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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD '94 JUN 22 P5:13

In the Matter of)	Docket No. 50-312-DCOM
SACRAMENTO MUNICIPAL UTILITY DISTRICT)	(Decommissioning Plan)
(Rancho Seco Nuclear Generating Station))	ASLBP No. 91-677-01-DCOM-R

OFFICE OF SECRETARY
DOCKETING

INTERVENOR ECO'S RESPONSES AND OBJECTIONS TO
LICENSEE'S FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS TO ECO

Pursuant to the Order of the Atomic Safety and Licensing Board ("ASLB") during the telephone conference of June 15, 1994, Intervenor Environmental and Resources Conservation Organization ("ECO") hereby responds to the Sacramento Municipal Utility District ("SMUD") interrogatories and requests for production of documents identified below.

INTERROGATORIES

A. GENERAL INTERROGATORIES

1. Identify each member of ECO who has experience in nuclear power plant decommissioning and describe such experience.

ECO Objection(s): It is irrelevant to the issues before the ASLB to identify which ECO members have experience in nuclear power plant decommissioning beyond those persons identified, and to be identified in the future, pursuant to General Interrogatories 11 and 12 as witnesses. Further, the overly

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4. Identify all communications between ECO and any member of ECO concerning:

- a. the decommissioning of Rancho Seco;
- b. funding or financing for Rancho Seco's decommissioning;
- c. the District's financial condition.

ECO Objection(s): It is irrelevant to identify all such communications members have with each other and it would be impossible for ECO to be charged with knowledge of such communications. ECO also notes that ECO does not exist beyond its members for the purposes of sending or receiving communications. This Interrogatory is overly broad, burdensome and oppressive and cannot lead to any relevant information that cannot be obtained by proper discovery. Further, this inquiry is a transparent effort to violate ECO's members' rights to associate freely without disclosure of their identities which rights are protected by the First and Fourteenth Amendments to the U.S. Constitution. E.g., NAACP v. Alabama, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170, 2 L.Ed.2d 1488 (1958); Buckley v. Valeo, 424 U.S. 1, 14-17, 96 S. Ct. 612, 632-33, 46 L.Ed.2d 659 (1976). To the extent that this Interrogatory may seek communications between ECO members and ECO counsel in this litigation, such communications to the extent they exist are protected by the attorney-client and/or work product privileges.

5. Identify all communications, other than filings before the NRC, between ECO and persons other than ECO's members concerning:
- a. the decommissioning of Rancho Seco;
 - b. funding or financing for Rancho Seco's decommissioning;
 - c. the District's financial condition.

ECO Objection(s): This Interrogatory is even less relevant, more oppressive, more overly broad, and more burdensome than General Interrogatory 4. Further, this inquiry is a transparent effort to violate ECO's members' rights and the rights of others to associate freely without disclosure of their identities which rights are protected by the First and Fourteenth Amendments to the U.S. Constitution. E.g., NAACP v. Alabama, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170, 2 L.Ed.2d 1488 (1958); Buckley v. Valeo, 424 U.S. 1, 14-17, 96 S. Ct. 612, 632-33, 46 L.Ed.2d 659 (1976).

6. Identify each person known to ECO to have first-hand knowledge of the facts alleged in and upon whom ECO relied in formulating the Admitted Funding Contention Bases.

- a. With respect to each such person, state those facts of which the person has first hand knowledge and on which ECO relied; and
- b. Identify the specific Funding Contention Basis which ECO contends such facts support.

ECO Objection(s): This question is irrelevant because the facts alleged were based on cited documents (second-hand, not first hand, sources). This interrogatory proceeds from a

mistaken premise, namely, that ECO relied upon persons in formulating its contentions. ECO relied on the documents cited and inferences to be drawn from them in formulating its contentions. Moreover, it is redundant to the information sought by Specific Interrogatories. The only relevant inquiry at this time would be to ECO's proposed witness(es) in the forthcoming proceeding which is addressed at General Interrogatories 11 and 12. Further, this inquiry is a transparent effort to violate ECO's members' rights and the rights of others to associate freely without disclosure of their identities which are protected by the First and Fourteenth Amendments to the U.S. Constitution. E.g., NAACP v. Alabama, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170, 2 L.Ed.2d 1488 (1958); Buckley v. Valeo, 424 U.S. 1, 14-17, 96 S. Ct. 612, 632-33, 46 L.Ed.2d 659 (1976).

7. Who drafted ECO's Contention on Licensee's Proposed Decommissioning Funding Plan (March 22, 1994)?^{*/}

ECO Objection(s): The information sought by this interrogatory is irrelevant to the issues currently before the ASLB. The issues currently before the ASLB relate to the adequacy of SMUD's financial planning for its proposed Decommissioning Plan and the resolution of those issues will depend upon evidence introduced by the parties (including ECO

^{*/} In all cases, ECO assumes that SMUD intended the date to be March 22, 1993.

witnesses sought and provided pursuant to General Interrogatories 11 and 12), not upon the drafting of the contention. Moreover, the information sought by this interrogatory is also protected by the attorney-client and/or work product privileges.

8. Identify all persons who reviewed ECO's Contention on Licensee's Proposed Decommissioning Funding Plan (March 22, 1994) before it was filed in this proceeding.

ECO Objection(s): The information sought by this interrogatory is irrelevant to the issues currently before the ASLB. The issues currently before the ASLB relate to the adequacy of SMUD's financial planning for its proposed Decommissioning Plan and the resolution of those issues will depend upon evidence introduced by the parties. The only relevant inquiry is to ECO's proposed witnesses in the upcoming proceedings which is provided in response to General Interrogatories 11 and 12. Moreover, the information sought by this interrogatory is also protected by the attorney-client and/or work product privileges.

9. Identify each person who prepares, or assists in preparing, the answers to these general and specific interrogatories.

ECO Response: The "ECO Responses" are made by Dr. A. David Rossin with the advice of counsel.

10. Identify each person who provides information upon which ECO relies in answering these general and specific interrogatories.

a. Identify all information which was provided by such person and the specific interrogatory response in which such information is contained.

ECO Objection(s): This Interrogatory is duplicative of General Interrogatory 9 and unduly burdensome. In answering each Interrogatory, ECO will identify the sources upon which it relies. The oath of the person providing responses and the signature of the attorney providing objections also provide the appropriate identification for the sources of the providers of information. Insofar as this Interrogatory seeks the identification of the authors of documents upon which ECO relies, those documents provide such identification to the best of ECO's current ability to do so.

11. Identify each person whom ECO intends to call as an expert witness in this proceeding. With respect to each such person:

a. Identify the specific Funding Contention Basis on which the person will testify;

b. Identify the subject matter to which such person is expected to testify;

c. Identify fully all educational and professional experience upon which ECO will rely to qualify such person as an expert.

