UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL

In Re:	)	Docket No. 50-142
	)	
THE REGENTS OF THE UNIVERSITY CALIFORNIA	)	(Proposed Renewal of Facility License
(UCLA Research Reactor)	)	Number R-71)
	)	

UNIVERSITY'S RESPONSE TO SUPPLEMENTED PETITION TO INTERVENE OF THE COMMITTEE TO BRIDGE THE GAP

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SUBJECT INDEX

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I. INTRODUCTION

On July 21, 1980 the Chairperson of the Atomic Safety Licensing Board ordered a prehearing conference in the above-captioned license renewal action to consider the petition to intervene of The Committee to Bridge the Gap ("BTG"), dated May 22, 1980. The prehearing conference order invited BTG to supplement its petition to intervene and also invited The Regents of the University of California

("University") to respond to any supplemented petition submitted by BTG. At the request of BTG the date of the prehearing conference as set in the July 21 order was changed. The prehearing conference is now scheduled to be held on September 25, 1980 in Los Angeles.

Pursuant to the prehearing conference order, the University hereby submits it response to BTG's supplemental petition to intervene.

II. GENERAL DISCUSSION: INTERVENTION IN NRC LICENSING PROCEEDINGS

Intervention in NRC Licensing Proceedings is governed by the provisions of the 10 Code of Federal Regulations section 2.714. According to these provisions petitioner is required to supplement the petition to intervene with "a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity." (10 C.F.R. § 2.714(b).) A petitioner who has satisfied the interest requirement will be granted intervention if he states at least one contention within the scope of the proceeding with a proper factual basis (Id.).

Although the main purpose of the prehearing conference is to determine whether the test of the "one good contention" has been met, where that rule is satisfied the presiding officer is also charged to consider "simplification, clarification, and specification of the issues" and other matters that will assist in avoiding unnecessary proof and in defining the matters in controversy to be determined in the proceeding. (10 C.F.R. § 2.752.)

Including the latest supplement, petitioner has now submitted 179 pages of material allegedly questioning the propriety of a license renewal for the UCLA Nuclear Energy Laboratory reactor ("NEL reactor"). The supplement to the petition to intervene, which contains 137 unnumbered pages, purports to establish 23 separate contentions for consideration by the Atomic Safety Licensing Board. While petitioner suggests that its supplement is not necessarily inclusive of its contentions previously stated in its Petition, it is readily apparent that it constitutes no more than a detailed restatement of those contentions.

Petitioner's supplement is exceedingly repetitive, cumulative, and in large part, irrelevant to this license renewal proceeding. Moreover, many of the separate allegations rest on incorrect factual bases, depend on misunderstanding of the laws of physical science or mis-

interpretations of Nuclear Regulatory Commission standards and requirements, or raise matters that have long since been considered and disposed of by the Commission. Indeed, many of the allegations which fall into this latter category amount to no more than a historical account of past NRC inspection findings with BTG interpretative and editorial comments. On the basis of the supplement it would not be possible to develop a sound, clear and concise record in the proceeding. Instead, it is likely to broaden and unduly delay consideration of the University's license renewal application.

Nevertheless, the University recognizes the public's interest in the general safety of the NEL reactor facility and is prepared to demonstrate that petitioner's contentions lack substantive basis and are without merit. At this stage in the proceeding, however, the University limits its response to a recommendation of those inherently incorrect or irrelevant contentions, and a request for simplification of the remainder of petitioner's arguments.

III. DISCUSSION OF CONTENTIONS

As indicated in its introductory pages, BTG's supplemental contentions can be organized into three major categories: (1) the completeness and adequacy of the

application; (2) the history of alleged reactor deficiencies; and (3) the safety of current reactor operations. The University's discussion below is organized accordingly.

