

In the Matter of	)	Docket No. 50-142
	)	
THE REGENTS OF THE UNIVERSITY	)	(Proposed Renewal of
OF CALIFORNIA	)	Facility License
	)	Number R-710
(UCLA) Research Reactor	)	

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Dated: December 12, 1980

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1 I. INTRODUCTION

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3 Applicant THE REGENTS OF THE UNIVERSITY OF  
4 CALIFORNIA did not receive Intervenor's Notice of Motion to  
5 Compel Further Answers to Interrogatories until December 1,  
6 1980, long after expiration of the ten day period following  
7 service of Applicant's Answers to the Interrogatories,  
8 during which such a motion may be properly filed. Inasmuch  
9 as the motion did not have attached any proof of service,  
10 the running of the time in which this opposition is to be  
11 filed is uncertain. Furthermore, Applicant understands that  
12 the NRC staff was not served with the motion at all, which  
13 makes the status of the motion even less certain.  
14 Nevertheless, Applicant submits the following reasons for  
15 its Answers to the four interrogatories in dispute.  
16

17 II. ASSERTION OF PRIVILEGE

18  
19 As a preliminary matter, Applicant notes that  
20 Intervenor complains about Applicant's purported assertion  
21 of the attorney-client and the attorney-work product  
22 privileges in connection with its Answers.  
23

24 Those objections were raised by Applicant, not as  
25 a bar to providing full answers to the Interrogatories which  
26 followed, but as a response to the broad introductory

1 language in the interrogatories themselves, which called for  
2 ". . . information not merely within your own personal  
3 knowledge, but obtainable on your behalf, such as by your  
4 attorneys . . . ." Obviously, in providing Answers to the  
5 interrogatories, Applicant did not want to waive any  
6 applicable privilege with respect to information in the  
7 possession of its attorneys. Thus the objection was phrased  
8 "to the extent that [the interrogatories] appear (by  
9 introductory language) to call for [privileged]  
10 information. . . ."

11  
12 Applicant submits that to the extent that  
13 intervenor intended to include information protected by  
14 these privileges within the broad sweep of its introductory  
15 language, these objections were appropriate and well taken.  
16

17 III. SPECIFIC INTERROGATORIES

18  
19 A. Interrogatory No. 4

20  
21 Intervenor's Interrogatory No. 4 refers back to  
22 Interrogatory Nos. 1, 2 and 3, and calls for Applicant's  
23 definition of certain categorical words used in those  
24 interrogatories. The problem in answering Interrogatory No.  
25 4 is that Applicant's answers to the earlier interrogatories  
26

1 explained that its costs (which the earlier interrogatories  
2 had requested) are not broken down into the categories  
3 mentioned in those interrogatories. In sum, then,  
4 Interrogatory No. 4 ends up calling for Applicant's  
5 definition of certain terms that Applicant does not use in  
6 the allocation of its costs. To answer the interrogatory  
7 with specific definitions under those circumstances would be  
8 impossible, or at the very least, hypothetical and thus,  
9 irrelevant.

10  
11 Therefore, Applicant did its best to answer the  
12 question posed by Interrogatory No. 4, by explaining that  
13 the only "function" of its reactor is education, which it  
14 defines in the broad sense to include both research and  
15 training (each separate categorical words for which  
16 definition was sought in the interrogatory).

17  
18 To the extent any further answer to this  
19 interrogatory might be required, the only improvement  
20 Applicant could make would be to refer Intervenor to the  
21 common definitions of the categorical words for which  
22 definition is sought, which can be found in any dictionary.  
23 Certainly Applicant has no unique "definition" of the word  
24 "education" as it is used in connection with its Reactor,  
25 beyond what could be found in that source.

26

1                   B.    Interrogatory Number 5

2  
3                   Intervenor's Interrogatory No. 5 calls for the  
4 percentage of income derived from the UCLA Reactor which was  
5 "devoted to" certain specific categories set up by  
6 Intervenor in that interrogatory. Applicant was confused by  
7 what exactly Intervenor meant in seeking the percentage of  
8 income "devoted to" anything, and thus raised the objections  
9 that the interrogatory as stated was vague, ambiguous and  
10 unintelligible.

11  
12                   Nevertheless, in an attempt to provide some  
13 information in answer to the interrogatory, Applicant  
14 assumed that Intervenor must have meant to inquire what  
15 percentage of income from the Reactor was allocated to the  
16 cost of the various categories suggested in the  
17 interrogatory. Applicant answered the interrogatory on that  
18 basis, explaining that Reactor income is not allocated at  
19 all, but rather is pooled for the Nuclear Energy  
20 Laboratories as a whole.

