

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

Before Administrative Judges:  
Elizabeth S. Bowers, Chairman  
Dr. Emmeth A. Luebke  
Dr. Oscar H. Paris



In the Matter of  
THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

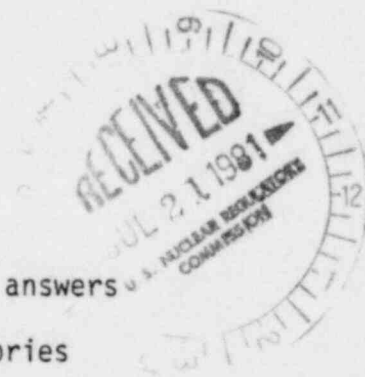
(UCLA Research Reactor)

Docket No. 50-142 OL  
(Proposed Renewal of  
Facility License)

July 20, 1981

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ORDER RELATIVE TO UCLA'S  
MOTION TO COMPEL



On June 12, 1981, UCLA filed a motion to compel further answers from Committee to Bridge the Gap (CBG) for UCLA's interrogatories Nos. 19, 23, 34 and 39. CBG responded on June 29, 1981.

The four interrogatories relate to whether CBG contends that actual harm to public health and safety resulted from inadequate controls (Interrogatory 19), violations (Interrogatory 23), unscheduled shut-downs, etc. (Interrogatory 34), and inadequately maintained and calibrated instruments (Interrogatory 39). The interrogatories were originally answered by CBG stating in essence that it had not submitted contentions alleging actual harm had occurred to public health and safety.

The motion to compel alleged that this response was evasive and that UCLA is entitled to know if CBG intends to claim that any harm has resulted from the reactor operations. CBG states that being asked if it

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"intends to claim" is very different from the original "Do you contend" and that now a new question has been raised. We fail to see this distinction. UCLA is attempting to discover if CBG is claiming actual harm has occurred and, if so, what are the facts. CBG has clarified its position in its response to the motion to compel by stating it has no factual information of actual harm. It continues by stating that there is the possibility that at some future time there might be evidence of harm. This is totally speculative.

The motion to compel would have been granted based on the first CBG response but it appears to the Board that the CBG second response in the negative contains the requested information and the motion to compel is now moot. CBG has stated it has no information of actual harm and has nothing further it can add.

CBG complains about the first two sentences in the motion to compel's "conclusion" on page 4. The first sentence requests the Board to direct CBG to disclose all facts, and support for such facts, on which CBG intends to rely. CBG has interrupted this request very broadly as encompassing matters outside discovery requests. That may or may not have been the intent. Assuming, CBG is correct, it is not a proper discovery request for one party to ask another party to simply "tell all". It is far too broad and CBG has no obligation to respond except to specific questions. The second sentence requests the Board to direct CBG to supplement its written answers whenever it uncovers "new" facts on which it intends to rely. CBG has interpreted this request as going beyond the

requirements of 10 C.F.R. § 2.740(e)(1) and (2). That interpretation is reasonable since the obligation of § 2.740(e)(1) and (2) is an existing requirement and UCLA is now apparently asking for Board action under § 2.714(e)(3).

The obligation now exists to supplement prior answers if new information renders a prior answer invalid. To impose an obligation to disclose all new information would undermine the basic concept of discovery which provides for specific questions to elicit specific answers. CBG also states that it is uncovering "new facts" virtually daily but most of the "new facts" are from UCLA's own records and are therefore known to UCLA and also to grant the request would be "vastly unwieldy". We do not have any justification for such a radical departure from normal discovery and deny the UCLA request.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

*Elizabeth S. Bowers*  
Elizabeth S. Bowers, Chairman  
ADMINISTRATIVE JUDGE

Bethesda, Maryland

July 20, 1981