ECO Response: At this time, ECO cannot identify all persons which it intends to call as expert witnesses. ECO expects to identify expert and hostile expert witnesses in the course of discovery. However, in order to cooperate with the course of discovery, ECO states at this time that it expects to call Dr. A. David Rossin as an expert witness as to all of the subject matter of each Funding Contention Basis. Dr. Rossin's qualifications and experience are as follows:

On June 24, 1993, Dr. A. David Rossin completed his one-year term as President of the American Nuclear Society (ANS). He is president of Rossin and Associates, his own independent consulting company. The company advises utility companies, trade associations, National Laboratories and universities on nuclear and advanced energy technology, energy policy, non-proliferation and other electricity-related issues.

Dr. Rossin and his organization concentrate on public understanding of energy issues, including nuclear power safety, risks related to all kinds of energy alternatives, risks related to shortages of energy supply, nuclear proliferation and safeguards, reactor decommissioning and radiation effects -- both on people and on materials. He is a technical consultant in these areas, as well as in their relation to energy strategy planning, and economic analysis of supply and demand scenarios, including alternative energy sources and the impact of life extension and decommissioning of major generating facilities. He is also an expert and advocate

on the potential of electric vehicles for the future. He writes extensively on these subjects and is a frequent speaker at conferences and on radio and television.

Dr. Rossin is a Director of Pacific Automated Imaging Corp., and senior technical advisor to the Potomac Communications Group of Washington, D.C., Radiance Services, Inc., and Eeonyx Corp. Until 1994, he was Chairman of the Board of Governors for the Robotics for Advanced Reactors Program at ORNL and Chairman of American Engineering and Technology Corp.

He is Visiting Scientist in Nuclear Engineering at the University of California, Berkeley, and with Prof. T. Kenneth Fowler published a book titled "Conversations on Electricity and the Future - Findings of an International Seminar and Lessons from a Year of Surprises," Univ. California Printing, (June 1991).

Dr. Rossin was Assistant Secretary for Nuclear Energy, U.S. Department of Energy, 1986-1987. In that office, he had responsibility for the nation's Advanced Light Water Reactor program, Integral Fast Reactor and Gas-Cooled Reactor research programs, the \$1.2 billion uranium enrichment enterprise, the quarter of a billion dollar per year site cleanup and restoration program, including the decommissioning of the Shippingport reactor and the reprocessing and low-level waste disposal facilities at the West Valley, NY, site, DOE's Congressionally mandated state assistance program for low-level waste disposal, production of radioisotope power sources for space and other applications,

nuclear reactor licensing reform, and various international activities.

He was Director of the Nuclear Safety Analysis Center (NSAC) at EPRI 1981-86. NSAC developed the program of significant events analysis and Nuclear Notepad, both of which are now managed by INPO. Dr. Rossin directed reactor accident analysis and safety studies that NSAC performed on every type of U.S. licensed commercial reactor. During his tenure, NSAC published over 80 technical reports, including a full nuclear plant probabilistic safety assessment that served as a model for many such projects during the years to follow.

From 1972 to 1981 he was the Commonwealth Edison Company, Chicago, IL, where he served as Assistant Director of Environmental Affairs, System Nuclear Research Engineer, and Director of Research. His duties included power plant siting, internal safety reviews of power plants, nuclear plant licensing, and supervision of the preparation of the Environmental Report for two two-unit 2200 MWe nuclear power stations. He worked directly with the Vice-Chairman of the company on the analyses, testimony and responses on system capacity, reactor decommissioning, rate cases and testimony before Congress, the Illinois Commerce Commission, and for numerous public presentations and hearings.

He chaired the company's Nuclear Waste Task Force, which was charged with planning for long-term spent fuel storage, low-level waste management, and corporate participation in national committees on both low-level and high-level nuclear waste. As

Director of Research, he served as General Manager of Commonwealth Research Corp. which involved the company's internal patent policy and reviews, and management of research projects on generation, radiation protection and data analysis, environmental control, electrical distribution and demand-side management. He represented Commonwealth Edison on EPRI and industry advisory committees on reactor safety, fuels and materials, environmental affairs and nuclear licensing.

At Argonne (1955-1972), he designed the shielding for several experimental reactors, wrote the safety analysis report for the SL-1 reactor, and served on the Argonne Reactor Safety Review committee for ten years, and chaired it for two years. His research on neutron radiation effects on materials led to the spectrum-dependent method of reporting neutron fluence which can relate test irradiations of embrittlement of nuclear reactor pressure vessel steel. This methodology has been adopted world wide. He has published extensively, and has presented papers at conferences in Europe, Asia, Africa and Australia, as well as in Mexico, Canada and the United States.

A Charter Member of ANS, he has served on its Board of Directors and Executive Committee, was Chairman of the ANS Finance and Public Policy Committees, and was Chairman of the Chicago Section of ANS. In 1982, he was voted Electric Industry Man of the Year "...for his efforts to improve public understanding of nuclear, energy and environmental issues."

A native of Cleveland, Ohio, Dr. Rossin received his B.S. degree in engineering physics from Cornell University in 1954; his M.S. degree in nuclear engineering from the Massachusetts Institute of Technology in 1955; the Master in Business Administration from Northwestern University in 1963; and his Ph.D. degree in metallurgy from Case Institute of Technology (now Case Western Reserve University) in 1966.

Dr. Rossin and his wife, Sandy, have two daughters. Laura (Mrs. Peter VanZandt) is a graduate of Cornell University and received her Masters degree from the Graduate School of Business at Boston College in May, 1993. She was an account executive with Buyer Advertising Co. in Newton, MA, worked with the Business Consortium of Boston, and is currently an executive assistant with the Scudder Group. Elizabeth received her degree in Telecommunications Management from the S.I. Newhouse School at Syracuse University in 1991. She is a Project Manager at Research Holdings, Inc. in San Francisco. Sandy Rossin is Secretary/Treasurer of Rossin and Associates, holds a contract as a database manager at Hewlett-Packard, and was Assistant to the President of ANS for a year.

12. Identify each person whom ECO intends to call as a fact witness in this proceeding. With respect to each such person:

- a. Identify the specific Funding Contention Basis on which the person will testify; and

b. Identify the subject matter to which such person is expected to testify.

ECO Response: At this time, ECO cannot identify all persons upon which it intends to call as expert witnesses. ECO expects to identify fact and hostile fact witnesses in the course of discovery. However, in order to cooperate with the course of discovery, ECO states at this time that it expects to call Dr. A. David Rossin as a fact witness as to all of the subject matter of each Funding Contention Basis.