A. Incomplete And Inadequate Application

The following contentions are included in this category:

I. Application Grossly Inadequate
II. Wrong Class of License
VIII. Failure to Meet 10 C.F.R. 100 Siting Criteria Regarding Radiation Release in an Accident
X. Inadequate Environmental Impact Appraisal
XVII. Inadequate Financial Qualifications
XVIII. Failure to Adequately Examine Maximum Credible Accident for this Reactor
XIX. Physical Security Plan
XX. Emergency Response Plan
XXI. Safeguards Contingency Plan

None of these contentions are suitable for adjudication before the Atomic Safety Licensing Board ("ASLB"). It is the NRC staff which determines the

completeness and adequacy of the University's application. (NRC Staff Practice and Procedure Digest, Supplement 1, section I.5.1; New England Power Co., et al. (NEP, Units 1 & 2), LBP-78-9, 7 NRC 271, 280 (1978).) The staff has raised no objections to the adequacy or completeness of the University's application. Where questions have been raised, they have been or will be answered, which the University understands is a part of the normal license renewal process. Furthermore, a brief response to the contentions raised by LTG reveals that they lack merit or are irrelevant to the instant proceeding.

1. The whole of Contention I is redundant or irrelevant and requires no separate consideration in this proceeding. Allegations concerning the certification of "Part 70" information are properly subsumed under petitioner's Contentions XII, Special Materials License; allegations concerning an Environmental Impact Appraisal repeats Contention X, Inadequate Environmental Impact Appraisal; allegations concerning vibration tests are subsumed under Contention XVI, Seismic Vulnerability; allegations regardings hazards analysers are appropriately considered under Contentions V, Too Much Excess Reactivity, VIII, Failure to Meet 10 C.F.R. 100 Siting Criteria, XI, Lack of Adequate Safety Features, XIV, Siting, and XVI, Seismic Vulnerability. Other allegations, for example those

related to the educational uses of the facility and the fact that AMF is out of the reactor business, are simply irrelevant.

2. With regard to the Contention II, Wrong Class of License, the NEL reactor was licensed as a "class 104" facility prior to December 19, 1970 and clearly is still properly characterized as a "class 104" facility. (10 C.F.R. § 50.21.) BTG has misread sections 50.21 and 50.22 of Title 10 to derive, apparently, a "50%-commercial-contribution" test for "class 103" license applicants, and misinterpreted NEL reactor financial data to its own conclusions about whether its "test" has been met.

3. Contention VIII is concerned with 10 Code of Federal Regulations section 100 Siting Criteria. In the first place, it should be noted that 10 Code of Federal Regulations section 100 applies to stationary power and testing reactors. (10 C.F.R. ¶¶ 100.1(a) and 100.2.) The NEL reactor is neither a stationary power nor a testing reactor under the criteria of section 50.2(r). The NEL reactor is a 100 kilowatt research reactor. In applying 10 Code of Federal Regulations section 100 criteria to data extracted for NEL reactor performance, a fission product release postulated on any core meltdown scenario, as suggested by the footnote to section 100.11, is hardly

credible.

4. Contention X alleges the inadequacy of the Environmental Impact Appraisal, whithout regard to the distinction between an Environmental Impact Statement and an Environmental Impact Appraisal (10 C.F.R. § 50, et seq.).

5. Contention XII faults the University for failing to apply for a Special Materials License. The University's application for this license is contained in its license renewal application for the reactor (see p. 5), which is the usual practice in multi-license applications and is specifically authorized under the regulations. (10 C.F.R. §§ 50.52, 70.21 and 70.23.)

6. Contention XVII alleges that the University is not financially qualified. The University requests that the ASLB take judicial notice of the fact that the University of California is a governmental entity of the State of California and is financially qualified.

7. Contention XVIII faults the University for failing to examine the maximum credible accident for this reactor. As stated earlier, the sufficiency of the hazards analysis and the various scenarios to be considered in the application are matters for the NRC staff to

determine. BTG's concerns in this area have been raised in other of its contentions, for example, the contentions on "too much excess reactivity," seismic vulnerability," or "lack of operational reliability." In addition, a maximum credible accident has not been established for Argonant reactors.

