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March 23, 1993

BY TELECOPY

Thomas A. Baxter, Esq.
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2300 N Street, N.W.
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Re: USNRC Docket No. 50-312-DCOM

Dear Tom:

Thank you for your letter of yesterday, which I received this morning. It was helpful in clarifying some matters, but leaves me at a loss in understanding others.

¹ As to my Footnote 1: First, I hope that no one would confuse the verb "discuss" with "agree". And, while it was not my intent to imply that you agreed with the proposition stated therein, I am surprised at your possible implication that you would disagree with so bland and unarguable an axiom as "any development or change in the Decommissioning Plan would almost inevitably affect decommissioning costs and, hence, have a bearing on the adequacy of the decommissioning funding plan". Second, if you review the staff question to which I referred, you will find it was not "on ISFSI costs" but related to increased decommissioning costs due to delays in transfer of spent fuel to the on-site ISFSI.

Moreover, I find the suggestion that ISFSI costs are not part of decommissioning costs more than passing strange since ISFSI costs were explicitly included in SMUD's April 19, 1991 Decommissioning Costs Study at page 11 and were enumerated among the "major factors considered as the basis of the cost estimates" at Items 9 and 11 on page 18 of that study. TLG Engineering Document S11-25002. On reflection, you will see that costs associated with the construction and operation of the on-site ISFSI are not within the scope of the exclusion expressed in 10 CFR § 50.75(c) n.1, which relates to the "removal and disposal of spent fuel or of non-radioactive structures and materials beyond that necessary to terminate the license."

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Your explanation of Items 1, 2(a) and 5 is reassuring.

However, your explicit recognition that the memorandum of the July 15th meeting included "a copy of the District's handout" only emphasizes your silence as to my non-receipt of SMUD materials used in the October 27, and December 15-16 meetings. As I mention in footnote 1 above, I do not think that one could argue that ISFSI costs are not relevant to decommissioning costs since SMUD itself included ISFSI costs in its Decommissioning Cost Study for the Decommissioning Plan.

In light of the foregoing, I hope you will reassess your view of whether the ten other groups of documents are within the scope of the Commission's Order so that we can proceed rapidly in a spirit of cooperation.

With Best Wishes,



James P. McGranery, Jr.
Counsel for the Environmental and
Resources Conservation Organization

JPM/bfm

cc: Chairman Ivan Selin
Commissioner Kenneth C. Rogers
Commissioner James R. Curtiss
Commissioner Forrest J. Remick
Commissioner E. Gail de Planque
The Secretary of The Commission
Service List