13. Identify all documents, including relevant page citations, which ECO relied upon in formulating the Admitted Funding Contention Bases. With respect to each such document, identify the specific Funding Contention Basis to which the document relates.

ECO Objection(s): This Interrogatory is duplicative and unduly burdensome. The Funding Contention Bases provided the document citations upon which they relied. There is nothing to be gained by repeating information already furnished.

14. Identify all documents, including relevant page citations, upon which ECO relies in answering any of the general or specific interrogatories herein. With respect to each such document, identify each interrogatory response to which the document relates.

ECO Objection(s): This Interrogatory is duplicative and unduly burdensome with no arguable benefit to SMUD. ECO identifies herein the documents, including relevant page

citations, upon which it relies in answering the general and specific interrogatories in the context of the respective interrogatory. Nothing would be served by repeating that information here.

15. Identify any other source of information, including communications, which is used in answering any of the specific or general interrogatories herein. With respect to each such source or communication, identify each specific interrogatory response to which the source or communication relates.

ECO Objection(s): This Interrogatory is repetitive of, and redundant to, General Interrogatory 14 as well as the other Interrogatories. To the extent that ECO "relies on" or "uses" information in responding to these interrogatories, ECO provides the appropriate reference(s) in the context of the respective interrogatory. Independently, the objections to General Interrogatory 14 also apply here, that is: This Interrogatory is duplicative and unduly burdensome with no arguable benefit to SMUD. ECO identifies herein the documents, including relevant page citations, upon which it relies in answering the general and specific interrogatories in the context of the respective interrogatory. Nothing would be served by repeating that information here.

16. Identify all documents which ECO intends to offer as exhibits during this proceeding. With respect to each such document,

- a. provide the relevant page citations, and
- b. identify each specific Funding Contention Basis to which the document pertains.

ECO Response: ECO has not decided what documents it intends to offer as exhibits in this proceeding.

B. SPECIFIC INTERROGATORIES

1. Have you reviewed Revision 1 to the Rancho Seco Independent Spent Fuel Storage Installation License Application and Safety Analysis Report, filed with the NRC on October 27, 1993?

ECO Response: Yes, except for Volume IV which is not yet available to ECO. In this context ECO notes, according to its records, that SMUD did not serve or otherwise furnish ECO with Revision 1.

2. Do you still contend that the design of the District's ISFSI is unavailable, as alleged in Funding Contention Basis 2?

- a. If you still contend that the design of the District's ISFSI is unavailable, identify specifically and in detail the precise information on ISFSI design that you contend is needed in order to produce a reliable decommissioning funding estimate.

ECO Response: Revision 1 was not submitted to the NRC until more than seven months after Funding Contention Basis 2 was filed. The issue has now become not whether SMUD has a proposed design for ISFSI before the NRC, but whether the Revision 1 design will prove (a) licensable (b) as proposed

(c) on the schedule planned and (d) at the cost now estimated. ECO expects to be able to identify with specificity those issues after SMUD responds to ECO's discovery. ECO did not rely on information related to this Interrogatory in preparing its contention bases, much less its admitted contention bases. Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

3. Are you familiar with the NUHOMS design?

ECO Response: ECO is familiar with the NUHOMS "concept" for on-site storage. Although, ECO believes that dry spent fuel storage can be accomplished safely, ECO cannot be familiar with the NUHOMS design proposed by SMUD partly because essential parts of that design have been withheld from public disclosure (DAGMNUC 93-135 (10/27/93)) and partly because the particular design proposed by SMUD includes a first-of-a-kind applications of multi-purpose transportable cask system that has not been fully designed, or licensed.

4. Do you agree that the NUHOMS design is well established?

ECO Response: No. The NUHOMS concept has been used before, but the particular design proposed by SMUD has even been described as a "unique" demonstration project. B. Tompkins, "On-site dry spent fuel storage: Becoming more of a reality," 36 Nuclear News No. 15, 35, 40 col. 3 (December 1993).

5. Do you still contend that contract pricing information for the proposed ISFSI is unavailable, as alleged in Funding Contention Basis 2?

a. If you still contend that contract pricing information for the ISFSI is unavailable, identify specifically the precise prices or costs that must be specified to produce a reliable decommissioning funding estimate.

ECO Response: Relevant contract pricing information is currently not in the possession of ECO. ECO will seek such information in discovery of SMUD. Such information would include contracts which SMUD has in place or proposes as well as an evaluation of the escalation, delays, changes and licensability clauses of such contracts and the impacts of a DoE determination that the SMUD system eventually licensed (Revision 1 as proposed, modified or a successor design) is "non-standard" pursuant to the 10 CFR 961 contract. ECO did not rely on information related to this Interrogatory in preparing its contention bases much less its admitted contention bases. Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

6. Do you maintain that spent fuel storage costs are part of decommissioning costs? If so,

a. state the basis of this position;

- b. identify all documents that support this position; and
- c. state whether this position is supported by the nuclear industry.

ECO Response: Yes. Not only are spent fuel storage costs (including, in this case, the ISFSI) obviously a part of the SAFSTOR option as proposed but SMUD has also conceded this proposition in its own presentations of the Decommissioning Funding Plan. E.g., Rancho Seco Nuclear Generating Station Decommissioning Plan Para. 5.1.2.

7. Do you contend that the cost of an ISFSI using the NUHOMS design cannot be reasonably estimated?

ECO Response: The issue is not whether the cost of the proposed "unique" demonstration project design currently proposed by SMUD can be reasonably estimated. The issue is whether SMUD has made a reasonable estimate of the cost of this innovative, pioneering effort against a background of evolving NRC regulation and not yet established DoE acceptance requirements and scheduling. ECO expects to clarify through discovery whether SMUD's excessive optimism or lack of realism (which caused past mistakes as to licensability, costs and schedules) continues to compromise the current estimates. ECO did not rely on information related to the NUHOMS design in preparing its contention bases much less its admitted contention bases. Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with

respect to this matter which SMUD appears to consider relevant.

8. Provide your most reasonable estimate of the cost of installing an ISFSI (using the NUHOMS design) at Rancho Seco.

ECO Objection(s): This Interrogatory has a false premise in assuming that the current proposed design is licensable as proposed on the schedule assumed. ECO objects to answering this Interrogatory until after it has received the fruits of its right of first discovery. Duke Power Co. (Catawba Nuclear Stations, Units 1 and 2), LBP-82-116, 16 NRC 1937, 1944-46 (December 22, 1982). ECO did not rely on information related to the NUHOMS design in preparing its contention bases much less its admitted contention bases. Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

9. Identify all documents that discuss or relate to the cost of installing an ISFSI at Rancho Seco.

ECO Objection(s): This Interrogatory is overly broad, and duplicative of documents already identified by ECO. Moreover, ECO asserts its right of first discovery to defer an identification of further documents until after ECO has first discovered those documents from SMUD. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this

NUHOMS design in preparing its contention bases much less its admitted contention bases. Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

10. Do you contend that the ISFSI at Rancho Seco cannot be completed by 1998? If you do contend that the ISFSI at Rancho Seco cannot be completed by 1998,

- a. identify each specific fact that makes such completion impossible; and
- b. identify all documents that support your position.

