

10/20/82

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
SOUTHERN CALIFORNIA EDISON COMPANY,)	Docket Nos. 50-361 OL
<u>ET AL.</u>)	50-362 OL
)	
(San Onofre Nuclear Generating)	
Station, Units 2 and 3))	

NRC STAFF'S RESPONSE IN SUPPORT
OF APPLICANTS' OBJECTIONS TO PREHEARING
MEMORANDUM AND ORDER RE MEDICAL ARRANGEMENTS

I. INTRODUCTION

On October 8, 1982, Applicants filed "Applicants' Objections to Prehearing Memorandum and Order re Medical Arrangements (Objections), requesting that the Atomic Safety and Licensing Board (Licensing Board) revise its Memorandum and Order (Setting Medical Arrangements Question for Hearing), dated October 1, 1982 (Order). Therein, Applicants ask that the hearing directed by the Licensing Board in its Order be postponed pending guidance from the Commission likely to be forthcoming through determination of the certified issues now before it.

By leave of the Licensing Board granted during the conference call between the Licensing Board Chairman and counsel for all parties (and counsel for FEMA) on October 13, 1982, the Staff submits its response to Applicants' Objections.

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Certified By _____

DESIGNATED ORIGINAL

Certified By Kenn Snyper

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PDR ADOCK 05000361
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II. BACKGROUND

The background of this proceeding as it relates to the medical services issues has been adequately set forth in Applicants' Objections and will not be restated herein.^{1/} We would note, however, that, in response to the Licensing Board's August 6, 1982 Memorandum and Order, the Staff urged that the Licensing Board certify a question regarding the scope of 10 CFR §50.47(b)(12) prior to conducting any further hearing. Pending resolution of such question, the Staff did not recommend establishing any schedule with respect to further events regarding this issue.^{2/}

III. DISCUSSION

Applicants' Objections are based on their position that the hearing directed by the Licensing Board's October 1, 1982 Order exceeds, in several respects, the bounds of what was initially contemplated by the Initial Decision. First, Applicants argue that the Order requires development of a probabilistic risk assessment for the purpose of identifying a single, specific accident that would "overwhelm" local resources. (Objections at 5-6; see e.g. Order at 5). The Staff agrees with Applicants that as a general matter the requirement for identification of a specific accident runs counter to the explicit guidance provided by NUREG-0654 (at 6-7) and by the Commission in the Statement of Considerations accompanying promul-

^{1/} Applicants' Objections at 2-4.

^{2/} See NRC Staff's Response to Licensing Board's Memorandum and Order (Concerning Whether Further Proceedings on the Adequacy of Offsite Planning for Medical Services Should be Conducted), September 3, 1982.

gation of the current emergency planning regulations (see, 45 Fed. Reg. 55402 at 55407, August 19, 1980). Thus, in regard to the use of a probabilistic risk analysis for this purpose, such undertaking is not called for by the emergency planning regulations. The development of the emergency planning regulations was predicted on a generic evaluation of a spectrum of accidents as reflected in NUREG-0396, Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plant. (See, NUREG-0396 at 4-6, and Appendix I, Appendix II at II-8-II-13 and Appendix III at III-1-III-5).

The Applicants "object to being required to develop a specific accident and its probabilities that would 'overwhelm' the local resources. Such a requirement," they assert, "greatly exceeds the Commission's regulations." (Objections at 6). The Commission's policy regarding this matter lends support to the Applicants' complaint. For proceedings such as San Onofre, the Commission directed that the Staff initiate assessments of accidents reflecting a reasoned consideration of the associated environmental risks, including treatment of the probabilities of occurrence and consequences. Statement of Interim Policy, Nuclear Power Plant Accidents Under the National Environmental Policy Act of 1969, 45 Fed. Reg. 40101. The Staff has satisfied its obligation in this regard, as set forth in Chapter 7 of the Final Environmental Statement, NUREG-0490 (Staff Exhibit No. 4).^{3/}

^{3/} With respect to use of the assessment presented in the Final Environmental Statement, it bears repetition that the Staff has indicated reservations concerning its use in connection with emergency planning (see, Rood, Tr. 10,322 - 10,340, 10,356 - 10,357).

Applicants' second objection relates to consideration of San Onofre Unit 1 in connection with the subject issue. (See, Order at 5). The Staff concurs with the Applicants' observation that it is inappropriate, given the jurisdiction of this Licensing Board as defined in the original Notice of Hearing regarding this proceeding, 42 Fed. Reg. 57575; see also, 42 Fed. Reg. 18460, to entertain consideration of San Onofre Unit 1. Pursuant to the foregoing Notice, this Licensing Board's jurisdiction is confined to Units 2 and 3. Furthermore, there is no suggestion that an accident at Unit 1 would initiate an accident at either Unit 2 or 3, see, e.g. 10 CFR §100.11(b), so as to warrant, on a technical basis, consideration of the former.

Finally, the Staff notes its agreement with Applicants' objection respecting the Licensing Board's request for a definition of the phrase "contaminated injured individuals." (Order at 6). This specific question is pending before the Commission in the context of the certified questions. See, CLI-82-27. The Licensing Board's question is duplicative of that question and further briefing of it would not serve any discernable purpose.

With respect to the dates set by the Board for the submission of testimony and commencement of a hearing (Order at 7-8), all participants noted their concerns during the conference call between the Licensing Board Chairman and counsel for the parties (and counsel for FEMA), held on October 13, 1982. The Staff does not object to extending the schedule to permit all participants to prepare thorough, meaningful testimony.

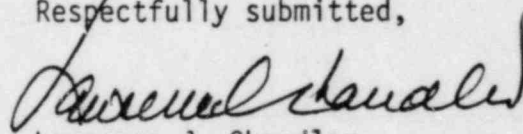
The Staff is concerned that any further evidentiary consideration of this issue may result in an unwarranted expenditure of resources depending on the Commission's resolution of the issues certified. The Licensing Board

has also recognized this concern in its Memorandum and Order (Certifying a Question to the Commission), dated October 5, 1982 (at 3). Accordingly, while the Staff recommends that the Order be revised, we supports the Applicants' recommendation that further proceedings await Commission guidance.

IV. CONCLUSION

For the foregoing reasons, the Staff urges that the Licensing Board revise its Order to account the concerns discussed. In any event, however, the Staff would urge that scheduling of any further hearing (and the prior submittal of testimony) await guidance from the Commission in terms of a resolution of the certified issues.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Lawrence J. Chandler", written in a cursive style.

Lawrence J. Chandler
Deputy Assistant Chief Hearing Counsel

Dated in Bethesda, Maryland
this 20th day October 1982

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Docket Nos. 50-361 OL
50-362 OL

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE IN SUPPORT OF APPLICANTS' OBJECTIONS TO PREHEARING MEMORANDUM AND ORDER RE MEDICAL ARRANGEMENTS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 20th day of October, 1982.

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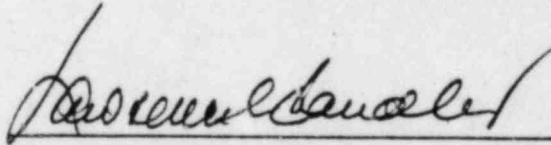
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