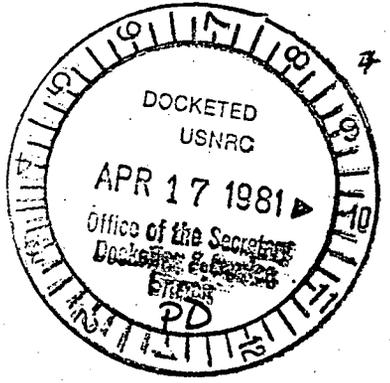


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RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

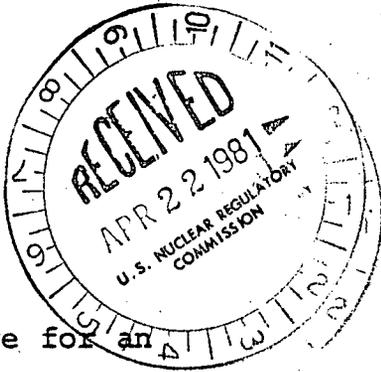
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
)
SOUTHERN CALIFORNIA EDISON COMPANY,)
 ET AL.)
)
(San Onofre Nuclear Generating Station,)
 Units 2 and 3))

Docket Nos. 50-361 OL
50-362 OL

MOTION TO COMPEL ANSWERS TO INTERVENOR'S
F.O.E. ET AL.'S THIRD SET OF INTERROGATORIES
TO NRC STAFF AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF



Intervenor FRIENDS OF THE EARTH, ET AL. hereby move for an order pursuant to 10 C.F.R. § 2.740(f) compelling the NRC Staff to answer further, Intervenor's Third Set of Interrogatories filed on February 18, 1981.

The grounds for this motion, which are set forth in the accompanying "Memorandum of Points and Authorities in Support of Motion to Compel Further Answers to Interrogatories", are that the NRC staff has failed to respond or has responded evasively or incompletely to interrogatories numbers: 1, 2, 3, 4, 5, 6, 7, 16, 17, 19, 20, 21 and 22.

This motion is based on this "Motion to Compel Further Answers to Interrogatories", and the accompanying "Memorandum of Points and Authorities in Support of Motion to Compel Further Answers to Interrogatories".

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
SOUTHERN CALIFORNIA EDISON COMPANY,) Docket Nos. 50-361 OL
ET AL.) 50-362 OL
)
(San Onofre Nuclear Generating Station,)
Units 2 and 3))

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION TO COMPEL
FURTHER ANSWERS TO INTERROGATORIES

Introduction

This memorandum is submitted pursuant to 10 C.F.R. § 2.730(b) in support of Intervenor F.O.E. et al. Motion to Compel Further Answers to Interrogatories. On February 18, 1981, Intervenor served their THIRD SET OF INTERROGATORIES ON THE NRC. The NRC served their responses by mail to these interrogatories on April 1, 1981.

The NRC has failed to answer several important questions posed in this set of interrogatories. Intervenor F.O.E. et al. hereby request that the Atomic Safety and Licensing Board find that the NRC Staff has failed to adequately answer these interrogatories, and further request that the Board order the NRC Staff to provide full and complete answers to these interrogatories within such time as the Board shall deem just and appropriate.

The interrogatories for which Intervenor request an order compelling further answers are set forth below.

I

THE NRC STAFF FAILED TO ANSWER INTERROGATORIES
WHICH SOUGHT INFORMATION WHICH WAS REASONABLY
CALCULATED TO LEAD TO THE DISCOVERY OF
ADMISSIBLE EVIDENCE

10 C.F.R. § 2.740(b)(1) states" "It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

A. Interrogatories numbers 1, 2, 3, and 4 concern the impacts of a major earthquake on the coordinated emergency response plans of the state and local governments and other off-site assist agencies.

The NRC Staff objected to these interrogatories on the grounds that the requested information ^{is} beyond the scope of F.O.E.'s contention in the area of emergency planning. Furthermore, the NRC Staff objected on the grounds that "discovery on this subject does not appear 'reasonably calculated to lead to the discovery of admissible evidence'."