ECO Response: The issue is not one of impossibility but of reasonable probability. The Decommissioning Funding Plan should fund on a prudent basis to provide for likely future costs conservatively, not on least cost and optimistic schedule assumptions for licensing, construction and completion of loading. ECO contends that there is a significant likelihood that an ISFSI as currently proposed by SMUD will not be completed, much less filed, by 1998 for several reasons: First, since parts of the system involve a first-of-a-kind design, it is likely to take longer than the three-year licensing review required for a site-specific license of an established non-multi-purpose design. Tompkins, op. cit., at 39 col. 1. Second, when SMUD originally submitted its Decommissioning Plan, the Plan was premised in

relevant part on the ISFSI being licensed, constructed and fully loaded by 1994. Third, after SMUD was forced to withdraw its original ISFSI design, on July 15, 1992 at a meeting with the NRC staff, it premised completion of fuel loading by January 1998 on (a) submission of Revision 1 for NRC review "shortly after the first of the year" in 1993, (b) publication of the ISFSI Environmental Assessment by April 1993, and (c) receipt of the ISFSI license by December 1993. See Handout identified by Summary of Meeting prepared by John T. Moulton, Project Engineer, Docket 50-312 (August 5, 1992). None of these critical path premises have occurred as yet, much less even close to the dates assumed: Revision 1 was not submitted until October 27, 1993 (about 10 months delay), the Environmental Assessment had not been published when SMUD wrote the NRC urging action as of April 20, 1994 (MPC&D 94-033), a delay of over 13 months at this date. And the ISFSI has not yet received any license. These slippages indicate that, according to SMUD's own critical path estimates, insufficient time remains to load the ISFSI by the end of 1998. ECO expects that discovery will yield yet further evidence that the 1998 schedule lacks realism. ECO did not rely on information related to this Interrogatory in preparing its contention bases much less its admitted contention bases, beyond information already provided therein and herein and therefore cannot be expected to have had the information

sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

11. Do you contend that the ISFSI at Rancho Seco likely will not be completed in 1998? If you contend that the ISFSI at Rancho Seco likely will not be completed by 1998,

- a. identify each specific fact that makes such completion by 1998 unlikely, and
- b. identify all documents that support your position.

ECO Response: ECO contends that there is more than a significant likelihood that an ISFSI as currently proposed by SMUD will not be completed, much less filled, by 1998 for several reasons: First, since parts of the system involve a first-of-a-kind design, it is likely to take longer than the three-year licensing review required for a site-specific license of an established non-multi-purpose design. Tompkins, op. cit., at 39 col 1. Second, when SMUD originally submitted its Decommissioning Plan, the Plan was premised in relevant part on the ISFSI being licensed, constructed and fully loaded by 1994. The gross failure of this prediction should lead to conservatism in financial and other planning. Third, after SMUD was forced to withdraw its original ISFSI design, on July 15, 1992 at a meeting with the NRC staff it premised completion of fuel loading by January 1998 on (a) submission of Revision 1 for NRC review "shortly after the first of the year" in 1993, (b) publication of the ISFSI Environmental

Assessment by April 1993, and (c) receipt of the ISFSI license by December 1993. See Handout identified by Summary of Meeting prepared by John T. Moulton, Project Engineer, Docket 50-312 (August 5, 1992). More of these critical path premises have occurred as yet, much less even close to the dates assumed: Revision 1 was not submitted until October 27, 1993 (about 10 months delay), the Environmental Assessment had not been published when SMUD wrote the NRC urging action as of April 20, 1994 (MPC&D 94-033), a delay of over 13 months at this date, and no license for the ISFSI has yet been issued. And the ISFSI has not yet received any license. These slippages indicate that, according to SMUD's own critical path estimates, insufficient time remains to load the ISFSI by the end of 1998. ECO expects that discovery will yield yet further evidence that the 1998 schedule lacks current realism. ECO did not rely on information related to this Interrogatory in preparing its contention bases, much less its admitted contention bases, in ECO's Contention beyond information already provided therein and therefore cannot be expected to have had the information sought (beyond that identified above) prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

12. Do you contend that there is insufficient information to estimate the amount of time it takes to license and construct an ISFSI using the NUHOMS design?

ECO Response: ECO contends that, since the design proffered employs a first-of-a-kind multi-purpose cask design, there may be insufficient information to even assure that it is licensable much less the amount of time NRC review may take and what changes might be required to obtain licenses. However, the significant point is that SMUD should be currently including, in its financial plan, funds for the operation of the spent fuel pool for 1998 and later.

13. How long has it taken to license and construct an ISFSI using the NUHOMS design at other nuclear power plants?

ECO Response: This proposed NUHOMS design has not been licensed at any other plant. As ECO has previously stated: This is an innovative, first-of-a kind design incorporating a multi-purpose cask concept and engineering.

14. What is your most reasonable estimate of how long it will take to license and construct an ISFSI at Rancho Seco using the NUHOMS design?

ECO Objection(s): ECO objects to responding to this Interrogatory at this time and until ECO has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this design in preparing its contention bases, much less its admitted contention bases, in ECO's Contention. This design was not even filed with the NRC until late October 1993.

Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant. ECO further objects on the basis that the Interrogatory is irrelevant; the relevant inquiry is whether SMUD should currently be including an element for the operation of the spent fuel pool beyond 1998 since SMUD's own, arguably optimistic, critical path assumptions indicate that such operation will be necessary.

15. Do you contend that the NUHOMS design cannot be licensed for fuel storage at Rancho Seco? If so, provide the basis for this assertion.

ECO Objection(s): This Interrogatory is irrelevant because SMUD is not trying to license a NUHOMS design which is intended for "fuel storage" only. Further, ECO objects to providing further expert opinion on this issue until after it has obtained the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this NUHOMS design in preparing its contention bases, much less its admitted contention bases, in ECO's Contention. Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

16. What is your most reasonable estimate of how long it will take the NRC to issue a license under 10 C.F.R. Part 72 for an ISFSI using the NUHOMS design at Rancho Seco?

ECO Objection(s): This Interrogatory is irrelevant because SMUD is not trying to license a NUHOMS design intended for "fuel storage" only. Further, ECO objects to providing further expert opinion on this issue until after it has obtained the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this NUHOMS design in preparing its contention bases, much less its admitted contention bases. Therefore, ECO cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

17. State all facts supporting your use of the term "probable" in Funding Contention Basis 14 to describe a 25% increase in the decommissioning cost estimated due to uncertainty in the licensing and construction of the ISFSI? Do you still contend that this increase is "probable?" If so, identify all documents that support this position.

