

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD DEC -3 P2:17

Before Administrative Judges;

John H Frye, III, Chairman

Dr. Emmeth A. Luebke

Dr. Oscar H. Paris

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of:

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA)

(UCLA Research Reactor)

SERVED DEC 3 1982

Docket No. 50-142-OL  
(Proposed Renewal of  
Facility License)

December 2, 1982

MEMORANDUM AND ORDER

(Memorializing Conference Calls  
and Ruling on Discovery Disputes)

Pursuant to a schedule promulgated in the Board's Memorandum and Order of November 10, 1982, UCLA and CBG have been engaged in discovery on Contention XXI (Emergency Planning). In the course of that discovery, certain disputes have developed which were first considered in a conference call of November 24 and argued in a second conference call of December 1, 1982. Because these disputes involve only UCLA and CBG, the other parties to the proceeding did not participate. At the close of the December 1 conference, both UCLA and CBG agreed to submit the disputes for resolution without further written pleadings.

The disputes, which center on CBG's November 12, 1982, request for production of documents, to which UCLA responded on November 24, 1982, are detailed below.

1. Requests 18 and 19 sought records of inspections conducted at UCLA by local, state, or federal fire officials and records of fires. These requests were not limited to Boelter Hall, the building housing the reactor, but covered the entire UCLA campus.

UCLA objects on the grounds of relevancy and asserts that the requests are overbroad and burdensome. In the telephone conference, UCLA's representative indicated that the documents sought, to the extent that they are available, are filed in individual building files. Because there are approximately 200 buildings on campus, the search involved would be extensive.

CBG asserts a need for the documents in order to evaluate the response capability of the Los Angeles Fire Department, whose units would respond to a fire at the Nuclear Energy Laboratory, and to determine whether outstanding disputes between the Fire Department and UCLA might hinder that response.

In the course of the conference, CBG indicated that it was also attempting to obtain these documents from the Los Angeles Fire Department, and stated that UCLA's indication that it had no objection to this course to the Fire Department might facilitate a favorable response. Because UCLA's has no objection to production by the Fire Department, its representative agreed to indicate to the appropriate Fire Department officials that it did not object

to their production of these documents. UCLA may of course assert an objection on the grounds of relevancy should CBG seek to introduce these documents in evidence. CBG will thus pursue this course rather than seeking these documents from UCLA.

2. Requests 25, 26, 27 and 38 sought records pertaining to a fire in a chemical storage area of Young Hall, the building apparently housing the chemistry department. UCLA again objects on grounds of relevancy, asserting that this discovery is not designed to lead to the discovery of admissible evidence.

Similarly, CBG's reasons for wanting these documents are essentially the same as those underlying its requests for fire inspection and fire records. CBG wishes to evaluate the response capability of the Los Angeles Fire Department and how any disputes with the University might affect that capability.

We cannot conclude that CBG's rationale is so far afield from the subject matter of this proceeding as to be unlikely to lead to the discovery of admissible evidence. CBG's argument presents the possibility that the Fire Department's experience in the Young Hall fire may influence its reaction to any fires which occur in the Nuclear Energy Laboratory. CBG is entitled to evaluate this possibility; the documents are to be produced.

3. Request 21 and 22 sought the Radiation Use and Radiation Safety Committees' minutes of meetings conducted during 1982. UCLA produced an expurgated copy of minutes of the Use Committee and refused to produce the minutes of the Safety Committee. UCLA's refusal is based again on the ground that the information

withheld is not likely to lead to the discovery of admissible evidence; UCLA maintains that the information withheld is simply irrelevant to the fire issue and that discovery on other issues is closed.

CBG wishes to review the documents to determine their relevancy for itself.

Relevancy, like beauty, is often in the eye of the beholder. CBG is entitled to review these documents. They are to be produced in their entirety.

4. Request 36 sought the "internal audit" for 1981. This audit is apparently required by the technical specifications contained in UCLA's license. UCLA indicated that the audit is still in progress and that the audit report is expected to be available in January, 1983. UCLA will notify CBG and the Board when the report has been completed and whether it objects to producing it.

5. A dispute exists with respect to the charges UCLA has imposed on CBG for copying documents. UCLA and CBG are seeking to resolve this dispute. The Board indicated that it did not believe that copying charges in excess of UCLA's actual copying cost could be justified.

In consideration of the foregoing, it is this 2nd day of December, 1982

ORDERED

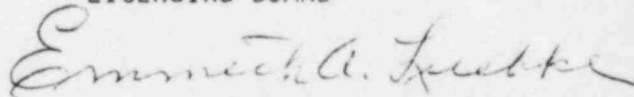
1. UCLA is to convey to the appropriate officials of the Los Angeles Fire Department that it does not object to CBG's

request to the Fire Department to produce the documents sought by Requests 18 and 19;

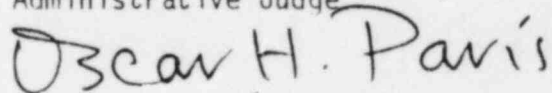
2. UCLA is to produce for inspection and copying the documents sought by Requests 21, 22, 25, 26, 27 and 38; and

3. UCLA is to advise CBG and the Board when the document sought by Request 36 becomes available and whether it objects to producing it.

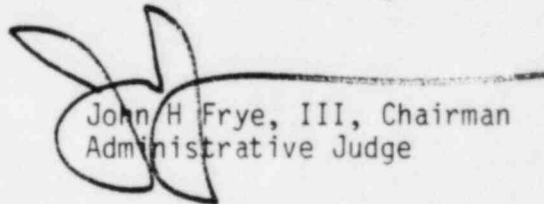
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