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John H. Frye, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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Dr. Emmeth A. Luebke
Administrative Judge
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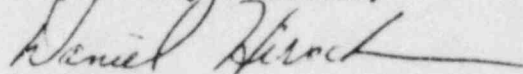
Glenn O. Bright
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
The Regents of the University of California
(UCLA Research Reactor)
Docket No. 50-142
(Proposed Renewal of Facility License)

Dear Administrative Judges:

Please find enclosed errata, in the form of replacement pages, correcting typographical and editorial errors in CBG's May 9 submission.

Respectfully submitted,



Daniel Hirsch
President

cc w/ enclosures: service list

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Introduction

In its Memorandum and Order of February 24, 1984, the Atomic Safety and Licensing Board raised concerns that the Staff and Applicant counsel had made substantial misrepresentations before the Board. Staff and Applicant were directed to respond by March 9 why action should not be taken against counsel and why the license should not be revoked, suspended, or modified for material false statements.^{1/}

Responses were submitted on March 9, and on April 13 the Board issued an Order concluding, inter alia, that material false statements had indeed been made by Applicant and that its attorney William H. Cormier should be formally reprimanded.^{2/} The Board also concluded that information it had in its February 24 Order directed be provided had not, in fact, been provided, and gave the Applicant an additional opportunity to provide the required information.^{3/}

On May 1, the University responded to the April 13 Order, requesting, inter alia, that the Board overturn its holding therein, and that a hearing be held should the Board not reverse its ruling. CBG, the party injured by the representations the Board has determined to be materially false, files in opposition to the request for reversal of the finding of material false statements.

Furthermore, because of the seriousness of the questions that remain unanswered in the Applicant's responses, and the cloud that thus hangs over the entire record in this case, CBG joins in the request for a hearing, should the Board not adhere to its April 13 determination.

^{1/} Memorandum and Order of February 24, 1984, at pp.7-8

^{2/} Memorandum and Order of April 13, 1984, at 29

^{3/} Id. at 30

security plan could not occur if CBG failed to qualify an expert witness, and asserted he might attempt to certify any ruling qualifying any CBG security witness in order to prevent "unnecessary" disclosure of the plan. Mr. Cormier was reminded that Intervenor could build their cases defensively and thus, whether any expert witnesses were approved or not, the security plan and inspection reports must be turned over to CBG's attorneys.

Mr. Cormier then indicated that he might expurgate portions of the security plan and inspection reports if required to disclose them, which produced considerable debate. Mr. Hirsch--who had reason to believe that the documents might indeed contain sections dealing with sabotage, despite Mr. Cormier's representations to the contrary--insisted that the unexpurgated versions be provided at least to the Board. And the Board ordered that this be done.^{73/} It was thus that the unexpurgated security plan and security inspection reports finally reached the Board, over three years into the proceeding.

What the Board Saw When the Security Plan and Inspection Reports
Were Finally Revealed

What the Board found, when it was finally provided the unexpurgated materials, was (1) that the plan did contain, both as its design objective and in specific provisions to carry out that objective, sabotage protection measures; (2) that what the Staff had approved and ordered UCLA to comply with was a plan with sabotage provisions; and (3) that the security inspection reports indicated UCLA had been routinely inspected for sabotage protection by Staff.

^{73/} Memorandum and Order of January 27, 1984, at 2-3

The Assertion that the Cormier Statement Meant Something Other Than It Says

This Orwellian argument runs through both pleadings in a multitudinous variety of contradictory forms. Essentially Mr. Cormier now asserts that his August 1983 statement--that the UCLA security plan "is not designed to provide protection against sabotage"--does not mean what it says but rather one of a dozen or so tortured explanations given at various times since. At one point, for example, he claims (Explanation A) he meant the statement merely "in the sense" that the plan is not designed to be able to protect against all conceivable acts of sabotage. At another point (Explanation B) he says it was meant merely "in the sense" that the plan was not designed with a specific design basis threat in mind. At other points he argues that he meant it (Explanation C) "in the sense" merely that UCLA does not have certain specific sabotage measures required of power reactors, or (Explanation D) "in the sense" that it wasn't UCLA's intent (as apart from its practice) to protect against sabotage, or (Explanation E) "in the sense" that detection is different than protection, or (Explanation F) "in the sense" that there are no full time armed guards or mandatory personnel entry searches, or (Explanation G) "in the sense" that the sabotage protection measures in the plan are not wholly separate from the theft protection measures, or (Explanation H) that "radiological sabotage" is meant "in a more general way" to include the Part 73 definition plus non-radiological sabotage protection; and on and on. Perhaps the most intriguing explanation is that the statement was meant "in the sense" of a general statement that doesn't imply anything in particular about any specific component of the plan--intriguing because the normal definition of a generalization is a statement which accurately characterizes the specific subparts.


Applicant has advanced at one time or another in defense of its original statement each of the above explanations. The problem is that UCLA did not say any of the above, and none of the above would have made any sense in the context of the rest of the pleading (which argued that the Board erred in holding that 73.40 required some measures to protect against sabotage, measures to be debated by the parties.) UCLA clearly was arguing that its plan was not designed to provide any sabotage protection, and that the Board was thus wrong in asserting that some protection was required.

The Applicant stated very clearly that the plan is

revocation or suspension for the Regents. Material false statements, as well as material omissions, have been made, gravely putting at risk the integrity of the proceeding, its evidentiary record, and its ability to timely resolve-- safely-- matters of significant public health and safety and common defense and security import. Continued license possession in the face of these material falsehoods and needless delays, and failure once again to impose sanctions it has itself identified can only result in the Board's duties to timely rule based on a truthful record to be compromised, as the Board presaged three years ago, by "gamesmanship."

Should the Board not take 2.713 action against Mr. Cormier and 50.100 action against the licensee, both of whom are responsible, in their own way, for these material false statements and years-long delays, CBG respectfully requests, as the party injured by the misrepresentations and delays, a hearing in which the questions unanswered by the two UCLA responses (and the failure to respond by so many of its representatives and staff) can be thoroughly examined.

Respectfully submitted,


Daniel Hirsch
President
CBG

Executed at Ben Lomond, CA on this 9th day of May, 1984