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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

BEFORE ADMINISTRATIVE JUDGES:
James L. Kelley, Chairman
Dr. Cadet H. Hand
Mrs. Elizabeth B. Johnson

In the Matter of	Docket Nos. 50-361-OL 50-362-OL
SOUTHERN CALIFORNIA EDISON COMPANY, ET AL.	ASLBP No. 78-365-01OL
(San Onofre Nuclear Generating Station, Units 2 and 3)	August 12, 1983

MEMORANDUM AND ORDER
(Ruling on Off-site Medical Services Issue)

Background. In our Initial Decision of May 14, 1982, and in accord with our interpretation of 10 CFR 50.47(b)(12), we held that the Applicants had not met their burden of proving that adequate medical services had been arranged for members of the public off-site who might suffer radiation injuries in a serious accident. Concluding, however, that short-term operation while the Applicants addressed those deficiencies would not endanger the public, we authorized interim operation and retained jurisdiction over the off-site medical services question. 15 NRC 1163, 1186-1200. Subsequently, in the course of ruling on a stay application, the Appeal Board expressed doubt whether we had correctly interpreted the medical services rule. 15 NRC 127, 126-139. Thereafter, and viewing medical services arrangements as potentially significant generic issues, the Commission directed

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certification to it of two legal questions bearing upon their proper scope. 15 NRC 883. In response to a certified question from this Board, the Commission directed us not to proceed with a site-specific hearing on medical service arrangements, pending further Commission order. Memorandum and Order of November 19, 1982. On April 4, 1983, the Commission decided the certified questions. The Commission did not address the medical services arrangements reflected in the record in this case. Rather, it gave generic guidance and directed this Board to "take any further action it deems necessary to comply with this decision." Slip. Op. at 14. Pursuant to procedures agreed upon among the Board and parties, the Applicants first submitted their position on satisfaction of section 50.47(b)(12) requirements as they have now been interpreted by the Commission, supported by proposed findings of fact and conclusions of law and a motion to augment the record. The Intervenors and NRC Staff then responded to the Applicants filings. Finally, the Applicant and Staff commented on the Intervenors' response.

In the succeeding paragraphs, we will summarize the Commission's decision and the Applicants' position (which the Staff supports), and we will discuss the Intervenors' objections. We conclude that the Applicants' position is correct, that they have now fully satisfied the requirements of 10 CFR 50.47(b)(12), and that no further proceedings or license conditions concerning medical services arrangements are necessary.

The Commission's Rulings. The Commission's opinion provided separate guidance on required arrangements for two categories of

members of the public who might be injured in a nuclear accident. The first category comprises persons who become traumatically injured and also contaminated -- e.g., a person with a broken limb who is also contaminated by accident debris. As to such persons, the Commission stated that --

> [T]he arrangements that are currently required for onsite personnel and emergency workers provide emergency capabilities which should be adequate for treatment of members of the general public. Therefore, no additional medical facilities or capabilities are required for the general public. However, facilities with which prior arrangements are made and those local or regional facilities which have the capability to treat contaminated injured individuals should be identified. Additionally, emergency service organizations within the plume exposure pathway emergency planning zone (EPZ) should be provided with information concerning the capability of medical facilities to handle individuals who are contaminated and injured. Slip Op. p. 2.

The second category comprises persons who may have been exposed to dangerous levels of radiation. As to such persons, the Commission stated that --

> Treatment requires a lesser degree of advance planning and can be arranged for on an as-needed basis during an emergency. Emergency plans should, however, identify those local or regional medical facilities which have the capabilities to provide appropriate medical treatment for radiation exposure. No contractual agreements are necessary and no additional hospitals or other facilities need be constructed. Slip Op. p. 2-3.

The Applicants' Position and Motion. As the Applicants point out, this Board has already determined that the Applicants' medical service arrangements for on-site and emergency workers are in place and adequate. 15 NRC at 1244-45. Indeed, the findings on those arrangements were uncontested, although the Intervenors had cross-examined the Applicants' principal witness at some length. Tr.

7731-7776, 10,834-10,841. Pursuant to the Commission's guidance, and as demonstrated in their motion to augment the record, the Applicants have informed the off-site emergency response agencies which hospitals can provide medical services to persons traumatically injured and contaminated by an accident at San Onofre.