8. Contentions XIX and XXI are concerned with the physical security and safeguards contingency plans. Information related to the security of the facili. and materials handling is privileged information under 10 Code of Federal Regulations section 2.790. BTG's alleged concerns regarding these plans are too speculative to be admitted as contentions.

9. Contention XX alleges deficiencies in the emergency response plan. As indicated above, the adequacy of the elaboration of any such plan in the application is a matter for the NRC staff to determine.

B. History of Alleged Reactor Deficiencies

Petitioner's second major contention category centers around its allegation that a ". . . history of deficiencies in the reactor operation over the previous twenty years makes it impossible for the Applicant to

reasonably assure that, in the future, they (sic) will comply with the regulations applicable to them, and that they will not endanger the public health and safety. . . ." (Supplemental Contentions, Introduction.) Petitioner's Contentions III, IV, VI, and IX fall into this cagetory:

III. Inadequate Managerial And Administrative Controls

IV. Violations of NRC Regulations

VI. Excessive Radiation; Violation of Radiation Standards; Inadequate Monitoring

IX. Inadequate Maintenance and Calibration

1. In Contention III, petitioner incorrectly asserts that the NEL suffers from "inadequate managerial and administrative controls." In support of this contention, petitioner dredges up "incidents" which occurred at the reactor as early as 1965. In fact, of the ten "incidents" cited by petitioner as having occurred between 1965 and 1979, nine occurred prior to 1974. The University, therefore, objects to Contention III on the basis that the remoteness of the "incidents" set forth have little or no relevance to the operation of the reactor today. The University submits that an appropriate timeframe for the Board's consideration of this license renewal application is

two years, and, in any case, not before 1975.

Many of the incidents which petitioner cites were resolved long ago with the AEC or the NRC staffs. Indeed, the most recent inspection referred to in Contention III occurred in 1974. Petitioner makes no claim of any chronic, longstanding, or deliberate problems or patterns which have not been resolved as a result of administrative changes undertaken since 1975. The Board should note that in 1975 a new Director of Reactor Operations was appointed; a reactor advisory group was constituted by the Dean of the UCLA School of Engineering; and the process of in-depth review of reactor operations was intensified. This process resulted, in part, in the NRC's issuance of Amendment 10 to the NEL reactor license (February 5, 1976) which clarified its operating hours, restated the required stack height and ventilation rate for emissions, and allowed the removal of the stack nozzle. The reactor currently operates in conformity with the requirements of its license and the amendments thereto.

In addition, petitioner neglects to mention the results of a very recent (Fall 1979) surprise inspection made by the NRC in response to petitioner's concerns over purported excess Argon-41 exposures from the stack effluent. The report issued as a result of that

inspection is attached as Exhibit A, and concludes that "No items of noncompliance or deviations were identified."

2. In Contention IV, petitioner alleges that the NEL has "consistently been cited for violations of NRC regulations as well as violations of the provisions of its own Technical Specifications." (Supplemental Contentions, Part IV.) Again, as part of this "consistent pattern," petitioner cites a string of "incidents," none of which occurred after 1975, and at least three of which are permitted under Amendment 10 to the reactor's license.

The University's objections to Contention III, above, are equally applicable to Contention IV and are incorporated in its response to Contention IV.

3. In Contention VI, petitioner again cites early violations or incidents. The document prepared and referred to by petitioner ("The UCLA Reactor: Is It Safe?) was the subject of a detailed response dated January 3, 1980 submitted by the University to NRC Chairman Aherne, and entitled "The UCLA Reactor is Safe." A copy of this response is attached as Exhibit B and does not support petitioner's claims.

Also in Contention VI, petitioner refers to future emissions, the possibility of a future increase in reactor use and power, and to the fact that the stack height has not been increased and the stack nozzle has been removed. Both the stack nozzle removal and height are in conformity with Amendment 10 to the University's license. Moreover, any increase in reactor use or power beyond that already permitted in its license would of course be subject to separate NRC review and approval, and is not properly part of this proceeding.

Contention VI also contains the allegation that the NEL reactor fails to meet the radiation standards imposed by 10 Code of Federal Regulations section 20 (Appendix B and 10 C.F.R. §§ 20.106(b) and 20.106(b)(1) and (2)). Again, petitioner relies on a 1975 finding of violation and, further, cites sections of NRC Regulatory Guide 1.109 and 10 Code of Federal Regulations part 50 which, by definition and scope are applicable only to power reactors, not research reactors such as the UCLA NEL reactor. Whether power reactor radiation standards should apply to research reactors, such as NEL, is properly a question of rule making and not properly the subject of this proceeding. (Potomac Electric Power Co. (Douglas Point Nuclear Generating Station, Units 1 & 2), ALAB-218, 8 AEC 79 (1974).)

4. Contention IX is an allegation that the University has not adequately maintained its equipment or calibrated its monitoring instruments properly. Again, the violations upon which petitioner bases its conclusions date from 1968, 1974 and 1975.

Petitioner's allegation that the requirement for conducting heat balance calibrations are no longer in the University's Technical Specifications is untrue--(see Application, Technical Specifications, V.4.2, p. V/4-1). Additionally, petitioner incorrectly characterizes the University's attempt to make all annual calibration tests uniform at 14 month intervals as a "relaxation." In fact, all "annual" calibration and testing with the exception of the heat balance has been on a 14-month basis.

C. Safety Of Current Reactor Operations

Petitioner's third major contention category is based upon allegations that ". . . inherent problems of the reactor, such as age, seismic vulnerability, location in a densely populated area, etc., indicate that the reactor cannot be operated in a manner that will not be inimical to the public health and safety." (Supplemental Contentions, Introduction.) The following contentions fall within this category:

V. Too Much Excess Reactivity

VII. Lack of Operational Reliability

XI. Lack of Adequate Safety Features

XIII. Inherent Problems in Argonant Reactors

XIV. Siting

XV. Reactor is Too Old

XVI. Seismic Vulnerability

XXII. Technical Specifications Inadequate

XXIII. Procedural Contentions

1. Contentions V, XI, XIII, and XVI contain allegations that amount to the general charge that continued operation of the reactor poses serious public health and safety risks. The University disputes any such conclusions and is prepared to demonstrate their lack of merit.

2. Contention VII of the Petition alleges a ". . . persistant pattern of numerous unscheduled shutdowns, abnormal occurrences and accidents." (Supplemental Contentions, Part VII.) There are no standards in law or in the regulations for raising a presumption of unsafe reactor operation by reference to a particular number of shutdowns or "abnormal occurrences." In fact, such occurrences provide evidence that the reactor systems are functioning properly.

3. Contention XIV contains allegations that are properly subsumed elsewhere (seismic vulnerability), or are irrelevant (the 10 C.F.R. 100 Siting Criteria).

4. Contention XV alleges that the present age of the NEL reactor poses an unacceptable hazard for the proposed license renewal period. Petitioner has confused concerns expressed by the Director for upgrading and modernizing the facility with concerns (not expressed) for the safety of the facility. Petitioner also incorrectly asserts that the age of the reactor has a bearing on the ability to get spare parts for it. Indeed, the NEL reactor was custom-built and the vendor, even if still in the business of assembling reactors, would not be stocking "spare parts." Parts for the NEL reactor are often fabricated and repairs "customized" to update and improve upon reactor safety.

5. Contention XXII alleges that the technical specifications included in the application unacceptably reduce safety standards. The relevant safety aspects are already the subject of other contentions, and thus Contention XXII is redundant and should not be considered separately.

