

COMMITTEE TO BRIDGE THE GAP
1637 Butler Avenue, Suite 202
Los Angeles, California 90025
(213) 478-0829



12/30/82

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA
(UCLA Research Reactor)

Docket No. 50-142 OL

(Proposed Renewal of Facility
License No. R-71)

APPLICATION FOR ISSUANCE OF SUBPOENA DUCES TECUM

Pursuant to 10 CFR 2.720, the Committee to Bridge the Gap applies to the presiding officer in the above-captioned proceeding for issuance of a subpoena duces tecum requiring the Department of Fire of the City of Los Angeles to produce the evidence identified herein.

Background

As per Board Order of November 10, 1982, CBG submitted to the Applicant on November 12 a request for production of certain documents as to Contention XXI, relating to emergency planning issues. By pleading dated November 24, Applicant objected to production of certain of the requested documents. The Board, because of this dispute, suspended the discovery scheduled included in its Order of November 12, and in two conference calls attempted to resolve the dispute. By Order dated December 2, 1982, the Board directed the Applicant to produce certain of the requested documents. Certain other documents, which Applicant indicated it would have difficulty locating, were to be attempted to be obtained by CBG

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from the Los Angeles Fire Department. Only failing in that attempt, would the issue of UCLA attempting further to locate the requested documents be discussed.^{1/} CBG was first to attempt to obtain the documents from the Fire Department. The rest of the discovery schedule (interrogatories which were to follow production of the documents) remains suspended until the document issue is resolved.

CBG submitted the attached list of requested documents to the Fire Department, requesting that they be voluntarily produced for inspection and copying. The Fire Department declined, indicating concern about the precedent that might be established were it to appear to voluntarily cooperate with one party in a dispute being litigated. It was indicated that a subpoena would mitigate that problem.

General Relevance

The matter of the general relevancy of the requested documents has already been addressed in the Board's Order of December 2, 1982. A few brief additional points may be in order.

The asserted adequacy of UCLA's Emergency Plan with regards fire response rests on essentially three points, put forth variously by the Applicant and/or the NRC Staff: (1) that no fire is likely to occur because "periodic inspections" prevent conditions conducive to fire from existing (Staff SER, p. 9-2), (2) that were a fire to occur, pre-existing agreements with off-site fire response forces (the LA Fire Dept.) and pre-fire planning by the Fire Dept. and UCLA would provide assurance of prompt, full, and correct response by the LA Fire Dept. (letter of agreement from LA Fire Dept., included as Attachment A to UCLA's Emergency Plan; SER p. 9-2 on pre-fire familiarization of NEL for local Fire Chiefs),

^{1/} The attached letter from UCLA's Walter Wegst to the Fire Dept. indicates, in its fashion, that UCLA does not object to the Fire Dept. providing the requested documents. Note that CBG's request to the fire dept. is not for documents for all UCLA buildings, as implied by Wegst; at the request of the fire dept., the request was narrowed to the building housing the reactor and four neighboring, similar buildings.

and (3), that UCLA's assertion that no radiological planning outside the reactor room is necessary is dependent upon prompt detection and prompt and correct suppression of the fire before the reactor fuel is put at risk (Hawley, et al., report, p. 13, 41, 43).

The attached exchange of correspondence between the LA Fire Dept.^{2/} and UCLA puts at issue the Staff assertion that periodic inspections can be expected to prevent a hazardous condition from arising at UCLA. The Fire Department letter alleges that a failure of UCLA to comply with a number of fire safety regulations, months after the violations were cited, either caused or contributed to a July 27, 1982, fire involving hazardous materials and chemicals during which 19 persons, "including nine firefighters, two paramedics, five UCLA employees, and three personnel from I.T. Corporation [a hazardous materials clean-up company] required hospital treatment for exposure to hazardous materials." The letter further asserts "a lack of urgency on UCLA's part to correct all of the violations cited" and concludes:

Firefighting is a very dangerous business and involves calculated risks. The Los Angeles Fire Department does not wish to subject its firefighters to known hazardous conditions that have been identified, but not corrected, because of a "lackadaisical" attitude of persons responsible for such conditions.