ECO Objection(s): This Interrogatory seeks duplicative and redundant information to that already furnished in Funding Contention Basis 14 itself. ECO will furnish further information after its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

18. Do you still contend that the District "will not be able to continue its commitment to the Decommissioning Funding Plan," as alleged in Funding Contention Basis 1? If so,

- a. identify each specific fact that supports this position; and
- b. identify all documents that support this position.

ECO Objection(s): This Interrogatory is redundant and burdensome since it seeks information already furnished by ECO in Funding Contention Basis 1. ECO will supplement that identification of facts and documents after its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

19. State all facts and identify all documents that support the position, as alleged in Funding Contention Basis 1, that the District's "long-term debt is increasing at the rate of 8.8% per year."

ECO Objection(s): This Interrogatory is redundant and burdensome since it seeks information already furnished by ECO in Funding Contention Basis 1.

20. Do you still contend that the District's long-term debt is increasing at the rate of 8.8% per year?

ECO Response: No. The situation has gotten much worse. In 1993, SMUD's long-term debt increased by 11.58%. In 1992, SMUD's long-term debt was \$1,891,000,000. By the end of 1993,

SMUD's long-term debt had climbed to \$2,110,000,000. SMUD 1993 Annual Report at 12, penultimate line of Five Year Summary.

21. Do you contend that the District does not or will not have sufficient funds to cover its long-term debt service? If so,
- a. identify each specific fact that supports this position; and
 - b. identify all documents that support this position.

ECO Objection in Part: This Interrogatory seeks, in large part, the same information already furnished by ECO in Funding Contention Basis 1 and therefore is redundant. ECO also objects to the timing of this Interrogatory until after ECO has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46.

ECO Response in Part: If the 1993 long-term debt growth rate of 11.58% were to continue, SMUD's long-term debt would grow 6.44 times from \$2.11 billion in 1993 to \$13.6 billion in 2010. Even at current favorable rates, the interest on that debt in 2010 would approximate \$911 million annually or 150% of SMUD's total 1993 operating revenues before considering any other expenses or charges. That would produce an absolutely nonviable financial situation especially since SMUD is dependent on purchased power for over two-thirds of its sales, a situation which will only worsen as demand increases. SMUD's legal authority to set rates is no answer because as

rates increase to unacceptable levels, customers will find alternative sources with adverse and unpredictable financial consequences to SMUD.

22. Do you know to what extent the District's long-term debt is in the form of revenue bond obligations? If so, identify specifically the sources(s) of such knowledge.

ECO Response: Yes, as of the end of 1993. ECO's source is SMUD's Annual Reports. E.g., SMUD 1993 Annual Report, Note 3 to Consolidated Financial Statements (pages 8 and 9).

23. Are you familiar with the process for underwriting revenue bonds? If so, identify specifically the sources(s) of such familiarity.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and at least until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information sought by this Interrogatory in preparing its contention bases much less its admitted contention bases, in ECO's Contention. ECO also objects on the basis that "the process for underwriting revenue bonds" is irrelevant to the issues before the ASLB in this proceeding.

24. Explain in detail how revenue bond obligations affect the District's ability to make required contributions to the Rancho Seco Decommissioning Trust Fund.

ECO Response: If all of SMUD's financial obligations outstrip SMUD's ability to produce income in competitive markets, SMUD's capacity to make payments and contributions on all debt and other obligations will be compromised. ECO will respond in greater detail to this Interrogatory after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46.

25. Do you contend that it is not prudent utility practice to finance capital improvements with long-term bonds? If so,

- a. identify each specific fact that supports this position; and
- b. identify all documents that support this position.

ECO Objection(s): This Interrogatory is argumentative and irrelevant to the issues before the ASLB in this proceeding because it cannot be argued with a straight face that the cost of the destruction (decommissioning) of a useful generation asset is a "capital improvement". If SMUD controls that decommissioning is a capital improvement, ECO will examine the justification for that premise.

26. Do you contend that the District has issued revenue bonds to pay for operating and maintenance expenses, and not to pay for capital items? If so,

a. identify each specific fact that supports this position; and

b. identify all documents that support this position.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and therefore cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

27. Do you contend that the existence of long-term debt obligations does or will interfere with or otherwise affect the District's ability to make contributions to the Rancho Seco Decommissioning Trust Fund? If so,

a. explain in detail how the existence of long-term debt obligations will affect the District's revenues, from which revenues the District will make its required contributions to the Rancho Seco Decommissioning Trust Fund;

b. identify each specific fact that supports your answers to this Interrogatory; and

c. identify all documents that support your answers to this Interrogatory.

ECO Objection(s): ECO objects to this Interrogatory because it is redundant to the information sought and provided at Specific Interrogatories 21 and 24.

28. Have you reviewed the covenants in any of the official statements relating to the District's revenue bonds?

ECO Objection(s): ECO alleges this Interrogatory is irrelevant to the issues before the ASLB and, in any event, objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases much less its admitted contention bases, therefore cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

29. Do you contend that the existence of long-term debt obligations does or will interfere with or otherwise affect the District's ability or authority to set its rates? If so,

a. identify each specific fact that supports this position;

and

b. identify all documents that support this position.

ECO Objection(s): ECO objects to this Interrogatory as redundant with the information sought and provided pursuant to Specific Interrogatories 21 and 24, and also sought by Specific Interrogatory 27.

30. Identify each specific fact and identify all documents that support the position, as alleged in Funding Contention Basis 1, that the District has "avoided" rate increases through the issuance of long-term bonds.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases in ECO's Contention beyond information already provided therein and therefore cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

31. How many members does ECO have and how many of these members reside or work in the District's service area?

a. Do these members believe that the District should increase its rates?

b. Identify all ECO members working or residing in the District's service area.

ECO Objection(s): It is irrelevant to identify how many members ECO has and/or how many ECO members live or work in SMUD's service area beyond those persons identified, and to be identified in the future, pursuant to General Interrogatories 11 and 12 as witnesses. Further, this inquiry is a transparent effort to violate ECO's members' rights to associate freely without disclosure of their identities which are protected by the First and Fourteenth Amendments to the U.S. Constitution. E.g., NAACP v. Alabama, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170, 2 L.Ed.2d 1488 (1958); Buckley v. Valeo, 424 U.S.1, 14-17, 96 S. Ct. 612, 632-33, 46 L.Ed.2d 659 (1976).

32. Do you contend that the District's rates are insufficient to cover the District's current operating expenses and debt service?