With respect to members of the off-site public who may have been exposed to dangerous levels of radiation, the Commission has determined that provision of appropriate medical treatment does not require extensive advance planning. As that rule has now been interpreted, the only requirement is that the emergency plans "identify ... medical facilities which have the capability to provide appropriate medical treatment for radiation exposure." In response to this requirement, the Applicants have submitted updated portions of the plans for Orange and San Diego Counties listing the available facilities in each county. In addition, the Applicants have identified to the Orange County response agencies other hospital facilities that could provide necessary services in an emergency.

The NRC Staff and FEMA Positions. The NRC Staff has reviewed the Applicants' submissions and has concluded that the Applicants have met the applicable medical services requirements, as interpreted by the Commission. They support the Applicants' motion to augment the record and proposed findings of fact, and propose an additional finding of fact for our consideration.

The Staff has also submitted a document bearing the letterhead of "Federal Emergency Management Agency, Region IX" entitled "Review of

Offsite Medical Services." Like some other FEMA submissions in this case (see e.g., 15 NRC 1195, note 21; 1214, note 38; Commission Decision of April 4, 1983, note 12a.), this Delphic document raises as many questions as it answers. In the first place, its position in the FEMA heirarchy, and therefore the weight to which it would normally be entitled, is unclear. Is this a "national" view (as implied by the Staff's pleading), a "regional" view (as suggested by the letterhead and sender's title), or merely Mr. Nauman's view (as implied by the first paragraph of the text)? This Board has already learned the hard way that we cannot allow Mr.Nauman, a regional official, to present the national view. ___ NRC ___, ALAB 717, Slip Op. pp. 67-70.

Putting that problem to one side, we find the second and only substantive paragraph of this document hopelessly ambiguous. It speaks first of a capability to handle "contaminated and injured personnel." We can speculate that this phrase refers to plans for workers injured on-site, an area over which we no longer have jurisdiction. The last sentence refers in the most general way to the health and safety of the public. Nowhere in the document is there any explicit recognition of our primary concern -- existing medical services for the off-site public, particularly persons exposed to dangerous levels of radiation.

That the FEMA officials may not have understood the narrow issue before this Board is also suggested by their apparent focus on the "adequacy" of off-site medical services. Thus FEMA now tells us (without any explanation) that present levels of planning and existing medical resources in the San Onofre area "reflect a capability to meet

potential requirements." Prior to the Commission's ruling on the certified questions, this Board had held that arrangements for medical services for injured members of the off-site public were required and that this Board would have to make a site-specific determination on the adequacy of those arrangements. 15 NRC 1196, note 24. As shown by our order setting adequacy of medical services issues for hearing, such issues can be rather complex. Order of October 1, 1982. In response to our certified question, however, the Commission directed us not to conduct such a hearing. And the Commission's subsequent rulings specify only that lists of existing facilities are to be compiled. Thus we read the Commission's rulings on the certified questions, particularly in the context in which they arose, as generic determinations on the adequacy of medical services arrangements. In other words, as to members of the off-site public who may suffer radiation injuries, a Licensing Board's proper inquiry is quite narrow -- whether existing medical facilities have been identified. That identification itself is to be deemed adequate to satisfy the rule as a matter of law, whether the existing facilities are many or few, subject only to the possibility of an exception under 10 CFR 2.758. Boards are not to go behind the list of existing facilities to determine whether those facilities are adequate (or inadequate) to cope with various accident scenarios in the site-specific setting. Thus FEMA's views on the adequacy of facilities around San Onofre are irrelevant.

In light of these considerations, FEMA's most recent submission has not been helpful. It can remain in the record to evidence the fact that FEMA was duly consulted. We close on this point with two observations.

First, while there are technical emergency planning issues on which FEMA's participation may be helpful or even essential, this is not one of them. The Board and parties in this case are perfectly capable of compiling a list of existing medical facilities. Second, although it adds nothing, neither is there anything in the FEMA submission that detracts from our conclusions.

