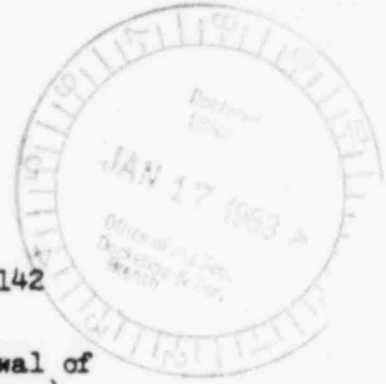


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



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 LEO BAEFSKY

I, Leo Baefsky, do declare as follows:

1. I am a Certified Public Accountant, licensed by the State of California since 1959. A statement of professional qualifications is attached.
2. I have been asked to review the data relative to the proposed renewal of the facility license for the UCLA Research Reactor from the standpoint of generally accepted accounting practices.
3. It is generally understood that accounting reports can be developed to project many different factors of information. Thus sometimes similar raw data do not digest into comparatively similar reports. Essentially the differences may not be carelessness or errors or even deliberate misconstruing, but rather may stem from different premises or different ground rules.
4. For example, the affidavit of Mr. Jim Peterson, regarding CEG Contention II, states: "A review of the submitted reactor cost statements for the years 1971 through 1981 indicates that non-academic (commercial) costs are less than two percent of the total annual reactor costs, well below the 50% criterion

specified in the pertinent NRC regulation. The vast majority of total reactor costs has been expended toward educational purposes." Mr. Peterson further states of the 1980-81 budget year that "less than \$3000 is attributable to non-academic (commercial) uses of the facility."

5. However, the non-academic commercial costs are asserted to be less than two percent of total costs only because 98% of the costs have been arbitrarily charged to the educational framework, and not because they have actually been consumed that way. In other words, cost allocation charges were not matched to plant usage; rather they were based upon original premise and thus charged according to original purpose. This is a method of accounting that may meet certain needs of management, but it is not "in accordance with accepted cost accounting principles," nor, in my opinion, is it an appropriate basis for hard dollar projections.

6. The operation is changing. In 1972, direct commercial usage was 2%; in 1980, direct commercial usage was better than 60 %.

7. Where the direct commercial usage has become larger than the total educational usage for all sources, the activity would, in my opinion, fall under the category of an "auxiliary enterprise" as defined in the statement of accounting principles in the publication, College and University Business Administration, generally recognized as among the most authoritative works in the college and university field. As indicated in Principle No. 19 of that work, "Revenues and expenditures of auxiliary enterprises should be shown separately from the insitutional operations." UCLA has not done this, but rather has charged off the costs of the auxiliary enterprise (the commercial use of the reactor) against that smaller portion of reactor services that represent the educational program.

8. A basic principle of cost accounting is that costs should follow services rendered. This is especially true where the non-profit environment is breached. If 60% of the services provided by the UCLA reactor are direct commercial work, then roughly 60%

of the costs should be allocated to the commercial activity. The matching of costs to services is essential to reaffirm the reasonable dollar accountability of funds expended. However, if cost allocation principles were applied on a reasonable basis, consistent with usage and service, the results would reflect an incredible subsidy by the University for the commercial activity.

9. The statistical reporting review reflects a constantly increasing hourly usage of the reactor for non-designated areas-- areas which are not included in the budget. However, the accounting summaries do not reflect the change in focus.

10. The statistical information shows that in 1971, direct commercial usage was one hour for the year, representing 1/2% of the total hours. In 1978, it had climbed to 95 hours, representing almost 28% of the total. In 1979, direct commercial usage was 264 hours, representing about 59% of the total; and in 1980 it was 360 hours for commercial usage, representing 60.5% of the total. This represents a very dramatic shift in activity, yet the University's current cost allocation summaries are written as though the distribution of services rendered is the same as that of ten years ago, which is not the case.

11. The environment of a college and university--a non-profit environment-- governs and colors the accounting principles and practices. The accounting practices generally followed in the non-profit area reflect information that is to disclose and reflect dollar accountability. This amounts to saying that the financial reports should show where dollars come from and where they go. The dollar accountability concept reflects the division of funds into specific activities to attain certain objectives in accordance with various regulations, restrictions, or management-imposed limitations.

12. The non-profit method of accounting, commonly designated as fund accounting, is intended to prevent resources designated for a particular use from being used for any other than that designated use. Fund accounting techniques, aside from reporting sources of resources acquired, specifically seek to report the extent to which

the pattern of usage has complied with a pre-arranged plan called the budget. Careful designation of uses of the expendable funds are required.

13. Thus, under fund accounting principles, the accepted method for non-profit organizations where an organization is not supposed to operate with the objective of earning a profit, nothing is accomplished by reflecting a profit or loss in financial reporting. But under the concept of dollar accountability (where the reporting would show the detail to which resources have been used), and in the squeeze of the severe budget cuts currently being experienced by the University, the separation of education and research from other services not part of the University's primary mission would give a measure of the value of the services, both socially in the non-profit area and economically in the commercial area.

14. If, as the University asserts, the \$337,000 annual budget for the reactor all applies to the educational and research services rendered, the 61 hours in 1978 devoted to direct instruction and NEL research, the purposes for which the reactor was originally chartered, would cost \$5,525 per hour. For 1979, the total of 32 hours of education and direct research would cost \$10,351 per hour.

15. On the other hand, if costs would be charged according to service and usage, the 1979 commercial users would be charged with approximately 60% of the \$337,000 cost, for a total of about \$202,000. However the University only charged these commercial users between \$20,000 and \$30,000. Of course, to establish reasonable billings that accurately reflect labor and other factors servicing the reactor, a review of many factors would be in order. However, the use of the reactor in the above manner undoubtedly would be a breach of the objectives of the budget. Furthermore, it could well place private companies who provide similar reactor services on a commercial basis at a competitive disadvantage, because of their inability to offer such a taxpayer subsidy to their clients.

17. In conclusion: The reactor was primarily licensed for student education and research. The emphasis has dramatically shifted and direct student education and research represent now only a small portion of the annual hours of service. However, contrary to basic accounting principles, the accounting summaries do not reflect this change. If dollar accountability is properly applied, approximately 60% of the costs of owning and operating the reactor are devoted to commercial activity, purposes not properly attributable to the primary licensed and budgeted function--education and research.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

*Leo Baefsky*  
Leo Baefsky

Executed at Los Angeles, California, this 9<sup>th</sup> day of January, 1983.

Statement of Professional Qualifications

LEO BAEFSKY

My name is Leo Baefsky. I am a Certified Public Accountant, licensed by the State of California since March 1959.

I received my Bachelor of Science degree in 1946 from UCLA in Business Administration.

For many years I was associated with Samuel J. Rothman and Associates, a firm of public accountants, first as an employee and then as a partner. I now practice my profession as a sole proprietor CPA.

I am a member of the American Institute of Certified Public Accountants and of the California Society of Certified Public Accountants.

CONTENTION III

RESPONSE TO STAFF'S ASSERTED MATERIAL FACTS



1. "The Commission's inspection and enforcement record for UCLA since 1975 shows no violations of safety significance."

DISPUTED\*

(Plotkin declaration for III, P iv, 1-20, 36; Cooperman declaration for IX, E3-5; Foster declaration for VI, E23; Monosson declaration for IV, E22)

2. "The annual reports by UCLA to the Commission show no occurrence of safety significance."

DISPUTED\*

(Plotkin declaration for III, P iv, 24-29)

3. "All notices of violation issued by the Office of Inspection and Enforcement to UCLA cite minor deficiencies and infractions without safety significance."

DISPUTED\*

(citations for 1 above, plus Monosson declaration for IV, P 2-13, 19, 22-23; Lyon declaration for VI, P 4-6; furthermore, the citation given by Applicant for this "fact" only refers to the post-1975 period.)

4. "UCLA has taken adequate corrective actions in response to all notices of violations."

DISPUTED\*

(Plotkin for III, E21-23-37, 39; Foster declaration for P 26; Monosson declaration for IV, E4-13; Lyon declaration for VI, E6-8, 20; again, Staff citation actually only refers to period 1976-1981)

5. "The Commission's records concerning operation of the UCLA research reactor show no evidence of inadequate management or administration which raise a concern for public health and safety."

DISPUTED\*

(Lyon declaration for VI, P 4-5, 18, 20; Monosson declaration for IV, E2-22; Cooperman declaration for IX, P 2-5; Foster declaration for VI, E23; Plotkin for III, P iv, 1-23, 29-36, 38)

\* In addition to the declarations cited, CBG contends that the inspection reports and annual reports referred to in the general conclusory statements in the Staff affidavits contradict the conclusion put forth by the affiants about those documents.

6. "Unlicensed visitors to the UCLA research reactor have been allowed to manipulate the reactor controls only under the direct supervision of licensed operators as permitted by 10 CFR 55.4(d)."

THIS IS A LEGAL CONCLUSION. ONE WHICH WE DISPUTE.

(Inspection Report, July 28, 1981, cover letter Johnson to Wegst, "We have concluded that your actions may not be in strict compliance with NRC rules and regulations."; Plotkin declaration for III, E14; letter, March 22, 1966, R.L. Doan of AEC to Craig Smith of UCLA, "The proposed operation of your reactor by visitors would be in violation of Title 10 CFR Parts 50 and 55, which require that manipulation of the controls of a facility be performed by a licensed operator or senior operator. We do not consider it advisable to waive these requirements in view of the possibility, however slight, of sustaining damage to the reactor with members of the public present in the facility.")

7. "The UCLA reactor facility has been inspected at least annually by NRC inspectors for more than 20 years."

NOT DISPUTED