If so,

- a. identify each specific fact that supports this position; and
- b. identify all documents that support this position.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have

had the information sought prior to its discovery of SMUD with respect to this matter which SMUD considers relevant.

33. Are you aware that in connection with the issuance of its revenue bonds, the District has covenanted to establish and maintain rates which, together with certain items of other income, will yield sufficient revenues to cover, among other things, operating and maintenance costs as well as its debt service on the revenue bonds?

ECO Response/Objection(s): In general, yes. But this is not relevant since the legal obligation may fail in the face of market realities if prudent provision is not made early.

34. In light of the covenant referred to in Interrogatory 33, explain in detail how the District's issuance of long-term bonds has "avoided" rate increases, as alleged in Funding Contention Basis 1.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD considers relevant.

35. Do you contend that the District's partial reliance on purchased power does or will interfere with or otherwise affect the District's ability to make contributions to the Rancho Seco Decommissioning Trust Fund? If so,

- a. explain in detail how the District's partial reliance on purchased power will affect the District's revenues, from which revenues the District will make its required contributions to the Rancho Seco Decommissioning Trust Fund;
- b. identify each specific fact that supports your answers to this Interrogatory; and
- c. identify all documents that support your answers to this Interrogatory.

ECO Objection(s): ECO notes that not only does SMUD rely on purchased power for over two-thirds of its load but also there is no guarantee that purchased power currently available at attractive prices will continue to be available several years from now. ECO objects to answering this Interrogatory in greater detail at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

36. Do you contend that the District's partial reliance on purchased power does or will interfere with or otherwise affect the District's ability or authority to set its rates? If so,

- a. identify each specific fact that supports this position; and,
- b. identify all documents that support this position.

ECO Objection(s): This is redundant to Specific Interrogatory 35 since SMUD's ability to make contributions to the Decommissioning Plan Fund will be dependent on its ability to raise rates. ECO also objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD considers relevant.

37. Do you still contend, as alleged in Funding Contention Basis 5, that "[a] significant portion of SMUD's plans to provide for savings to pay for the decommissioning funding program is premised on the savings projected to be achieved through SMUD's Conservation and Load Management Programs"? If so,

- a. identify each specific fact that supports this position; and,
- b. identify all documents that support this position.

ECO Response: Yes. ECO identified in Funding Contention Basis 5 the specific facts and documents on which it relies. ECO expects to identify further facts and documents through discovery.

38. Identify, with page and paragraph references, that portion of the "SMUD 1991 Load Forecast," cited as support for Funding Contention Basis 5, that supports your contention, as alleged in Funding Contention Basis 5, that "[a] significant portion of SMUD's plans to provide for savings to pay for the decommissioning funding program is premised on the savings projected to be achieved through SMUD's Conservation and Load Management Programs."

ECO Objection(s): This Interrogatory is redundant since it seeks information already provided in Funding Contention Basis 5, as reinforced by Specific Interrogatory 40 below.

39. Explain in detail the relationship, if any, between the District's Conservation and Load Management Programs and decommissioning funding, and identify all documents that discuss such a relationship.

ECO Objection(s): Beyond the explanation and identification already provided, ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already

provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

40. Are you aware of the difference between a "goal" and a "prediction"? If so, explain that difference, and explain why, in Funding contention Basis 5, you referred to a District "prediction" of 1991 peak load when the referenced document refers to a District "goal" for 1991 peak load.

ECO Objection(s): ECO objects to this Interrogatory as irrelevant and argumentative. It raises "a distinction without a difference". H. Fielding, Tom Jones, Bk. VI, Ch. 13 (1749). Whether SMUD calls it a "goal" or not, it is essential to SMUD's being able to meet its obligations to supply electric demand. That is, if SMUD is unsuccessful in reducing not only future load growth but also existing load, it will have to provide more electricity generation sources at substantial additional cost, thus vitiating assumptions at the core of its financial planning.

41. Do you still contend, as alleged in Funding Contention Basis 5, that the Commission can have no "confidence" in the District's long-term estimates of savings the District can achieve in "other areas"? If so,

a. identify the "other areas" you are referring to;

- b. explain in detail why the District's planned periodic review of decommissioning funding would not be sufficient to address any variances between its long-term estimates and actual experience;
- c. identify each specific fact that supports your answers to this Interrogatory; and
- d. identify all documents that support your answers to this Interrogatory.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

42. Do you still contend, as alleged in Funding Contention Basis 11, that "[t]here can be no confidence in the SMUD Decommissioning Funding Plan because SMUD has failed to provide a long-term Utility District overall financing plan"? If so,

- a. identify each specific fact that supports this position; and,
- b. identify all documents that support this position.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

43. Explain what is meant by a "long-term . . . overall financing plan," as alleged in Funding Contention Basis 11. In particular, and without limiting the generality of the foregoing, identify specifically and in detail the precise information that must or should be included in a "long-term . . . overall financing plan."

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

44. Does the NRC require the submission of the type of "long-term . . . overall financing plan" described in Funding Contention Basis 11 in order to review and assess a decommissioning funding plan?

If so,

a. identify each specific fact that supports this position;
and,

b. identify all documents that support this position.

ECO Response: The NRC Staff can require whatever information it deems necessary to provide assurance of the adequacy of the licensee's plan. And the intervenor can seek to discover all financial planning information relevant to admitted contentions to allow the ASLB to make an independent determination of the adequacy of SMUD's Funding Plan.

45. Do you contend that, in the absence of the type of "long-term . . . overall financing plan" described in Funding Contention Basis 11, a decommissioning funding plan is inadequate to allow the Commission to determine whether a licensee has provided reasonable assurance of funds for decommissioning? If so,

a. identify specifically and in detail the precise information relating to decommissioning funding that you contend is necessary to allow the Commission to determine whether a licensee has provided reasonable assurance of funds for decommissioning, and explain in detail why such information is necessary;

b. identify each specific fact that supports your answers to this Interrogatory; and

c. identify all documents that support your answers to this Interrogatory.

ECO Objection(s): ECO objects to answering this Interrogatory at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases beyond information already provided therein and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

46. Do you contend that the District's bond ratings are not an adequate indicator of the District's long-term credit-worthiness and financial performance? If so,

a. identify each specific fact that supports this position; and,

b. identify all documents that support this position.

ECO Response/Objection(s): Bond ratings are a factor to be considered. But bond ratings can change as circumstances change and new information is understood by the market place. ECO objects to answering this Interrogatory further at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO

did not rely on information related to this Interrogatory in preparing its contention bases and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

47. Do you contend that the bond rating agencies are unqualified to rate the District's credit-worthiness? If so,

a. identify each specific fact that supports this position, and,

b. identify all documents that support this position.