This letter thus also puts at issue what the Fire Dept. would do, if called to the scene of a fire involving a nuclear reactor, if it feels it does not have from UCLA the assurances necessary that its firefighters will not be subjected to unnecessarily hazardous conditions. This is a matter that merits further scrutiny in light of the supposed "letter of agreement" by the Fire Department included in the Emergency Plan, which indicates that the Fire Department plan is not to suppress the fire, if the reactor is involved, but to confer on the scene with UCLA and other officials as to what, if any, response is to be made. A standing and heated dispute with those same UCLA officials, which the Fire

^{2/} Production of these two letters was initially objected to by UCLA; the Board in its Order of December 3, 1982, ordered that the documents be produced. The handwritten notations on the letter from the Fire Dept. were on the copy provided to CBG and appear to be those of UCLA Asst. Vice Chancellor (for Community Safety) John Barber, who signed the responding letter. The "Walt" referred to in Barber's notation appears to be Walt Wegst.

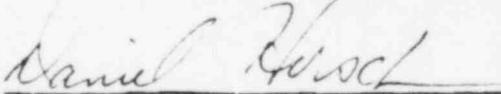
Department appears to believe contributed to the hospitalization of nine of its firefighters, is certainly relevant to the supposed agreement with the off-site response force and the speed in which the force would, not arrive, but once on the scene have sufficient faith in the information provided by these particular UCLA officials as to the proper action to take (e.g., use water, which CBG alleges could create an explosive condition) to put their firefighters at risk in such a situation.

The response by UCLA to the Fire Department letter underscores the general relevancy of further pursuing the matters identified in the document listing. UCLA asserts in that letter that it is not obligated to correct fire safety violations cited by the Fire Department because UCLA is on state property, asserts that the Fire Department inspectors "simply do not understand what they are observing," and that "[t]he real problem with all safety at UCLA is the lack of state funds to correct safety problems, whether they be fire safety or otherwise."

Conclusion

The general relevancy of the requested documents has been well established. UCLA has indicated to the Fire Department it has no objection to the materials being produced. CBG has indicated to the Fire Department a willingness to make the request the least burdensome possible for the Department.^{3/} CBG respectfully applies for issuance of the request subpoena duces tecum.

dated at Ben Lomond, CA
December 30, 1982



Daniel Hirsch
President
Committee to Bridge the Gap

^{3/} The Fire Department requested that the inspection occur at its offices, that it be provided a minimum of five working days from service of the subpoena to produce the documents, and suggested modifications to the initial request to better fit their document retrieval system and minimize the effort in retrieval.

FIPE DEPARTMENT RECORDS AS TO UCLA REQUESTED BY CBG FOR REVIEW AND COPYING

- A. 1. Records for the UCLA Nuclear Energy Laboratory (NEL)
- a. Records of fires (cause, extent of damage, problems in suppressing)
 - b. Records of fire safety inspections
 - c. Pre-fire planning documents for response to a fire at NEL
2. Records for the Boelter Hall (Engineering) complex
- a. Records of fires
 - b. Records of fire safety inspections
 - c. Pre-fire planning documents for response to a fire alarm from the Boelter complex which does not necessarily (but may) involve the reactor
3. Records for the Life Science Quad buildings (Young Hall, Slichter, Franz Halls and the Geology Building)
- a. Records of fires
 - b. Records of fire safety inspections.
4. Fire and fire safety inspection and response plan documents for the radwaste storage area.
- B. We are particularly interested in documents regarding the July 27, 1982 fire in Young Hall, and inspections of the facility a few months earlier that reportedly led to a request to post warning signs.
- C. We also wish to review correspondence between the Fire Department and the UC Regents, or other UC officials, as to the need to take pre-fire measures such as the requested sign-posting at Young Hall. In particular we are interested in correspondence that relates to the Young Hall incident.
- D. Correspondence with UCLA about Fire Department response to a fire which might involve the reactor. In particular, documents which form the basis for the September 16, 1981, "EMERGENCY RESPONSE PLAN, NUCLEAR ENERGY LABORATORY AT UCLA," submitted under cover letter of same date by Ross. Williams, Battalion Chief, Planning Section. We have specific interest in documents indicating how a fire which does involve the reactor should be fought (e.g., with what suppression agents).
- E. Records indicating agreement or dispute by UCLA as to authority of Fire Department to enforce fire safety regulations at UCLA.
- F. Generalized audits or overall reviews of fire safety at UCLA generally.

