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James L. Kelley, Chairman
Administrative Judge
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555



Re: In the Matter of Southern California
Edison Company et al., NRC Docket Nos.
50-361 OL and 50-362 OL.

Dear Chairman Kelley:

We have noticed two typographical errors in "Applicants' Reply in Opposition to Intervenors' Motion to Reopen the Record and for Further Hearings on Emergency Planning and Preparedness Issues," which we served yesterday in the above-referenced proceeding.

To avoid any confusion in this regard, we have corrected pages 3, 16, 17 and 18 of Applicants' Reply and have enclosed these pages to be substituted for the original pages. Please consult the four corrected pages when reviewing Applicants' Reply. The corrections are not of a substantive nature, but are necessary to permit a clear reading of the document.

If you should have any questions concerning these corrections, please let us know.

Very truly yours,

SAMUEL B. CASEY

Samuel B. Casey

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received Intervenors' Motion. Pursuant to the schedule established in the Board Order, Applicants hereby file their reply opposing the Intervenors' Motion.

III.

ARGUMENT

Intervenors' Motion is based exclusively on the updated FEMA findings.^{1/} Applicants' position regarding the significance of the updated FEMA findings is as set forth in "Applicants' Response to the Proposed Findings of Fact and Conclusions of Law on Emergency Planning and Preparedness Issues submitted by Intervenors and the NRC Staff," ("Applicant's Response"), dated and served herein on December 10, 1981. (Applicants' Response, p. 3, note 1.)

It is not the purpose of this reply to reiterate Applicants' position in this regard, or to exhaustively review the substantial evidence in the record, including the updated FEMA Findings, demonstrating that all of the corrective actions recommended by FEMA can and will be taken

^{1/} Intervenors' Motion need not even be considered by the Board insofar as it was untimely served more than ten (10) days after Intervenors presumably received a copy of the NRC Staff's Motion to Supplement the Record, dated and served on the Intervenors by Express Mail on December 2, 1981. (Board Order, p. 2.) Intervenors have provided no excuse or other reason for failing to adhere to the deadlines for filing their motion prescribed in the Board Order.

notification to the population located within Dana Point and San Juan Capistrano who may not otherwise hear the sirens. (Applicants' Response, pp. 20-21, 40.)

In sum, no reason appears to reopen the record for further hearings on any of the concerns raised in the Intervenors' Motion.

- C. Additional or Supplemental Proposed Findings of Fact and Conclusions of Law are not necessitated by the Updated FEMA Findings

Intervenors also request the Board to further delay these proceedings so that they may file additional findings of fact and conclusions of law "to incorporate" the updated FEMA Findings. (Intervenors' Motion, p. 3.) Applicants submit the request should be denied as unnecessary to assist the Board in making the findings and determinations required under the applicable NRC regulations. 10 C.F.R. §50.47(a)(1).

The updated FEMA findings are in the record and entitled to the consideration imposed by NRC regulations. 10 C.F.R. §50.47(a)(2).^{3/} The Board has already indicated it

^{3/} For what Applicant's believe to be a quite scholarly discussion of the appropriate consideration to be given to FEMA findings and determination in NRC adjudicatory proceedings, the Board is referred to the Partial Initial Decision, Volume 2, in the TMI (Restart) proceeding, filed December 14, 1981. See Metropolitan Electric Company, (Three Mile Island Nuclear Station Unit 1), (Docket 50-289-SP), at pp. 397-402. In that case, the Atomic Safety and Licensing Board concluded that FEMA findings and determinations should be considered, along with the testimony of the FEMA

(Footnote 3 continued on next page)

will consider these findings. (Board Order, at p. 2.) As such, these findings speak for themselves and additional findings of fact and conclusions of law need not be proposed by the parties to illuminate their meaning or significance.

The issues addressed in the updated FEMA findings have been fully discussed and resolved in the Applicants' Findings and the NRC Staff's Findings. (See footnote 2 supra.) Intervenors' concerns in this regard have been fully set forth in Intervenors' Motion. Accordingly, Applicants submit that the Board has had the full benefit of all the parties' views on the subject. Additional findings of fact and conclusions of law on the updated FEMA findings will do nothing to improve the Board's understanding of the record or the parties' views on the subjects which remain in controversy. This being the case, the Intervenors' request to file additional proposed findings of fact and conclusions of law may be properly denied.

3/ (continued from previous page)

witnesses. However, given the extensive amount of other evidence in the case the Board concluded that these findings need not be accorded presumptive weight and that it was the Board's "responsibility to make the judgment whether the overall capability of emergency planning is adequate . . . based on the [entire] record." Id. at p. 402. Applicants submit a similar approach to consideration of the FEMA findings and determinations may be applied by the Board in this case.

IV.

CONCLUSION

For the reasons discussed above, Applicants' submit that Intervenors have failed to meet their threshold burden of establishing that the updated FEMA findings raise significant new problems affecting the public health and safety not already thoroughly reviewed and resolved in the record. Accordingly, Applicants request the Board to deny the Intervenors' motion to reopen the record for further hearings, as well as Intervenors' further request to submit additional proposed findings of fact and conclusions of law in light of the updated FEMA findings.

Dated: December 28, 1981

Respectfully submitted,

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