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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
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In the Matter of)
THE REGENTS OF THE UNIVERSITY)
OF CALIFORNIA)
(UCLA Research Reactor))
_____)

Docket No. 50-142
(Proposed Renewal of Facility
License Number R-71)

January 17, 1984

UNIVERSITY'S RESPONSE TO CBG'S MEMORANDUM
CLARIFYING CONTENTION XX PARAGRAPHS 1, 2, AND 3

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I. INTRODUCTION

By Order of October 24, 1983 the Board requested the positions of the parties with regard to what portions of Contention XX, in addition to those pertaining to sabotage, remain in controversy. The parties responded in pleadings dated December 13, 1983. In its December 23, 1983 Memorandum and Order (Regarding Contention XX) the Board stated it did not find the parties' submissions helpful and requested further responses. The Board directed CBG to indicate what portions of paragraphs 1, 2, and 3 of Contention XX bear on the issues of UCLA's compliance with 10 CFR Secs. 73.40(a) and 73.67. The other parties were given the opportunity to respond within five days following service of CBG's submission. On January 6, 1984 CBG filed its Memorandum Clarifying Contention XX Paragraphs 1, 2, and 3 ("Memorandum"). University's response follows.^{1/}

^{1/} University's response would have been due to be served on January 16th (CBG's Memorandum was served by special delivery mail). However, Monday, January 16, 1984 was observed as a State holiday in California as a result of Governor Deukmejian's Executive Order D-27-83, signed November 9, 1983, which declared that the third Monday in January, beginning in 1984, would be an official State holiday in observance of the birthday of Martin Luther King, Jr. Accordingly, University is serving its response on January 17, 1984.

II. DISCUSSION

In its Memorandum CBG argues that removing the reference to 10 CFR Sec. 73.60 results in no change in the contention. According to CBG, the subparts of Contention XX are based on grounds independent of Sec. 73.60. The subparts are related to CBG's assertion that "UCLA must protect against sabotage as per 73.40(a) and theft as per 73.67 . . . and . . . that (UCLA) fails to adequately do so." (Memorandum, at 8.) In explaining paragraphs 1, 2, and 3 of its contention, CBG asserts that the subparts of each paragraph are all related to CBG's general claim that the UCLA facility is inadequately protected against sabotage. In addition, CBG apparently asserts that, except for subparts b, c and e of paragraph 1, each subpart of CBG's three paragraphs are also related to CBG's general claim that the UCLA facility is inadequately protected against theft or diversion of SNM. In short, in CBG's view nothing has been resolved by the Board's several rulings on Contention XX. CBG continues to argue that nothing can be resolved until discovery is completed.

Clearly, none of CBG's specific allegations that the requirements of Secs. 73.40(a) and 73.67 are not satisfied at the UCLA facility have been resolved. However, the applicability (or not) of each of these provisions can and should be considered separately. The Board's recent ruling concerning Sec. 73.40(a) may raise litigable issues. But whether Sec. 73.67 requirements are satisfied at the UCLA facility raises only legal issues which can be resolved on the basis of Staff's motion for summary disposition. Staff's motion demonstrates that CBG has misinterpreted the requirements of Sec. 73.67. In accordance with the requirements

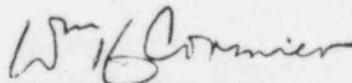
of 10 CFR Sec. 2.749, in particular subsections (b) and (c), CBG should be required to respond to the motion with opposing affidavits. A decision on Staff's motion will simplify Contention XX. In the event that the Board decides that portions of the Contention concerned with the applicability of Sec. 73.67 remain disputed, the parties will at least have the benefit of a statement of the material facts that are in dispute.

III. CONCLUSION

For the reasons above, University respectfully requests that the Board direct CBG to respond to Staff's motion concerning whether the requirements of 10 CFR 73.67 are satisfied at the UCLA facility.

Dated: January 17, 1984.

DONALD L. REIDHAAR
GLENN R. WOODS
CHRISTINE HELWICK

By 
WILLIAM H. CORMIER
Representing UCLA

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached: UNIVERSITY'S RESPONSE TO CBG'S MEMORANDUM CLARIFYING CONTENTION XX PARAGRAPHS 1, 2 AND 3.

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: January 17, 1984.

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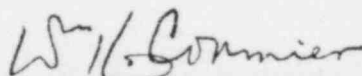
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