CBG understands that the above documents are maintained by the Fire Department for a period of three years, with some older documents kept elsewhere. CBG's request is for those documents readily retrievable and is prepared to modify this request should retrieval difficulties arise.

COMMITTEE TO BRIDGE THE GAP
1637 Butler Avenue Suite 203
Los Angeles, CA 90025
(213) 478-0829

CITY OF LOS ANGELES
CALIFORNIA



TOM BRADLEY
MAYOR

BOARD OF
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DEPARTMENT OF FIRE
200 NORTH MAIN ST.
LOS ANGELES, CA 90012

—
JOHN C. GERARD
CHIEF ENGINEER
AND
GENERAL MANAGER

August 3, 1982

Mr. Thomas J. Cunningham
General Consul of the Region
University of California at Berkeley
590 University Hall
Berkeley, CA 94720

Dear Mr. Cunningham:

Fire Safety/Violations at the University of California
at Los Angeles (UCLA)

On Tuesday, July 27, 1982, at approximately 2029 hours, a fire occurred in a storage building adjacent to the six-story chemistry building known as Young Hall on the UCLA campus. The fire involved hazardous materials and chemicals and was caused by chemical reaction of known incompatible materials. Stored included hydrochloric acid, sulfuric acid, nitric acid, acetic acid, phosphoric acid, ammonium hydroxide and sodium hydroxide.

On March 11, 1982, a Notice of Fire Life/Safety Violation was issued to UCLA to comply with eight specific violations of the State Administrative Code, Title 19, Section 3.14. Over four months later, four of the eight cited violations had not been fully complied with, thus, either causing and/or contributing to the incident that occurred on July 27, 1982. ??

During this incident, 19 persons, including nine firefighters, two paramedics, five UCLA employees, and three personnel from I.T. Corporation, required hospital treatment for exposure to hazardous materials.

On June 29, 1982, members of the Los Angeles Fire Department met with representatives of UCLA to discuss the lack of compliance with the issued Fire/Life Safety Violation and the apparent lack of

Mr. Thomas J. Cunningham
August 3, 1982
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WALC - DRAFT
A LETTER IN
REPLY TO
THESE STATEMENTS

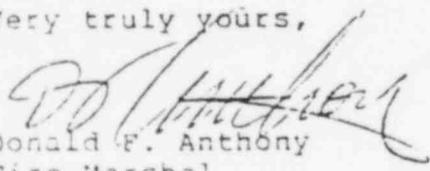
concern and cooperation by members of the UCLA staff. During this meeting, it was evident that there was some confusion and misunderstandings as to specifics that the Fire Department required, however, it was also very clear that there was a lack of urgency on UCLA's part to correct all of the violations cited.

One point that was brought up at this meeting was that some of the items cited in the violation would require monies for full compliance, even though funding would be minimal. I informed members of the UCLA staff that it was my intention to notify the Honorable Edmund G. Brown, President of the Region, Mr. Thomas J. Cunningham, General Consul of the Region, the State Fire Marshal, State of California Department of Health Services, CAL OSHA, and other agencies concerned with hazardous materials incidents.

Firefighting is a very dangerous business and involves calculated risks. The Los Angeles Fire Department does not wish to subject its firefighters to known hazardous conditions that have been identified, but not corrected, because of a "lackadaisical" attitude of persons responsible for such conditions.

This Department has the responsibility of informing those persons having the responsibility for maintaining public institutions in the safest environment possible of what is taking place on the university campuses in this State. Further, we would appreciate any direction that you could give the staff at UCLA that would encourage their immediate cooperation in alleviating the ongoing multitude of identified fire/life safety problems on this campus.

Very truly yours,


Donald F. Anthony
Fire Marshal

DFA:mb

UNIVERSITY OF CALIFORNIA, LOS ANGELES

UCLA

BERKELEY · DAVIS · IRVINE · LOS ANGELES · RIVERSIDE · SAN DIEGO · SAN FRANCISCO

SANTA BARBARA · SANTA CRUZ



DEPARTMENT OF COMMUNITY SAFETY
LOS ANGELES, CALIFORNIA 90024

September 13, 1982

A. R. Evansen
Chief Engineer and General Manager
Department of Fire
200 N. Main Street
Los Angeles, CA 90012

Dear Chief Evansen:

UCLA would like to respond to the letter written by D.F. Anthony (Fire Marshal) to T.J. Cunningham, dated August 3, 1982.

First, let me say that UCLA has always tried to cooperate with the LAFD in every way and to make their job (fire fighting) on the campus as safe as possible. We take seriously the suggestions, comments, and citations of your inspectors, and whenever practical and possible, we implement their requirements. However, we must again point out that the State Fire Marshal is the "enforcing agency" on the UCLA campus, not the LAFD. Some of the requirements specified by your inspectors based on Los Angeles city codes are simply not practical at UCLA and are not required by the State Fire Marshal.

As an example of one of the ways we cooperate with your department, I mention the on-the-job training we give your new inspectors. We don't mind trying to educate and train these inspectors who arrive here without even a rudimentary knowledge of chemistry, toxic materials, explosives, etc. However, we do object to being cited by such individuals when they often simply do not understand what they are observing.

Secondly, we were frankly quite surprised by Mr. Anthony's letter. The UCLA representatives who were at the meeting on July 29, 1982 (not June 29 as referenced in Anthony's letter), all left that meeting with the understanding that the LAFD would try to help us with our fire prevention job. Specifically, they thought that Mr. Anthony was going to write a letter urging financial support of our fire safety efforts and also that he was going to let us see a draft of that letter. He did neither, and instead released a critical article to the LA Times published on August 1, 1982, and wrote a highly critical and vindictive letter about our fire prevention activities. Neither of these actions is particularly productive nor helpful toward gaining the cooperation of UCLA or for that matter the University system.

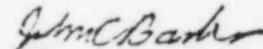
Lastly, we take strong exception to the implication that UCLA is not concerned with fire prevention and has a "lackadaisical" attitude toward

fire safety. The staff of the Office of Research and Occupational Safety has two full-time people (one of these individuals is a Deputy State Fire Marshal) who devote all of their efforts to fire prevention and fire safety problems. Further, when that office can find suitable students, such individuals are hired to do routine and continuing fire safety inspections. (During the past academic year, a student worked twenty hours per week on such inspections.) The real problem with all safety at UCLA is the lack of state funds to correct safety problems, whether they be fire safety or otherwise. We thought Mr. Anthony understood that after the July 29 meeting and was going to try to help.

Again, we will try to cooperate whenever possible. For example, we have ordered and will use NFPA 704 warning placards even though that is a Fire Prevention Bureau requirement, not a State Fire Marshal requirement. We welcome your Fire Inspectors and will work with them openly and cooperatively. We will correct truly unsafe conditions as quickly as possible within the limits of available resources.

However, we must point out that your Fire Prevention Bureau may not have all the appropriate answers for fire safety at an institution involved in complex scientific research and that cooperation is a two-way street requiring give and take by both sides.

Very truly yours,


John C. Barber
Asst. Vice Chancellor
Community Safety

cc: W. Wegst - R. & O.S.

