

OFFICE OF SECY
DOCKETING & S
BRANCH

I. INTRODUCTION

On April 6, 1984, CBG filed two motions^{1/} seeking reconsideration of the Board's March 22, 1984 Memorandum and Order (Ruling on CBG's Objections to UCLA's Rebuttal Testimony). As explained below, University opposes the two motions.^{2/}

II. DISCUSSION

A. Part I Motion

In the Part I Motion CBG argues that the Board "violates its own procedural rulings" in admitting UCLA's rebuttal testimony, that permitting the rebuttal testimony "is contrary to the public interest unless the reactor is shutdown until proven safe", and that permitting the rebuttal testimony "raises the spectre of increasing delays throughout the course of the hearings." The Part I Motion seeks reconsideration of the Board's ruling on all testimony which the Board indicates should have been filed with Staff's and UCLA's direct case. However, no specific Board rulings are discussed in the Part I Motion. The Part I Motion concludes by stating that "the Board should suspend UCLA's license to use and possess SNM until a final decision has been reached."

^{1/} Motion to Reconsider Board Memorandum and Order of March 22, 1984 (Part I) (hereinafter, "Part I Motion") and CBG's Motion for Reconsideration of Certain Portions of the Board's March 22, 1984, Order; Part II (hereinafter, "Part II Motion").

^{2/} On April 18, 1984, University requested and was granted the right to consolidate its responses to the two motions.

Because discussion of specific rulings which CBG seeks to have the Board reconsider are contained in its Part II Motion, the Part I Motion is largely redundant. The request to suspend the license is inappropriate since the Board's March 22 Memorandum and Order was concerned with rulings on objections to testimony and contained no decision on the merits of the proceeding that could justify such an extreme action. CBG's claims that the Board violated its own rulings is baseless. The Board has discretion to decide what rebuttal testimony it wishes to hear.

CBG's assertion that the Board must develop a complete record in order to be "absolutely certain" of the facility's safety before renewing the license is incorrect and is refuted in fact by those portions of the Part 50 regulations which CBG quotes in its motion. The standard is that the applicant provide reasonable assurances which, as interpreted in the case law, requires the consideration of credible accident scenarios.

CBG's claim that the public is endangered while the license application is being considered is based solely on speculation and CBG's view of the evidence. CBG's off-repeated claims that UCLA is responsible for delaying this proceeding are groundless. CBG's claim, with respect to UCLA's March 30, 1984 letter, that UCLA is withholding its direct case, that it "will 'redefine' the water pathways" after rebuttal testimony has been considered misrepresents UCLA's position. UCLA was asked what opportunities would be available and responded simply that it would have the opportunity to better define the water escape paths. Without proposing

a license amendment UCLA could not make alterations to the core region. UCLA would not alter the core region except upon the recommendation, review, and approval of the NRC Staff.

B. Part II Motion

In its Part II Motion CBG complains generally about the exercise by the Board of its discretion to decide what rebuttal testimony it wishes to consider. CBG characterizes the Board's rulings as arbitrary and capricious. Most of CBG's discussion repeats arguments contained in its original objections to rebuttal testimony submitted on November 16, 1983. University has already responded at length to CBG's objections. The following specific responses are in addition to the arguments contained in University's December 2, 1983 response and to the arguments contained in Staff's response of the same date, with which University concurs.

On page 13 of its motion, CBG again seeks to have excluded a temperature rise estimate contained in Dr. Pearlman's Wigner Energy calculation on the grounds that CBG believes the estimate is based on an erroneous calculation. CBG should have an opportunity to cross-examine concerning the estimate but it has no grounds to exclude solely because it believes the estimate is erroneous.

On page 15 of its motion CBG again objects to the flux value measurements apparently on the ground that the Taylor measurements, which were introduced in CBG's October testimony, were first mentioned by

Mr. Ostrander during UCLA's July testimony. Mr. Ostrander never testified that he relied on the Taylor measurements and if he had been asked he would have explained that the Taylor measurements are not regarded as reliable for the current thermal flux of the UCLA reactor. UCLA's rebuttal is appropriate in view of CBG's reliance on the measurements.

The objection discussed on page 21 of the motion is based on a misrepresentation of the testimony of Dr. Wegst. In any case, CBG's complaint goes to the substance of what was said and is not grounds for exclusion as improper rebuttal.

On pages 23-25 of its motion, CBG objects to portions of UCLA's dispersion testimony. University's responses to these objections are contained in its December 2, 1983 response.

On pages 27-29 of its motion CBG objects to Staff's testimony on dispersion. University supports the admission of this testimony for the reasons contained in Staff's December 2, 1983 response.

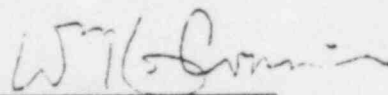
III. CONCLUSION

For the reasons above and those contained in University's and

Staff's responses of December 2, 1983, University respectfully requests that the Board deny CBG's motions for reconsideration.

Dated: April 23, 1984.

DONALD L. REIDHAAR
GLENN R. WOODS
CHRISTINE HELWICK

By 
WILLIAM H. CORMIER
Representing UCLA

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 Facility
OF CALIFORNIA)	License Number R-71)
)	
(UCLA Research Reactor))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached: UNIVERSITY'S RESPONSE
TO CBG'S MOTIONS FOR RECONSIDERATION.

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 23, 1984.

John H. Frye, III, Chairman
Administrative Judge
ATOMIC SAFETY AND LICENSING BOARD
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Emmeth A. Luebke
Administrative Judge
ATOMIC SAFETY AND LICENSING BOARD
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Glenn O. Bright
Administrative Judge
ATOMIC SAFETY AND LICENSING BOARD
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Ms. Carole F. Kagan, Esq.
ATOMIC SAFETY AND LICENSING BOARD
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Counsel for the NRC Staff
OFFICE OF THE EXECUTIVE LEGAL DIRECTOR
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Daniel Hirsch
Cte. to Bridge the Gap
1637 Butler Avenue, #203
Los Angeles, CA 90025

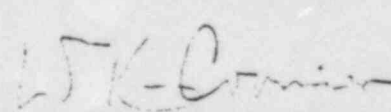
Mr. John Bay, Esq.
3755 Divisadero #203
San Francisco, CA 94123

Mr. Daniel Hirsch
Box 1186
Ben Lomond, CA 95005

Nuclear Law Center
c/o Dorothy Thompson
6300 Wilshire Blvd., #1200
Los Angeles, CA 90048

Ms. Lynn G. Naliboff
Deputy City Attorney
City Hall
1685 Main Street
Santa Monica, CA 90401

Chief, Docketing and Service Section
OFFICE OF THE SECRETARY
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555


WILLIAM H. CORMIER
UCLA Representative

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA