

50-142

SETTLEMENT AGREEMENT

This Agreement is made and entered into as of this 30th day of September, 1985, by and between the REGENTS OF THE UNIVERSITY OF CALIFORNIA, a corporation (hereinafter the "University"), the CAMPUS COMMITTEE TO BRIDGE THE GAP, a corporation (hereinafter "CBG"), and the STAFF OF THE UNITED STATES NUCLEAR REGULATORY COMMISSION (hereinafter "NRC Staff"). This Agreement is entered into with reference to the following facts:

The University holds facility license R-71 from the U.S. Nuclear Regulatory Commission (hereinafter "NRC") for an Argonaut-type nuclear reactor located in Boelter Hall of the Los Angeles campus of the University of California (hereinafter "the Reactor") and for the possession of byproduct material and Special Nuclear Material (hereinafter "SNM") associated with the Reactor facility. On or about February 28, 1980, the University filed an application (hereinafter the "Application") for renewal of the license, which was to expire on or about March 30, 1980. On or about May 22, 1980, CBG filed a Petition for Leave to Intervene with the NRC challenging the license renewal.

CBG was granted leave to intervene by an NRC Atomic Safety and Licensing Board (hereinafter the "Board") on approximately twenty contentions and numerous subparts thereto. The parties hereto have actively litigated the University's Application and CBG's contentions thereon since that time. Evidentiary hearings were held on Contention II ("Wrong Class of License") and a series of contentions related to issues of inherent safety; evidentiary hearings as to security issues were scheduled to commence June 21, 1984. No Initial or Final Decisions on factual matters were reached by the Licensing Board respecting the security or safety issues in contention. In the course of the litigation the Board adopted protective orders concerning certain photographs, documents, and information relating to security of the Reactor and its highly enriched uranium fuel.

On or about June 14, 1984, the University filed a request to withdraw its Application and asked that the Board, pursuant to 10 CFR 2.107, approve the withdrawal request on two conditions: that the Reactor remain out of operation and that application be made to the NRC to decommission the Reactor. CBG requested additional conditions be attached to the license withdrawal, with CBG asserting a right to the withdrawal being either with prejudice or with payment of CBG's costs and fees if CBG's proposed conditions were not included. The University opposed CBG's proposed conditions. The NRC Staff requested deferral of the effective date of withdrawal until completion of dismantling, that License R-71 would remain in effect during dismantling. CBG

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opposed the Staff proposal. The Board suspended further proceedings on the license renewal while the Request for Withdrawal was considered, contingent upon certain actions being taken by the University to permanently disable the Reactor from operating and the offshipment of the Reactor's fuel.

The University acted to render the Reactor inoperable and requested that its license be amended to a possession-only license. NRC Staff approved and issued the amendment. By the end of 1984, the University had shipped all of the Reactor fuel off the UCLA site.

On July 26, 1984, the University applied to the NRC for orders authorizing dismantlement of the Reactor and disposal of its component parts. On October 24, 1984, CBG filed a Petition for Leave to Intervene in the dismantlement proceedings.

In February 1985, the University removed graphite and lead blocks from the core of the reactor for the purpose of conducting a preliminary radiation survey as a first step in developing a decommissioning plan. Wigner energy measurements of the graphite were also conducted.

On or about August 30, 1985, the University requested amendment to its License to remove authorization to possess SNM and the requirement to maintain and implement a security plan for the facility.

The parties propose to resolve issues and disputes between them in the licensing proceeding and in the dismantlement proceeding by entering into this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. Application Withdrawal and License Termination

1.1 The Application for Renewal of License R-71 is withdrawn in its entirety upon the effective date of this Agreement, as defined in Section 17 herein. The Reactor shall not operate again and the utilization facility shall be dismantled and its component parts disposed of [hereinafter "dismantled"] pursuant to applicable regulations and the conditions detailed below.