6. Contention XXIII of petitioner speculates about matters which are not the subject of this license renewal application. Contention XXIII is irrelevant to this proceeding.

IV. ADDITIONAL HEARING CONSIDERATIONS

If the Board determines at the prehearing conference that this matter should proceed to hearing, the University requests that consideration be given at the conference to certain procedural matters, such as what will constitute appropriate service of documents, scope and conduct of any necessary discovery, scheduling and accommodation of any site tours, and location, time and appropriate security for the actual hearing. The University will be prepared to explain and elaborate its concerns in each of these areas, as necessary, at the prehearing conference.

Dated: September 9, 1980

DONALD L. REIDHAAR
GLENN R. WOODS
CHRISTINE HELWICK

By Glenn R. Woods
Glenn R. Woods

By Christine Helwick
Christine Helwick

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION V
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WALNUT CREEK, CALIFORNIA 94596

NEL

OCT 22 1979

Docket No. 50-142

University of California at Los Angeles
Los Angeles, California 90024

Attention: Dr. Harold V. Brown
Environmental Health and Safety Officer

Gentlemen:

Subject: NRC Inspection of UCLA Research Reactor

This refers to the special inspection conducted by Mr. J. B. Baird of this office on September 27-28, 1979, of activities authorized by NRC License No. R-71, and to the discussion of our findings held by Mr. Baird with Mr. N. Ostrander and other members of the staff at the conclusion of the inspection on September 28, 1979.

Areas examined during this inspection are described in the enclosed inspection report. Within these areas, the inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observations by the inspector.

No items of noncompliance with NRC requirements were identified within the scope of this inspection.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosed inspection report will be placed in the NRC's Public Document Room. If this report contains any information that you believe to be proprietary, it is necessary that you submit a written application to this office, within 20 days of the date of this letter, requesting that such information be withheld from public disclosure. The application must include a full statement of the reasons why it is claimed that the information is proprietary. The application should be prepared so that any proprietary information identified is contained in an enclosure to the application, since the application without the enclosure will also be placed in the Public Document Room. If we do not hear from you in this regard within the specified period, the report will be placed in the Public Document Room.

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EXHIBIT "A"
PAGE 1 OF 11

Should you have any questions concerning this inspection, we will be glad to discuss them with you.

Sincerely,

H. E. Book

H. E. Book, Chief
Fuel Facility and Materials
Safety Branch

Enclosure:
IE Inspection Report
No. 50-142/79-04

U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF INSPECTION AND ENFORCEMENT

Report No. 50-142/79-04

Docket No. 50-142 Licensee No. R-71 Safeguards Group

Licensee: University of California at Los Angeles
Los Angeles, California 90024

Facility Name: UCLA Research Reactor (Argonaut-100KW)

Inspection at: UCLA Campus

Inspection Conducted: September 27-28, 1979

Inspectors: J B Baird 10/19/79
J. B. Baird, Radiation Specialist Date Signed

Date Signed

Date Signed

Approved by: R.F. H. E. Book 10/19/79
H. E. Book, Chief, Fuel Facility and Materials Safety Branch Date Signed

Summary:

Inspection of September 27-28, 1979 (Report No. 50-142/79-04)

Areas Inspected: Special, unannounced inspection to evaluate UCLA based group's concerns of excessive Argon-41 exposures from the stack effluent. The concerns and allegations included: (1) failure to adequately maintain restricted area on the roof around the stack, (2) application of a reactor use factor without considering whether the time of use is during the time of public occupancy of surrounding areas, (3) underestimation of occupancy factor for adjacent areas, and (4) failure to evaluate concentration of Argon-41 inside adjacent building.

The inspection activities involved 13 inspector-hours by one NRC inspector.

tions were identified.

DUPLICATE DOCUMENT

Entire document previously entered into system under:

ANO 7912050335

No. of pages: 9

EXHIBIT "A"

PAGE 3 OF 11