

COMMITTEE TO BRIDGE THE GAP

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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

RE: UCLA REACTOR RELICENSING (Docket 50-142) and STAFF REQUEST
TO THE COMMISSIONERS FOR "CLARIFICATION" OF 10 CFR 73.40(a)
PHYSICAL PROTECTION REQUIREMENTS

(Staff Proposal to Reverse Long-Standing Requirement
for Research Reactors to Protect Against Sabotage)

Dear Commissioners:

It has come to our attention that you have recently received a formal Staff request, dated December 6, that has the effect of asking you to overturn recent Atomic Safety and Licensing Board decisions adverse to the Staff in the UCLA relicensing proceeding to which we are a party.

Although we understand that the Staff proposal refers specifically to the ASLB decisions in our case (LEP-83-25A and 83-67) affirming that research reactors must have protection against radiological sabotage, we have not yet been served a copy. We therefore respectfully request that the Commission defer acting on the Staff request until we have been provided a copy and the Commission has received our response.

We are concerned that, if this is not done, the Commission might be in the position of basing a decision on ex parte representations by Staff about pending litigation that might not fully reflect the situation.

We are also concerned that the Staff request might have the effect of an interlocutory appeal bypassing normal appeal procedures. The ASLB, which apparently has seen the Staff communication, refers to it in a recent Memorandum and Order (December 23) as requesting the Commission to "overturn our ruling." Yet the other parties have not even seen the request, let alone replied to it.

If the Staff is requesting rulemaking to merely "clarify" long-standing intent of 10 CFR 73.40(a) requirements as to sabotage protection for research reactor, the ASLB has already done so. If the Staff disputes the Board's interpretation of 73.40(a), then it should appeal through the appropriate appeal procedures.

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If the Staff wishes to have the substance of the rule changed--reversing at least a decade of Commission practice requiring sabotage protection for research reactors--such a major, substantive undertaking should not be approved on a notation vote basis, but with greater consideration of the potential implications of such a move (whether, for example, consideration of exempting research reactors from having to take security precautions to protect against radiological sabotage might not have the effect of making them far more attractive targets for intentional destruction.)

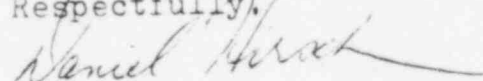
These are extremely important matters, particularly with the ASLB in question attempting now to resolve whether the security at the UCLA reactor is adequate to protect against the unique risks associated with the upcoming summer Olympics to be held a few hundred feet away, given reports in Newsweek and elsewhere that it may be a prime target for terrorists at the Olympics.

Your licensing board, the Appeal Board in the 1972 Columbia case (ALAB-50), 10 CFR 73.40(a), and your own annual reports to the Congress (which yearly inform the Congress that all research reactors have security plans designed to protect against both theft of nuclear materials and radiological sabotage) indicate the Commission's long-standing requirement that research reactors provide such protection.

Overturning a licensing board's reasoned decisions and the long-standing practice within the agency should not occur without following the appropriate appeal procedures and without thorough consideration. To do otherwise would undermine the licensing process and the working of your licensing boards.

Please defer ruling on the Staff request until the parties in the proceeding have been provided a copy and responded.

Respectfully,


Daniel Hirsch
President

cc: Secretary Chilk
General Counsel Plaine
Congressman Udall
Congressman Levine
Congressman Markey
service list Docket 50-142