1.2 The withdrawal of the Application shall terminate in its entirety the license renewal proceeding before the Board (Docket 50-142).

1.3 The withdrawal of the Application and termination of the renewal

proceeding shall be a final determination of the Application for the purposes of 10 Code of Federal Regulations 2.109 and License R-71 shall expire in its entirety without possibility of revival, renewal, amendment, modification or extension.

1.4 The withdrawal of the Application and the expiration of License R-71 shall be without prejudice to the University's right to apply for a new license for the possession and/or operation of a new reactor.

1.4.1 Notwithstanding the provisions of Section 1.4 above, the University agrees to not make any further application for a license to possess and/or operate the Reactor or to possess nuclear fuel for the Reactor. Any new license concerning the possession or operation of a new reactor shall not in any way rely on any of the authorities granted in License R-71 and any application for a new license shall not be subject to the presumptions set forth in 10 CFR 2.109.

2. Dismantlement, Decontamination and Disposal

2.1 Notwithstanding the provisions of Section 1 above, the University shall be authorized to remain in possession of the Reactor facility components for the sole purpose of dismantlement, decontamination, and disposal of the Reactor facility components and only for the time periods specified below. The University agrees that this authority and the deadlines associated thereto cannot be extended, amended, renewed or otherwise modified except by a written agreement signed by all the parties.

2.2 In no event shall the authorities maintained under Section 2.1 herein allow or purport to allow the University to, nor shall the University, acquire fuel for the Reactor.

2.3 University agrees to decommission its Reactor facility in accordance with a decommissioning plan approved by the NRC and pursuant to

the provisions in this Agreement and the conditions of the associated Board Order.

2.4 Within six months of the effective date of this Agreement, the University shall submit a decommissioning plan to the NRC in accordance with the applicable NRC regulations and guidance documents and will respond to all requests made by the NRC for additional information relevant to the NRC's review and approval of the plan.

2.5 By September 30, 1989, all radioactive or contaminated components, equipment, materials and parts associated with or formerly used in connection with the Reactor facility or otherwise formerly licensed under License R-71 shall have been decontaminated or disposed of or transferred to another qualified licensee other than the University such that there shall be no radioactivity or contamination at UCLA associated with the former Reactor facility or License R-71 in excess of the levels identified in Section 2.6, except for the concrete building structure and concrete biological shield and any components so affixed to or embedded in that concrete structure or shield that they cannot be readily removed without demolition of the concrete, and except for the hold-up tank, primary water pump, sump pump, compressor system, floor drains, decontamination sinks, and the fuel storage pits.

2.6 For the purposes of this Agreement, an item or group of items is radioactive or contaminated if any of the following conditions are met:

2.6.1 It emits radiation of 5 microRem or greater per hour above background at one meter from its surface unshielded.

2.6.2 It contains surface contamination levels in excess of those given in Table 1 of Regulatory Guide 1.86 or requires a Part 30 byproduct license or other NRC license.

2.7 By September 30, 1995, the University shall dismantle and dispose of the concrete biological shield of the Reactor and complete such other actions to the extent necessary that a determination can be made that no radioactivity or contamination in excess of the levels in Section 2.6 above associated with former License R-71 remains on the UCLA campus so the facility site can be returned to unrestricted use; provided, however, that in the event difficulties arise in the dismantlement and/or disposal of the concrete biological shield, the University may request an amendment of its decommissioning plan to utilize the safe storage mode of decommissioning for the concrete biological shield and the NRC shall consider such a request in accordance with the applicable standards, notwithstanding that approval of the request by the NRC may result in the facility not being returned to unrestricted use by September 30, 1995.

2.8 Notwithstanding the provisions of Section 1.4, the University agrees that no part of the Argonaut UTR currently authorized by NRC License R-71, (including but not limited to the biological shield, graphite, lead, control blades and drives, fuel boxes and piping, pumps and instrumentation) will be used in the construction or operation of another nuclear reactor at UCLA. The University further agrees that until the Reactor facility has been released for unrestricted use it shall make no further application to possess or operate a reactor at UCLA, or to possess special nuclear material for a reactor at UCLA.

