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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
GOVERNING & SERVICE
BRANCH

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
THE REGENTS OF THE UNIVERSITY)	Docket No. 50-142
OF CALIFORNIA)	(Proposed Renewal of Facility
)	License Number R-71)
(UCLA Research Reactor))	
)	April 12, 1983
)	

UNIVERSITY'S REPLY TO CBG'S APRIL 4 RESPONSE
CONCERNING SABOTAGE AS PART OF ACCIDENT ANALYSES

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In its March 23, 1983 Prehearing Conference Memorandum and Order ("Order") the Board invited any party or participant to respond to the Board's stated concerns respecting the consideration of potential sabotage as part of accident analyses which had been proposed in CBG's Contention XIX, Subpart 1. The Board also indicated that any party desiring to reply to a response was to notify the Board within 48 hours of receipt of the response.

On April 8, 1983 University received CBG's "Response to Prehearing Conference Memorandum and Order of March 23, 1983" ("CBG's Response"), which was dated April 4, 1983. Among the matters addressed in CBG's Response, CBG took exception to the Board's stated concerns on the consideration of potential sabotage as part of accident analyses. CBG's Response, pp. 33-44. On April 8, 1983 University informed the Board that is intended to reply to CBG's response and that its reply would be filed April 12, 1983.

In its Order the Board explained that the basis for its concerns on this point was that the sabotage portions of Contention XIX might constitute an impermissible challenge to the regulations. As the Board reasoned, Part 73 of the Commission's regulations lays down the measures which licensees must implement in order to deal with potential sabotage. The Part 73 requirements can neither be relaxed or strenghtened as the result of the consideration of sabotage

scenarios in accident analyses. University concurs fully with the Board's reasoning. Under the Commission's regulatory scheme sabotage is not considered in connection with accident analyses.

In CBG's Response it is argued that the Board cannot now summarily dispose of Subpart 1 to Contention XIX because a) the "contention was admitted", b) "no changed circumstances have arisen necessitating reconsideration", c) "summary disposition has already been denied on this contention", and d) the Board lacks "sua sponte authority" to dismiss admitted matters. CBG's arguments are mistaken and without merit.

In its September 3, 1982 Motion of Summary Disposition University argued, inter alia, that there was no regulatory requirement that sabotage be considered as part of accident analyses (p. 51). Because this was a legal argument University did not support its argument with any factual statements on sabotage matters which were asserted not to be in dispute. In accordance with the Board's bifurcated response procedure, the Board's February 8, 1983 Memorandum and Order, ruling on the motions for summary disposition, was based on an examination of the factual statements asserted not to be in dispute. The Board's February 8 Order was concerned solely with the factual statements submitted by the parties and not with the statements of the contention or their subparts. The Board did not have occasion to consider the parties' legal arguments. Indeed, CBG had not presented its legal arguments on this point at the time of the February 8 Order and it would have been unfair to CBG for the Board to dispose of the matter at that time.

Following the procedures it had established (procedures established for the convenience of CBG) the Board took up the matter of the specific contention language at the February 23 prehearing conference and later, with respect to Contention XIX, Subpart 1, by conference call on March 9. On these occasions University and NRC Staff stated their concerns. The Board's concerns were stated in its Order. CBG has now responded with its legal arguments, disputing the Board's authority to "reconsider" the matter at this time and also offering its reasons why sabotage should be considered in accident analyses. CBG provides no authority for its interpretation of now the Commission's Part 73 regulations are to be applied in this proceeding. CBG's vague reference to the "Columbia" case is entirely misplaced. Further response to CBG's creative but erroneous interpretation of the Part 73 regulations is not necessary. The matter is now fully briefed and it is appropriate for the Board to rule at this time to summarily dispose of Subpart 1 to Contention XIX.

Dated: April 12, 1983.

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GLENN R. WOODS
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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached: UNIVERSITY'S
REPLY TO CBG'S APRIL 4 RESPONSE CONCERNING SABOTAGE AS PART OF
ACCIDENT ANALYSES.

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: April 12, 1983

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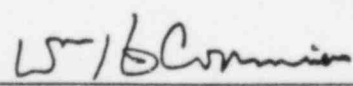
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