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

In the Matter of	)	
	)	Docket No. 50-142 OL
THE REGENTS OF THE	)	
UNIVERSITY OF CALIFORNIA	)	(Proposed Renewal of
	)	Facility License
(UCLA Research Reactor)	)	No. R-71)
	)	
	)	

CITY'S MEMORANDUM AS TO ORDER  
OF PRESENTATION OF EVIDENCE AT  
SUMMER EVIDENTIARY HEARINGS

The Board Memorandum and Order of March 23, 1983, indicated at pages 22-23 that the Board has decided to schedule the hearing so as to put on first the Staff and Applicant cases and thereafter that of CBG. Noting the City's concern that this might create at minimum the appearance of shifting the Applicant's burden of proof, the Board provided the participants in the proceeding with an opportunity to object to this proposed order of presentation.

The City has no general objection to having the parties arguing that the reactor is inherently safe present their case

first, and those criticizing that premise present their case thereafter. However, the City does object to the proposal that the Staff present its case before the Applicant does, for the following reasons.

It is the Application for the requested license that is before the Board for a decision, and it is the Applicant, as sponsor of the Application, who bears the burden of proof. The normal rule in these proceedings is that the party with burden of proof presents its case first. No reason has been presented which justifies deviating from the normal procedure in this case. Applicant should present its case for relicensing based on the Application; then the Staff, which is merely to provide an independent review of that document, should go forth with its evidence.

In this case, there are basically three parties with three positions: Applicant, which seeks relicensing on the basis of a detailed Application; Staff, which is charged with independently reviewing the Application and has concluded that Applicant should be relicensed; and CBG, which has conducted an independent review and opposes the relicensing. The City, in a more limited role, also opposes the relicensing. Logic dictates that Applicant present its Application and supporting evidence first, with the reviewing parties, Staff and CBG, presenting their evidence thereafter. To permit Staff, one of the reviewing parties, to be the first to present its case would amount to an improper shifting of the burden of proof from Applicant to Staff.

The fact that Applicant plans to rely on Staff studies does not justify permitting Staff to present its evidence first. While it is true that the Application references Staff studies, it is equally true that those Staff studies refer to the Application. By necessity, one party or the other will have to refer to documents not yet in evidence, but which will at a later point be offered into evidence by their sponsor. As both Staff and Applicant are in the same position with respect to this problem, there is no reason why the normal procedure of having Applicant proceed first should not be followed.

In summary, the City does not oppose any proposed order of presenting evidence as long as Applicant is required to present its case first. This is normal procedure, inasmuch as the Application is the primary document at issue, and Applicant bears the burden of proof with respect to its request for relicensing.

Respectfully submitted,

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UNITED STATES OF AMERICA

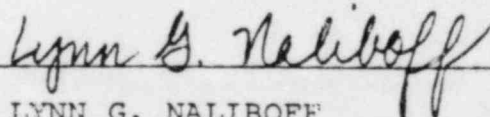
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	)	

DECLARATION OF SERVICE

I hereby declare that copies of the attached: CITY'S MEMORANDUM AS TO ORDER OF PRESENTATION OF EVIDENCE AT SUMMER EVIDENTIARY HEARINGS in the above-captioned proceeding have been served upon the service list attached hereto as Exhibit A by deposit in the United States mail, first class, postage prepaid, addressed as indicated, on this 7th day of April, 1983.



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EXHIBIT "A"  
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