3. Document and Evidence Preservation

3.1 Until December 31, 1997, the University shall preserve the documents identified in Exhibits A and B attached hereto. If the University desires to destroy or dispose of any such documents prior to December 31, 1997, the University shall notify CBG in writing at least 60 days prior to

such destruction or disposal. During the 60-day period, the University shall provide CBG a reasonable opportunity to examine and take possession of such documents.

4. Service of Correspondence

4.1 Until the Reactor facility has been released for unrestricted use, the University and the NRC Staff shall serve CBG copies of all correspondence, notices, and documents generated, produced, or delivered by the University, NRC Staff or NRC, respectively, concerning or relating to the Reactor, Reactor facility, License R-71, or the dismantlement operation.

4.2 Until December 31, 1997, or when the Reactor facility is released for unrestricted use, whichever is later, the University shall serve CBG copies of all correspondence, notices, applications and documents concerning or relating to the licensing or construction of a new nuclear fission reactor on the UCLA campus. Upon request by CBG, the NRC Staff will place CBG on the service list for NRC-generated documents related to any such new application.

4.3 The NRC Staff shall continue to maintain the local public document room in Los Angeles and file all correspondence, notices, applications and other documents concerning or relating to the Reactor facility or License R-71 with the local public document room as long as funding is available for the LPDR program and so long as the host public document room facility remains agreeable, until dismantlement is completed. For the purposes of this Section 4.3, dismantlement shall be deemed to be completed when all radioactive or contaminated material or items as defined in Section 2.6 have been removed from the Reactor facility.

4.4 The University agrees that no correspondence, request, application or notice from the University concerning or relating to this Reactor and

Reactor facility, License R-71, a new reactor, or the subjects of this Agreement shall constitute an official communication from the University if such correspondence, request, application or notice has not in fact been timely served on CBG. No such correspondence, request, application or notice shall constitute an official communication from the University until service on CBG has been perfected. University agrees to promptly inform the NRC Staff of any such correspondence, request, application or notice that was not properly served on CBG and that such correspondence, request, application or notice is null and void until service is perfected.

5. Annual and Completion Reports

5.1 The University shall submit to the NRC Staff annual reports detailing the progress of dismantlement operations. Said reports shall be submitted to the NRC Staff in July of each year, beginning with July 1986, until such time as the dismantlement operations described in Section 2.5 have been completed. Said reports shall be served on CBG.

5.2 Within ninety days of completion of each of the phases of dismantlement identified in Section 2, or the deadline for its completion, whichever comes first, the University shall submit to the NRC Staff a report detailing the status of dismantlement at the Reactor facility. These reports shall constitute the Interim and Final reports required by the NRC guidance document "Guidance and Discussion of Requirements for an Application to Terminate a Non-Power Reactor Facility Operating License," Revision 1, September 15, 1984, or later revisions thereto, and shall be served on CBG.

6. Inspection Rights

Upon completion of each of the dismantlement phases required by Section 2 of this Agreement, or if at the expiration of the time periods specified

in Section 2 the University has not completed the dismantlement phase required by said sections, the University shall provide CBG reasonable notice and opportunity to enter into and inspect the Reactor facility. The University agrees to permit two CBG representatives to make such entry and inspection.

7. CBG's Withdrawal from the Proceeding

In consideration of the commitments made in this Agreement by the other parties, CBG hereby withdraws its Petition to Intervene in the decommissioning proceeding (NRC Docket 50-142) and waives whatever rights it may have to seek discretionary intervention in such decommissioning proceeding.

8. Protective Orders

All Protective Orders adopted by the Board during the license renewal proceeding shall be dissolved as of the effective date of this Agreement and shall no longer have any force and effect. All duties, obligations and responsibilities arising from any Protective Order or otherwise from the license renewal proceeding relating to the protection or return of documents, records, photos, or information which were subject to the Protective Orders are terminated in full. No party to this Agreement nor any person associated therewith, including those persons having authorized access to protected information under the Protective Orders, shall have any duty after the effective date of this Agreement to protect or otherwise not disclose any information gained under the Protective Orders during the course of the licensing proceedings or pursuant to this Agreement.

9. Service and Notices

All notices, correspondence and other documents and communications

required to be served shall be deemed to have been served or given if personally delivered or mailed, first class, postage prepaid:

To CBG:

Committee to Bridge the Gap
1637 Butler Avenue
Los Angeles, CA 90025

Copy to:

Daniel Hirsch
3489 Branciforte Drive
Santa Cruz, CA 95065

To University:

Mr. Glenn R. Woods, Esq.
Office of the General Counsel
590 University Hall
2199 Addison Avenue
Berkeley, CA 94720

Copy to:

Director Walter F. Wegst
Office of Research and Occupational Safety
UCLA
601 Westwood Plaza
Los Angeles, CA 90024

Mr. William H. Cormier, Esq.
2255 Murphy Hall
UCLA
405 Hilgard Avenue
Los Angeles, CA 90024

To NRC Staff:

Counsel for NRC Staff
Office of the Executive Legal Director
US Nuclear Regulatory Commission
Washington, DC 20555

or at such other address(es) as shall be given in writing by any party to the others. To be complete, service must be made to all parties on the same day or promptly thereafter. Counsel for NRC Staff will notify the appropriate Region V, Nuclear Reactor Regulation and other appropriate NRC staffpeople of this requirement.

10. Binding Effect

This Agreement shall be binding upon and shall inure to the benefit of the respective successors or successor organizations of the parties hereto. Nothing contained in this Agreement is intended to make any person or entity who is not a signatory to this Agreement or its successor or successor organization a third party beneficiary of any right created by this Agreement or by operation of the law.

11. Amendments and Modifications

No part of this Agreement may be amended, modified or supplemented except by a writing executed by all of the parties. No party shall have the right to seek modification or amendment of this Agreement by a state or federal court or by the NRC.

12. Settlement of Disputed Claim

It is understood and agreed that this settlement agreement is a compromise of disputed claims and that entry into this settlement agreement is not to be construed as an admission of liability, error or omission on the part of any of the parties hereto.

13. Enforcement

13.1 Notwithstanding anything in this Agreement to the contrary, it is expressly understood that the parties do not release or waive, but expressly reserve, all rights, remedies and privileges to enforce performance of this Agreement.

13.2 The parties expressly acknowledge that the provisions of this Agreement constitute obligations assumed by and benefits conferred to each party in consideration of the obligations assumed by and benefits conferred to the other parties and that the obligations assumed herein by CBG and UCLA

shall be enforceable by the parties through the courts.

14. Injunctive Relief

14.1 The parties acknowledge that it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief to CBG in the event of the University's failure to comply with the provisions of Section 2 of this Agreement and that therefore money damages would be an inadequate remedy for a breach of that Section.

14.2 Waiver by any of the parties of any breach of this Agreement or the failure of any party to enforce any portion of this Agreement as a result of any breach shall not be a waiver of any other breach or an estoppel to enforce any other breach of this Agreement.

15. Dependence of Provisions of the Agreement Upon Enactment as a Whole

This Agreement and the parties' agreement concerning the proposed Board Order and attachments thereto represent the entire and integrated settlement agreement between the University, CBG, and the NRC Staff and supersede all prior negotiations, representations or agreements, written or oral. Each of the parties hereto acknowledges that neither the other party nor any agent or attorney of such other party, has made any promise, representation or warranty whatsoever, expressed or implied, not contained herein, about the subject matter, to induce the signatory to execute this Agreement in reliance upon any such promise, representation or warranty not contained in these documents.

16. Each Party to Bear its Costs

In consideration of the commitments made in this Agreement, each party withdraws any claims to costs and attorneys' fees incurred during the course of the license renewal proceeding and the decommissioning proceeding (Docket

50-142) and in the negotiation and preparation of this Agreement.

17. Effective Date of Agreement

The commitments made in this Agreement are made as a whole and are dependent upon the approval of the Agreement and the adoption of the proposed Board Order and its attachments in their entirety by the Board. The parties agree that, if approved, said Order and attachments thereto would not be appealed by any party. The effective date of this Agreement shall be the date the Licensing Board issues said Order and attachments thereto.

18. Warranty Concerning Authority to Execute

Each of the parties to this Agreement represents and warrants that the person executing this Agreement is duly authorized to do so on behalf of the party.

Executed this 7th day of October, 1985, by James W. Hubson
Representative of the University

name and title: JAMES W. HUBSON VICE CHANCELLOR

Reviewed and approved as to form by Counsel for the Regents of the University of California, who also hereby represents and warrants that the person executing this document on behalf of the University is duly authorized to do so.

dated: 10/4/85

Glenn R. Wood
Office of General Counsel for the Regents

name and title: Glenn R. Wood, University Counsel

Executed this 2nd day of October, 1985, by Daniel Hirsch
Representative of CBG

name and title: Daniel Hirsch, President

Reviewed and approved as to form by Counsel for CBG, who also hereby represents and warrants that the person executing this document on behalf of CBG is duly authorized to do so.

dated: 10/3/85 JH Bay
Counsel for CBG

name and title: John H Bay

Executed this 10th day of October, 1985, by Colleen P Woodhead
Counsel for NRC Staff

name and title: COLLEEN P. WOODHEAD

EXHIBIT A

NEL DOCUMENTS RELATED TO REACTOR
OPERATIONS TO BE PRESERVED

1. Reactor Use Committee Minutes
2. Reactor Operating, Maintenance, and Calibration Logs
3. Engineering Change Orders related to the Reactor
4. Experimental Safety Analyses related to Reactor Operations
5. License Amendments, Documents, and Correspondence
6. Internal Audits of the NEL
7. Responses to Notices of Violations
8. Abnormal-Occurrence Reports
9. SCRAM Reports
10. Health Physics Survey Records related to UCLA Reactor Operations
11. Other NRC/AEC - UCLA Reactor Correspondence

EXHIBIT B

INVENTORY OF UNIVERSITY NEL SECURITY FILES
 Files as Provided to CBG by University and
 Inventoried at NEL by CBG on March 28, 1985

CBG- ASSIGNED ITEM NO.	NO. OF SHEETS	NO. OF PAGES	NEL FILE LABEL	DESCRIPTION: CONTAINER	CONTENTS
0001		500	Record	Bound notebook	NEL Visitors Log 10/17/60 to 08/22/72 (page 491)
0002		500	Record	Bound notebook	NEL Visitors Log 08/25/72 to 03/08/85 (page 357)
0003	60		Security Log I	Bound notebook	Security Log. entries dated 6/25/75 to 11/21/80
0004			Physical Security Plan:	Black three-ring binder:	
	17				University-NRC and NRC-University letters
	70				Physical Security Plan for the Protection of Special Nuclear Material of Moderate Strategic Significance, March 1980, including two blank NEL lockup sheets and unnumbered and un- dated amendments
					Security File folder: Plan for Discovery and Inspection Reports for Discovery:

0006	apprx 70			"Discovery" copy includes procedures, 7/1/66; Report of the Inspection of Safeguards Control of Nuclear Materials, 1/14/71
0007	apprx 70			"CBG"
0008	apprx 70			"UCLA Copy"
0009	apprx 70			"Discovery"
0008	apprx 110	200	Manila file folder	Letters and copies
		Corres-	pondence	
0009	apprx 60	Security	File folder	Letters, memos; NEL lockup log sheets 1981-1984
		Log &	Plans	
		Removals		
0010		Protected	File folder	Detector and lock specifications; alarm technical information; memos on lock standards (17 items)
		Information		
0011	26	Access	Red file folder	Lists of names
		Lists-	Old	
0012	apprx 100	UCLA	File folder	Including internal NEL memos, UCLA memos (PD etc.), NRC-UCLA letters, training notices, alarm status, personnel access, key-distribution policy
		Memo's	& Work	
		Orders		
0013	apprx 50	Letters	Red file folder	NRC, UCLAPD, NEL Memos re: Key use, "occurrences" 1976-1983
0014	5	UCLA	File folder	Sept., Oct. 1984
		(non NEL)		UCLA memos re: fuel shipments
0015	apprx 27	CBG	File folder	Lockup log sheets, key-status lists, access lists 1983-84, SNM inventory not 1/1/75
0016	13	S.P.	File Folder	Sec. plan pages outdated and removed
		Removals	For Blue	
		Folder		

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0017		C.E. Ashbaugh	Transmittal envelope	Door and room catalog/specif. sheets
0018	10	W. Cormier	Transmittal envelope	Xerog. copies of 59 photos
0019				Transcript of Pre- Hearing Conference, NRC In Camera Session-Los Angeles-2/9/64 pp. 3409-3569
0020				Regulatory Guide 5.59 Rev 1 Feb. 1983 Std. Format ... for Physical Security Plan
0021	63			Sample Physical Security Plan Rev 1 June 14, 1979
0022	apprx 79		Report of the Inspection of Safeguards Control.... "Original I&E" copy	
0023		150		NRC reprint of 7/24/79 Fed. Reg. publication of 10 CFR pts. 70, 73
0024	apprx 80			Report of the Inspec- tion of Safeguards Control- "Red" copy
0025	apprx 10			NRC memo- Filing of Applications for License Amendments, July 6, 1984
0026	apprx 40	Old Security Plan	Beige envelope	Plan 1/20/77 and cover letter; letters 11/30/78- Amend. 4
0027		RUC Minutes	File folder	Radiation Use Comm. 1978-1984 (14 items)
0028	apprx 100	CEA's Visitor File	File folder	Appreciation letters from NEL visitors

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0029	aprx 110	Original	Blue file folder	Pages removed from Security Plan (when replaced with amendments); old amendments #1(6/80) - #5(8/82); cover letters
0030				Old plan 1974 amendment #9
0031			Brown envelope	(1) Alarm catalog & specif. sheets (apx. 1 in. thick) (2) Packet of USPS return-receipt cards
0032	4	4	Procedures File folder	Security procedures for shipping and transport
0033			DOE File folder	Ltr. UCLA to DOE req. approv. for processing of irradiated fuel bundles 10/2/84
0034			NEL File folder	Radiation Use Comm. minutes; Decommissioning Engrg Planning Outline & Suppl.; corresp. between UCLA & NRC re decommissioning
0035			ICPP-WINCO File folder	Correspondence 9/84-12/84; receipts for shpmnts A,B,C,D (21 items)
0036			TRI-STATE File folder	UCLA map; TSMT equip. specif.; 13 items of corresp. (9/73 & Oct-Nov 1984)
0037			GE-200 File folder	GE-200 shipping container info.; 18 items of fuel receipt criteria memos, cask blueprints
0038	60	60	SECURITY LOG 11 Bound notebook	Entries dated 11/22/80-3/27/85; also notes on inside rear cover & loose items (1) 12/84 NEL key & ID list. (2) Tokamak name list.

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none	5	Paper sheets	NEL lockup log sheets 1984-85.
Inspected May 07, 1984 but not available for inventory		file cards	Key records
none		4 x 8 in.	apprx. 4 in. thick. packet.