ECO Response/Objection(s): The bond rating agencies' ratings depend upon the quality of the information available to them at the time any particular rating is made or changed. ECO objects to answering this Interrogatory further at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

48. Do you disagree with the District's current bond ratings? If so,
- a. identify each specific fact that supports this position;
and,
 - b. identify all documents that support this position.

ECO Response/Objection(s): This will depend on the disclosure of risks and plans made by SMUD to those agencies. ECO objects to answering this Interrogatory further at this time and until after it has received the fruits of its right of first discovery. Duke Power Co., 16 NRC at 1944-46. ECO did not rely on information related to this Interrogatory in preparing its contention bases and, therefore, cannot be expected to have had the information sought prior to its discovery of SMUD with respect to this matter which SMUD appears to consider relevant.

49. Do you still contend, as alleged in Funding Contention Basis 13, that the Decommissioning Funding Plan was premised "on growth through interest earnings that are now unrealistically high"? If so,

- a. identify each specific fact that supports this position;
and,
- b. identify all documents that support this position.

ECO Response: Yes. Although ECO will furnish additional specific facts and identify further documents after discovery, ECO identifies at this time the documents provided by SMUD to the ASLB and the parties on or about September 21, 1993, which

demonstrate that SMUD's "DECOM Portfolio had an equivalent yield of 7.4701% for 1992, 6.8396% for 1/93 to 3/93, and 6.8011% for 4/93 to 6/93. These are all rates substantially below the 8.3% rate which was the premise of the Decommissioning Accumulation Table of Table 2 to the Revised Financial Assurance Plan.

50. Do you contend that the District's planned periodic review of its rate of return on decommissioning trust funds would not be sufficient to address any variances between its expected rate of return and actual experience? If so,

- a. identify each specific fact that supports this position;
- and,
- b. identify all documents that support this position.

ECO Response: Yes. SMUD has only committed to adjust its cost estimate on other than inflation rate bases once every five years. Revised Financial Assurance Plan at ¶ 3. However, the March 1994 TLG Update showed that, in the 1991-93 period (a mere two years), the estimated cost of decommissioning increased 19.5% in 1993 dollars from \$347.5 million to \$415.2 million. TLG Document S11-25-003 (March 1994) at Table 1. If one extrapolates from this two-year increase to a five-year increase, the five-year increase would be 56.1% over the previous increase. It would obviously be extraordinarily difficult and burdensome to make up such shortfalls if they are left unaddressed for five-year

intervals. It would be the prudent course to address changing regulatory and economic influences on a real-time basis to soften the impact of cost growth over time and to maximize the contribution of interest on the upwardly revised contribution rates.

This shock effect under the proposed plan is further exaggerated by the failure to adjust the contribution for the rate of return achievable at the time each contribution is made. Since it can easily be determined at the time a contribution is made what the projected resultants (contribution of year plus interest projected on that contribution for the decommissioning period) funds must be, it is equally easy to back calculate from the assumed investment rate of 8.3% to the investment rate available at the time of each contribution to determine exactly how much the contribution must be increased to compensate for a lower investment rate obtainable at the time.

The failure to adjust contributions promptly on both real cost and investment rate bases is illustrated by the compounded effects of ignoring for even two years, not five years, the real cost increase of 19.5% and the investment rate shortfall of 1.5%, that is, a 23.44% shortfall. And that is in two years, not five. Revised Financial Assurance Plan at ¶4. This response has been provided using SMUD's assumptions. It does not address the significant lowering, by SMUD, of the calculated escalation rate from 5.5% annually in the Revised

Financial Assurance Plan to 3% in the TLG Update. Compare Revised Financial Assurance Plan at Table 1 with TLG Document S11-25-003 at page 4, item 8. Over the 18 years between 1993 and 2011 (assuming here that is a reasonable date for the completion of decommissioning), this unexplained decrease in escalation rates lessens the estimate of needed funds by 54% (an increase of 1.7024 at 3% versus 2.6215 at 5.5%). These facts demonstrate the need not only for timely adjustments to cost estimates but also for continuing NRC supervision and approval of the adjustments.

51. Do you still contend, as alleged in Funding Contention Basis 4, that the District should prepare and file with the Commission a "semi-annual" report on decommissioning funding? If so,
- a. explain in detail why a requirement for a semi-annual report is necessary to allow the Commission to determine whether the District has provided reasonable assurance of funds for decommissioning;
 - b. explain in detail why the District's plan to perform periodic reviews of matters affecting decommissioning funding is not adequate to allow the Commission to determine whether the District has provided reasonable assurance of funds for decommissioning;
 - c. identify specifically and in detail the precise matters that you contend should be discussed in the semi-annual report and how those matters relate to decommissioning funding;

d. identify each specific fact that support your answers to this Interrogatory; and

e. identify all documents that support your answers to this Interrogatory.

ECO Objection(s): This Interrogatory seeks information that is redundant and duplicative of the information sought and provided pursuant to Specific Interrogatory 50.

52. Have you reviewed Resolution 91-6-9, adopted by the District's Board of Directors on June 4, 1991, which commits the District to collect for decommissioning through rates?

ECO Response. No. ECO was never furnished a copy of that resolution.

Request for Production of Documents

Licensee requests ECO to produce for inspection and copying at ECO's offices or at the offices of ECO's counsel, within thirty (30) days after service hereof, the following:

1. All documents identified in your answers to the foregoing Interrogatories.

ECO Objection(s): This request is overly burdensome and unnecessary because ECO has not identified any documents in its answers to the foregoing interrogatories which are not either documents in the NRC's Public Document Room or documents otherwise publicly available.

2. All documents that refer, reflect or relate to ECO's formation and/or chartering.

ECO Objection(s): Documents that refer, reflect or relate to ECO's formation and/or chartering are irrelevant to the issues currently before the ASLB in this proceeding.

3. All documents that refer, reflect or relate to ECO's current membership.

ECO Objection(s): Documents that refer, reflect or relate to ECO's current membership are irrelevant to the issues before the ASLB beyond those persons identified, and to be identified in the future, pursuant to General Interrogatories 11 and 12 as witnesses. Further, this overly broad request could not lead to the discovery of relevant information. Finally, this inquiry is a transparent effort to violate ECO's members' rights to associate freely without disclosure of their identities which are protected by the First and Fourteenth Amendments to the U.S. Constitution. E.g., NAACP v. Alabama, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170, 2 L.Ed.2d 1438 (1958); Buckley v. Valeo, 424 U.S. 1, 14-17, 96 S. Ct. 612, 632-33, 46 L.Ed.2d 659 (1976).

4. All documents that refer, reflect or relate to any communication identified in your answer to General Interrogatory 4.

