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RICHARD J. WHARTON  
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San Diego, CA 92108  
(714) 296-6251

Attorney for Intervenors  
F.O.E. ET AL

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of ) Docket Nos. 50-361 OL  
) 50-362 OL  
SOUTHERN CALIFORNIA EDISON )  
COMPANY, et al. (San Onofre ) AFFIDAVIT OF RICHARD J. WHARTON  
Nuclear Generating Station, ) IN OPPOSITION TO MOTION FOR  
Units 2 and 3). ) SUMMARY DISPOSITION OF INTERVENOR  
) F.O.E. ET AL, Contention 1a  
) (Dewatering Wells)  
)

RICHARD J. WHARTON, being first duly sworn, deposes  
and says that if called as a witness herein can competently testify  
as follows:

1. I am an attorney, licensed to practice before the  
Supreme Court of the State of California.

2. I have been retained and have acted as attorney for  
Intervenors, Friends of the Earth and A.S. Carstens, et al since  
May of 1977. I am attorney of record for Intervenor F.O.E. ET AL  
In the Matter of Southern California Edison Company, et al Docket  
Nos. 50-361 OL, 50-362 OL before the Atomic Safety and Licensing  
Board.

3. In the moving parties statement of material facts  
regarding F.O.E.'s contention 1a, the moving party has asserted

1 as a material fact as to which they claim there exists no genuine  
2 issue to be heard, that the N.R.C. staff has approved or been  
3 informed of applicants program to demobilize all cavities and that  
4 the N.R.C. staff is "satisfied" that the cavities can have no  
5 unacceptable adverse effect on the capability of structures and  
6 equipment of SONGS 2 & 3 to withstand the Design Basis Earthquake.  
7 Said statement relies on the affidavit of Kenneth Baskins submitted  
8 with their moving papers.

9           4. This affiant, as attorney for F.O.E. has not re-  
10 ceived any documents from the N.R.C. staff in which the N.R.C.  
11 states that they approve of applicants program to demobilize all  
12 cavities nor have I received any notification either written or  
13 oral stating that the N.R.C. staff is "satisfied" that the  
14 cavities can have no unacceptable adverse effect on the capability  
15 of structures and equipment of SONGS 2 & 3 to withstand the Design  
16 Basis Earthquake.

17           5. Intervenors are totally unable and are not competent  
18 to testify as to the opinions, or findings of the N.R.C. staff  
19 as to the adequacy of the program to demobilize all cavities and  
20 whether the staff is satisfied that the cavities will have no  
21 unacceptable adverse effect on the capabilities of structures  
22 and equipment of SONGS 2 & 3 to withstand the Design Basis Earth-  
23 quake. Intervenors are informed and believe that the staff's  
24 position will be set forth in the Final Safety Evaluation which  
25 has not yet been published. The staff's position on this question  
26 will be reviewed by the A.C.R.S. and the A.C.R.S. will publish  
27 its opinion. This opinion has not yet been published and no  
28 firm date has been set for its publication.

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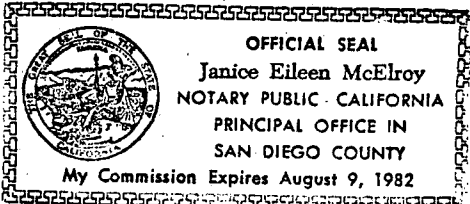
6. Because of the reasons stated in paragraph 5 herein, Intervenor's cannot present by affidavit any facts regarding the opinions, approvals, or satisfaction of the N.R.C. staff in opposition to applicants statement of material fact #7. Under 10 C.F.R. 2.749(c) the presiding officer may refuse the application for summary disposition based on Intervenor's legal inability to respond with counter-affidavits as to the opinions of the N.R.C. staff.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th day of August, 1980, at San Diego, California.

*Richard J. Wharton*  
RICHARD J. WHARTON  
Attorney for Intervenor's F.O.E. ET AL

Subscribed and sworn to before me on this 15th day of August 15, 1980.

*Janice Eileen McElroy*  
JANICE EILEEN McELROY  
Notary Public  
for the County of San Diego  
State of California



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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August, 1980, a true and correct copy of the following documents:

1. "Intervenors Statement of Material Facts Regarding Intervenor F.O.E. ET AL's Contention 1a (Dewatering Wells) As To Which Genuine Issues Exist To Be Heard"
2. "Brief in Opposition To Motion For Summary Disposition of Intervenor F.O.E. ET AL's Contention 1a (Dewatering Wells) and 9 (Uranium Fuel Costs.)"
3. "Affidavit of Richard J. Wharton In Opposition To Motion For Summary Disposition of Intervenor F.O.E. ET AL, Contention 1a (Dewatering Wells)"

was served upon each of the following by deposit in the United States mail, first-class postage prepaid, addressed as follows:

Ivan W. Smith, Esq. Chairman  
Atomic Energy Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
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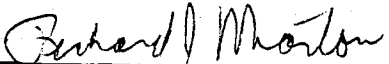
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RICHARD J. WHARTON  
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