Intervenors believe that the impact of a major earthquake upon the coordinated emergency response plans is relevant and within the scope of this proceeding. Intervenors take this position for the following reasons:

- 1) A major earthquake would directly disrupt many aspects of the emergency response which are critical to a coordinated and integrated response, such as transportation routes, communication networks, medical facilities, staffing, and evacuation routes among others.
- 2) The NRC issued a request to Applicants dated December

4, 1980, asking Applicants to consider the "earthquake issue" discussed above. Now, the NRC Staff is denying discovery of evidence on a subject the NRC itself considers to be an "issue". Furthermore, the NRC denies that earthquakes will have an effect on the coordination and integration of the emergency response plan. The NRC Staff's argument simply does not give any consideration to the health and safety of the public.

- 3) By its Memorandum and Order of January 27, 1978, at pp. 4-5, the Atomic Safety Licensing Board admitted Intervenor's Contention 4 for discovery purposes. However, due to the complexities involved in the emergency planning issue, the Board expressed a policy of flexible guidelines for discovery on this issue. On p. 5, the Board stated: "Parties will have an opportunity to ask for a refinement of this contention after discovery is completed." (emphasis added).

During the course of discovery, Intervenors have gathered evidence which indicates a far greater earthquake potential exists near SONGS than was previously believed to exist. As this evidence was discovered, it became clear that a major earthquake would have catastrophic effects on an emergency response, particularly on aspects critical to the coordination and integration of the emergency response. This evidence had not come to light at the time of Intervenor's Interrogatory Responses to the Applicants and to the

NRC Staff on July 28, 1978.

Intervenors believe Interrogatories 1, 2, 3, and 4 seek information which is "reasonably calculated to lead to the discovery of admissible evidence". Intervenors believe that such an earthquake is reasonably foreseeable (if not probable). The various emergency plans must be able to function in a coordinated manner in the event of a major earthquake. In the interest of public health and safety, Intervenors request the Board to compel full and complete answers to Interrogatories 1, 2, 3, and 4.

B. Interrogatories numbers 5, 6, and 7 deal with the possibility of a "simultaneous release" caused by a major earthquake.

The NRC Staff objected to these interrogatories on the same grounds as the objections to interrogatories 1, 2, 3, and 4. On p. 4 of the NRC Responses, in response to interrogatory number 5, the Staff states: "Nowhere does the contention speak to the emergency plan implementation in the event of an earthquake. Nor do the discovery responses of F.O.E. referred to in the NRC Response to Interrogatory No. 1 identify earthquakes as a concern. Thus, the information sought is not relevant to an issue in controversy."

Intervenors believe the impact of a major earthquake on the coordination and integration of the emergency response is a very important concern and is relevant to this proceeding. Intervenors take this position for the reasons discussed in Part A above. Furthermore, in the event of a major earthquake

and safety may be imperiled.

- 2) The term "Independent Review", which the NRC Staff claims it "does not understand", comes directly from the NRC document, NUREG 0654/FEMA-Rep. 1, Section II. P. 9 (page 79). The NRC objection based on "vagueness" seems questionable, considering the term itself is an NRC term.

For these reasons, Intervenors request the Board to compel full and complete answers to Interrogatories numbers 20, 21, and 22.

CONCLUSION

Intervenors re-emphasize the broad discovery policy as set forth in 10 C.F.R. § 2.740(b)(1): "It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

Furthermore, the Board never intended to place strict limits on the discovery of evidence relating to the emergency planning issue. Rather, the Board expressed flexibility in the emergency planning issue: "Parties will have an opportunity to ask for a refinement of this contention after discovery is completed."

As Intervenors are seeking information which is reasonably calculated to lead to the discovery of admissible evidence, the Board is requested to order the NRC Staff to further answer the interrogatories as set forth herein.

Respectfully submitted,


RICHARD J. WHARTON, Attorney
for Intervenors
F.O.E., ET AL.