ECO Objection(s): It is irrelevant to identify all such communications members have with each other and it would be

impossible for ECO to be charged with knowledge of such communications. ECO also notes that ECO does not exist beyond its members for the purposes of sending or receiving communications. This request is also even more overly broad, burdensome and oppressive than General Interrogatory is because it seeks not the documents sought of that Interrogatory but "all documents that refer, reflect or relate" to such documents and cannot lead to any relevant information that cannot be obtained by proper discovery. Further, this inquiry is a transparent effort to violate ECO's members' rights to associate freely without disclosure of their identities which are protected by the First and Fourteenth Amendments to the U.S. Constitution. E.g., NAACP v. Alabama, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170, 2 L.Ed.2d 1488 (1958); Buckley v. Valeo, 424 U.S. 1, 14-17, 96 S. Ct. 612, 632-33, 46 L.Ed.2d 659 (1976). To the extent that this Interrogatory may seek communications between ECO members and ECO counsel in this litigation, such communications are protected by the attorney-client and/or work product privileges.

5. All documents that refer, reflect or relate to any communication identified in your answer to General Interrogatory 5. ECO Response/Objection(s): No documents are identified pursuant to General Interrogatory 5. Further, this request is even less relevant, more oppressive, more overly broad, and

more burdensome than request 4. This request is also a transparent effort to violate ECO's members' rights and the rights of others to associate freely without disclosure of their identities which are protected by the First and Fourteenth Amendments to the U.S. Constitution. E.g., NAACP v. Alabama, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170, 2 L.Ed.2d 1488 (1958); Buckley v. Valeo, 424 U.S. 1, 14-17, 96 S. Ct. 612, 632-33, 46 L.Ed.2d 659 (1976).

6. All documents that refer, reflect or relate to each person identified in your answer to General Interrogatory 11, including, without limitation, all documents that refer, reflect or relate to either the subject matter to which the person is expected to testify, and/or the educational and professional experience upon which ECO will rely to qualify such person as an expert.

ECO Response/Objection(s): To the extent that this request seeks documents beyond the documents identified in ECO's Contention on Licensee's Proposed Decommissioning Funding Plan and documents identified in response to the foregoing interrogatories, (which are either available in the NRC's public document room and/or easily publicly available) there are no documents reasonably within the scope of this request at this time. To the extent that ECO identifies documents as a result of receipt of the fruits of its first discovery pursuant to Duke Power Co., 16 NRC at 1944-46, which are documents that are not either documents already in SMUD's

possession available from the NRC Public Document Room or otherwise easily publicly available, ECO will produce those documents promptly. To the extent that SMUD intends this request ("refer, reflect or relate to") to reach a broader class of documents than described above, ECO objects to this request on the basis that it is overly broad, oppressive and irrelevant to the issues before the ASLB in this proceeding.

7. All documents that refer, reflect or relate to each person identified in your answer to General Interrogatory 12, including, without limitation, all documents that refer, reflect or relate to the subject matter to which the person is expected to testify.

ECO Objection(s): This request is irrelevant and redundant because the facts alleged were based on cited documents which are either in the NRC Public Document Room or otherwise easily publicly available. To the extent that this request seeks a broader class of documents that "refer, reflect or relate to" the documents upon which ECO relies. The request is overly broad and burdensome, as well as being irrelevant to this proceeding.

8. All documents that refer, reflect or relate to any source of information, including communications, identified in your answer to General Interrogatory 15.

ECO Response: No source of information, including communications, was identified in ECO's answer to General Interrogatory 15.

9. All documents, other than those authored by the District or its representatives or the NRC, relating to the decommissioning of Rancho Seco.

ECO Objection(s): This request is overly broad, oppressive and irrelevant to the extent that it seeks documents relating to the Decommissioning of Rancho Seco (a) which ECO has not as yet indicated any intention to rely upon and/or (b) which ECO may not even be aware of. To the extent that it seeks documents which fall within the attorney-client and/or work product privileges, it also must be denied. The only documents which ECO has thus far decided to rely upon have been identified in its original contention and/or in response to the foregoing interrogatories and all such documents are either available in the NRC's Public Document Room and/or easily publicly available otherwise.

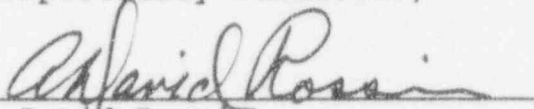
10. All Documents, other than those authored by the District or its representatives or the NRC, relating to:

- a. funding or financing for Rancho Seco's decommissioning;
- b. the District's financial condition.

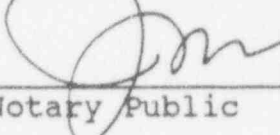
ECO Objection(s): ECO objects to this request on the basis of redundancy and irrelevancy since it seeks a subset of the documents already sought pursuant to Document Request 9. The same objections as ECO proffered to Document Request 9 also are applicable here.

I hereby submit the foregoing ECO Responses under oath.

Respectfully submitted,

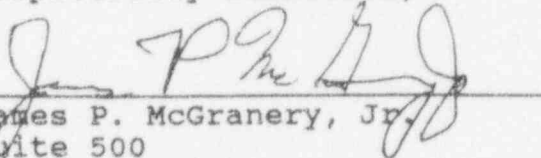

A David Rossin

Signed and sworn before this 21st day of June, 1992


Notary Public **J. NORRIS B. SCOTT**
Notary Public Orleans Parish, La.
MY COMMISSION IS FOR LIFE.

I hereby submit the foregoing ECO Objections.

Respectfully submitted,


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(202) 857-2929
Counsel for ECO

Dated: June 22, 1994

DOCKETED
USNRC

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD '94 JUN 22 P5:13

In the Matter of)

Sacramento Municipal Utility)
District)

(Rancho Seco Nuclear Generating)
Station))

OFFICE OF SECRETARY)
DOCKETING & SERVICE)
BRANCH)
Docket No. 50-312-DCOM)

(Decommissioning Plan)

ASLBP No. 93-677-01-DCOM-R)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing INTERVENOR ECO's RESPONSES AND OBJECTIONS TO LICENSEE'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO ECO dated June 21 and 22, 1994, are being served, pursuant to 10 C.F.R. § 2.740b(a) upon the persons on the attached Service List by hand before the close of business this 22nd day of June, 1994.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

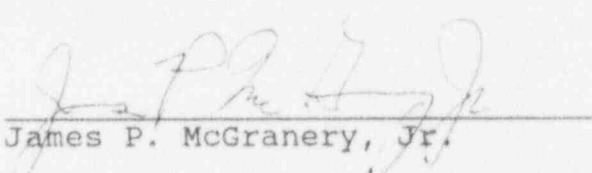
Administrative Judge
Charles Bechhoefer, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Administrative Judge
Richard F. Cole
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory
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