The Intervenors' Comments and Objections. The Intervenors argue, first, that this Board must go behind the listings of existing medical facilities "to determine whether in any specific case there is a reasonable assurance that [arrangements for adequate treatment] can and will happen." Comments at 3. As we have already explained, our reading of the Commission's opinion precludes the kind of site-specific analysis the Intervenors urge. Again, as we understand the Commission, the listing of existing facilities -- whatever they may be -- is to be deemed adequate. The Intervenors do not point to any specific defects in the proffered listings of the kind we might consider -- e.g., that hospital X was omitted or that hospital Y has no nuclear medicine department.

Among other matters, the Intervenors argue for a requirement that "implementing procedures and SOP's" for sending people to different hospitals should be developed. Comments at 4. Although this may be a useful suggestion, we read the Commission's opinion as an exclusive listing of what is required under the rule. We have no power to add this suggestion as another requirement.

The Intervenors ask for further hearings on the adequacy of medical arrangements for on-site workers in light of the Commission's ruling that such arrangements are also to serve for members of the public who are traumatically injured and contaminated. It is true that the Intervenors' contention as drafted focused on the off-site public, not on-site workers, and that may explain why they did not present a direct case or proposed findings on the Applicants' plan for on-site workers. But the Intervenors' statements that they "were not litigating" the on-site arrangements and that "no cross-examination was tendered thereon" are not accurate. As we noted earlier, the Intervenors cross-examined the Applicants' principal witness on this subject at some length. Thus they have already had and have taken advantage of one opportunity to probe the Applicants' on-site plans. See 15 NRC at 1175-1176, 1186. It may be true as an abstract proposition that the Intervenors might have done more (or something different) with this issue if they had had the benefit of the Commission's guidance at the time. But that theoretical possibility is not a sufficient basis for a further hearing. First, it is significant that the Applicants' plans for on-site workers were quite extensive; we found them to be "fully adequate for that purpose." 15 NRC at 1186. Beyond that, the Commission's extension of the on-site arrangements to protect persons who may be traumatically injured and seriously contaminated off-site involves only a very modest potential extension of those plans. It is unrealistic to expect that large numbers of people off-site will, simultaneously, become seriously injured and contaminated, even in a

serious nuclear accident. Tr. 11,059-11,061. Furthermore, the Intervenors do not point to particular features of the on-site plans as justifying their request for further hearings. At this late stage, we would insist upon a particularized showing of need as a predicate for further hearings.

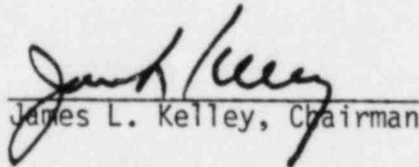
The Intervenors object that the portions of the emergency plans for Orange and San Diego Counties in the motion to augment the record have not been properly authenticated. The Applicants have met this objection by the Declaration of Mr. Massey and attachments thereto.

Finally, the Intervenors propose a license condition that would require further listings of medical facilities and related modifications of off-site plans. Much of what this condition would require, and all that the Commission's rule requires, have already been done. We reject this proposed condition as unnecessary.

Conclusions. In light of the foregoing, the Board grants the Applicants' motion to augment the record and adopts and incorporates herein by reference the Applicants' proposed findings of fact dated May 16, 1983. We also find that the NRC Staff has reviewed the Applicants' submissions of May 16,1983 and has determined that they reflect compliance with 10 CFR 50.47(b)(12), as interpreted by the Commission. Based on the foregoing findings, the Board concludes that the Applicants have met their burden of proof and have demonstrated a reasonable assurance with respect to arrangements for medical services required by 10 CFR 50.47(b)(12), as that rule has been interpreted by the Commission.

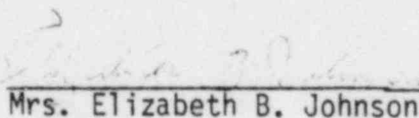
In accordance with the foregoing findings and conclusion, the Director of Nuclear Reactor Regulation is authorized to delete any conditions in the operating licenses for Units 2 and 3 of the San Onofre Nuclear Generating Station concerning medical services arrangements pursuant to 10 CFR 50.47(b)(12). Upon issuance of this Memorandum and Order, the jurisdiction of this Board will terminate.

THE ATOMIC SAFETY AND
LICENSING BOARD



James L. Kelley, Chairman

Dr. Cadet H. Hand



Mrs. Elizabeth B. Johnson

Dated at Bethesda, Maryland
this 12th day of August, 1983.