JCB/jm

UNIVERSITY OF CALIFORNIA, LOS ANGELES

UCLA

BERKELEY · DAVIS · IRVINE · LOS ANGELES · RIVERSIDE · SAN DIEGO · SAN FRANCISCO



SANTA BARBARA · SANTA CRUZ

COMMUNITY SAFETY DEPARTMENT
OFFICE OF RESEARCH & OCCUPATIONAL SAFETY
LOS ANGELES, CALIFORNIA 90024

December 16, 1982

Mr. Allen R. Evansen
Chief Engineer/General Manager
LAFD
200 North Main Street
Los Angeles, California 90012

Re: Inspection of Fire Department Documents Relating to the UCLA
Campus

Dear Mr. Evansen:

I understand you have received, or will receive, a request from a Mr. Dan Hirsch, President of a group called the Committee to Bridge the Gap (CBG), to examine Los Angeles Fire Department (LAFD) documents containing information on fires that may have occurred at UCLA campus or fire department inspections that may have been conducted on the UCLA campus. As explained below, the University has been directed to advise you that it does not object to your providing any of the documents requested by the CBG which fall within the categories set forth in the second paragraph below.

As you may be aware, UCLA is in the process of relicensing its nuclear reactor in proceedings before the Nuclear Regulatory Commission's Atomic Safety and Licensing Board (Licensing Board). The reactor which has been operated since 1960, is located in the Nuclear Energy Laboratory (NEL) of the School of Engineering within the Boelter Hall, Math Science complex of buildings on the campus. CBG is opposed to the relicensing and is participating as a party in the proceedings. Among its allegations, CBG is claiming that UCLA cannot demonstrate adequate fire response capability for emergencies that might occur at its NEL facility.

In attempting to discover information which might support its claim, CBG has formally requested that UCLA produce for CBG's examination certain categories of documents, including the following two items:

"...(Item) 18. Records of inspections conducted at UCLA by local, state, or federal fire safety officials as to fire safety precautions at UCLA."

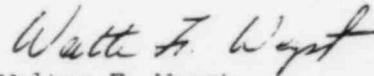
"...(Item) 19. Records of fires at UCLA, including identification of causation, details of damage created, and inspection of fire suppression response."

Mr. Allen R. Evansen
December 16, 1982

The University formally objected to producing documents related to these items on the grounds that the scope of inquiry being proposed by CBG, that is, an examination of fire incidents, fire department responses, and fire department inspections for all UCLA buildings, goes far beyond the proper focus of the NRC proceedings and is irrelevant to the question of the fire suppression response capability at the NEL facility. The University also objected that to search its files for all such records would impose an unreasonable burden on University's staff.

In the adjudication of this "discovery" dispute between the University and CBG, the Licensing Board inquired whether the University would object if CBG attempted to obtain the requested documents from the LAFD. The University stated that it did not regard itself as in a position to raise any objection which the LAFD would be obliged to consider and, accordingly, the University would not raise such an objection. The Licensing Board also requested that the University advise the LAFD that the University would not raise any such objection. This letter serves as that communication.

Sincerely,



Walter F. Wegst
Director, Research &
Occupational Safety

cc: Dan Hirsch

WFW/gr

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA

(UCLA Research Reactor)

Docket No. 50-142

(Proposed Renewal of
Facility License)

DECLARATION OF SERVICE

I hereby declare that copies of the attached: APPLICATION FOR ISSUANCE
OF SUBPOENA DUCES TECUM

in the above-captioned proceeding have been served on the following by
deposit in the United States mail, first class, postage prepaid, addressed
as indicated, on this date: December 30, 1982.

John H. Frye, III, Chairman
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission

Dr. Emmeth A. Luebke
Administrative Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Oscar H. Paris
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Chief, Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
attention: Ms. Colleen Woodhead

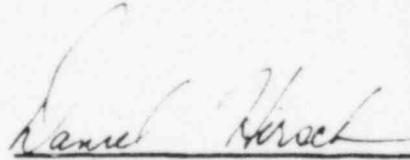
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Daniel Hirsch
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COMMITTEE TO BRIDGE THE GAP