21  
22                   Intervenor now suggests in its motion that indeed  
23 what it meant by the interrogatory was to inquire as to the  
24 percentage of income "derived" from the categories  
25 indicated. Applicant submits that whatever is meant by this  
26 new term, it really does not make a lot of difference. The

1 answer still remains that Applicant cannot determine where  
2 specific Reactor income is allocated, derived, segregated,  
3 separated, or whatever other word Intervenor may choose,  
4 because that income is commingled into a single account for  
5 the Nuclear Energy Laboratories as a whole, and cannot be  
6 traced back to the categories set forth in Interrogatory No.  
7 5. In short, no matter what particular term is used,  
8 Applicant cannot provide any better answer to this  
9 interrogatory, because it does not keep its books organized  
10 in the fashion assumed by Intervenor.

11  
12 C. Interrogatory Number 6

13  
14 Intervenor's Interrogatory No. 6, in essence,  
15 seeks the same type of information solicited in  
16 Interrogatory No. 5--i.e., the derivation of reactor income  
17 over the past 20 years. This interrogatory, then, presents  
18 the same problem as presented in connection with  
19 Interrogatory No. 5. Applicant simply does not keep its  
20 books organized along the lines of Intervenor's request.  
21 The information requested cannot, therefore, be traced by  
22 Applicant, and thus no further information, beyond what was  
23 provided, is responsive to the interrogatory.

24  
25 In its argument in the Memorandum, Intervenor  
26 suggests that Applicant somewhere indicated that "income

1 figures" for the Reactor are unavailable. That is not so.  
2 Applicant has simply explained that Reactor income is  
3 pooled, and thus is not available in the categories set up  
4 by Intervenor.

5  
6 D. Interrogatory Number 9

7  
8 Intervenor's Interrogatory No. 9 asks for a  
9 breakdown of Reactor operating time, again, into certain  
10 categories set up by Intervenor. Applicant, again, simply  
11 does not maintain its records along the lines of the  
12 categories suggested. Thus, Applicant was forced to respond  
13 to the interrogatory by indicating that the requested  
14 information is not available.

15  
16 What Applicant did do, however, was provide  
17 information to Intervenor concerning its breakdown of  
18 Reactor time, and further, offer Intervenor an opportunity  
19 to inspect that information. Applicant cannot do more. It  
20 should be noted that Intervenor has not even exercised that  
21 option before bringing this motion.

22  
23 Despite Intervenor's argument that Applicant is in  
24 the "best position" to locate and extract the information  
25 requested by Intervenor, it should be abundantly obvious  
26 that Applicant cannot fabricate information from the past

1 for classifications and categories it has never used, nor  
2 should it be required to do so in this proceeding.

3 Dated: December 12, 1980

4 DONALD L. REIDHAAR  
5 GLENN R. WOODS  
6 CHRISTINE HELWICK

7 By Christine Helwick  
8 Christine Helwick



1 DECLARATION OF SERVICE BY MAIL (CODE CIV. PROC. §§1013a & 2015.5)

2 I, the undersigned, say: I am a citizen of the United  
3 States, over 18 years of age, employed in Alameda County,  
4 California, in which county the within-mentioned mailing occurred.  
5 and not a party to the subject cause. My business address is  
6 590 University Hall, 2200 University Avenue, Berkeley, California  
7 94720. I served the attached: \_\_\_\_\_

8 MEMORANDUM IN OPPOSITION TO MOTION TO COMPEL FURTHER  
9 ANSWER TO INTERROGATORIES  
10 \_\_\_\_\_

11 by placing a copy thereof in a separate envelope for each  
12 addressee named hereafter, addressed to each such addressee  
13 respectively as follows:

14  
15 SEE ATTACHED  
16

17 Each envelope was then sealed and with the postage thereon  
18 fully prepaid deposited in the United States mail by me at  
19 Berkeley, California, on December 12, 1980.

20 There is delivery service by U.S. mail at each place so  
21 addressed or regular communication by U.S. mail between the place  
22 of mailing and each place so addressed.

23 I declare under penalty of perjury that the foregoing is true  
24 and correct.

25 Executed on December 12, 1980 at Berkeley, California.  
26

Yvonne Costalupes  
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