on the issues. CBG has shown several areas wherein the photograph may be relevant to said matters; indeed, without having been able to see the photograph, the connection with the S.F.L.C. and related organizations would not have been brought to CBG's attention. Because of the serious allegations of political violence associated with related organizations, and the questions regarding administrative and managerial controls permitting such posting in apparent violation of university rules, the photograph may well lead to admissible evidence. The case may not rest on this single photograph, but the standard for discovery other than against staff has no such requirement, just a general standard of general relevancy which CBG suggests has been easily met.

As to Applicant's counter-proposal regarding the photographs assertedly depicting security features, CBG would oppose the suggestion that Applicant retake the photos unless CBG were provided an opportunity to compare the two sets and approve them as essentially identical, with option to have them retaken if not. Furthermore, CBG renews its request that Applicant be directed not to dispose of CBG's photographs until these matters are fully resolved.

DATED AT San Lomond, CA
May 18, 1982

Respectfully submitted,


Daniel Hirsch
President
COMMITTEE TO BRIDGE THE GAP

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DECLARATION OF SERVICE

I hereby declare that copies of the attached: CBG'S RESPONSE TO
CERTAIN MATTERS IN APPLICANT'S "MEMORANDUM CONCERNING
DISPOSITION OF THE PHOTOGRAPHS"

in the above-captioned proceeding have been served on the following by
deposit in the United States mail, first class, postage prepaid, addressed
as indicated, on this date: May 18, 1982.

John H. Frye, III, Chairman
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission

Dr. Emmeth A. Luebke
Administrative Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Oscar H. Paris
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

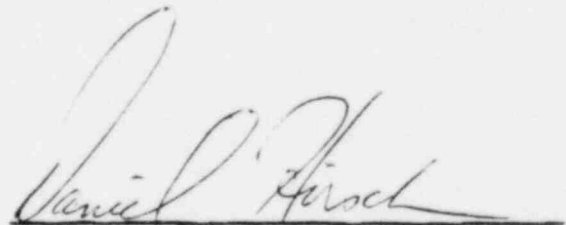
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
attention: Ms. Colleen Woodhead

William H. Cormier
Office of Administrative Vice Chancellor
University of California
405 Hilgard Avenue
Los Angeles, California 90024

Christine Helwick
Glenn R. Woods
Office of General Counsel
590 University Hall
2200 University Avenue
Berkeley, CA 94720

Mr. John Bay
3755 Divisadero #203
San Francisco, CA 94123

Sarah Shirley
Deputy City Attorney
City of Santa Monica
City Hall
1685 Main Street
Santa Monica, CA 90401



Daniel Hirsch
President
COMMITTEE TO BRIDGE THE GAP