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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
DOCKETING SECTION

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 Number R-71)

January 11, 1984

UNIVERSITY'S RESPONSE TO CBG'S  
MOTION FOR CURTAILMENT (II)

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## I. INTRODUCTION

On December 27, 1983, CBG submitted its second motion to curtail activities at the UCLA facility.<sup>1/</sup> The motion requests that the reactor be shut down and that the fuel be shipped off-site prior to the Olympics. (Second Motion, at 10.) As discussed below, CBG's motion is deficient in form, is based on factual misrepresentations and otherwise lacks merit. The motion should be denied.

## II. DISCUSSION

### A. CBG's Motions

CBG's two motions seek to shut down the UCLA reactor for assertedly security reasons. In its December 14 motion (the First Motion) CBG claims that UCLA has no "sabotage protection plan" which according to CBG is required by the Board's ruling concerning the applicability of 10 CFR Sec. 73.40(a).<sup>2/</sup> At best, CBG's First Motion is premature. The Board has made no ruling that UCLA's security plan, which has been approved by the Commission, is in any way deficient under the Board's interpretation of the applicable provisions. In the event

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<sup>1/</sup> "Motion for Curtailment of Activities (II), The 1984 Olympics" ("Second Motion"). The first such motion by CBG, "Motion for Curtailment of Activities (I), No Sabotage Protection Plan", was dated December 14, 1983 ("First Motion").

<sup>2/</sup> CBG also makes the novel claim in its December 14 Motion that UCLA did not satisfy the Commission's timely renewal provisions because its security plan was first submitted "after the deadline for the timely renewal application provisions" (First Motion, at 2). That claim is nonsense; but, in any case, it is not raised in any of CBG's contentions, is untimely and does not require further response here.

the practical effect of the Board's ultimate ruling on this matter is to impose on UCLA's facility a standard different than that applied by the Commission's safeguards branch, University will seek review of the Board's decision.

In its Second Motion CBG requests that the facility be shut down (apparently immediately) and that a "May shipping date be set" for removing the fuel from the UCLA facility during the period of the 1984 Olympic Games, which are to be held in Los Angeles.<sup>3/</sup> CBG cites "published reports" (excerpts from Playboy and Newsweek magazine articles) that the UCLA reactor is an obvious target for international terrorists during the summer Olympic Games. (Second Motion, at 2.) CBG asserts that a Board decision on the adequacy of security at the UCLA facility is not likely before the end of May, which would be "too late to take the measures the Board may have determined necessary." (Id., at 4.) Although the argument is unclear, CBG seems to assume that the Board may ultimately rule that UCLA take specific measures to protect against an international terrorist incident at the UCLA facility during the Olympic Games, including the removal of fuel from the facility. (Id.) Therefore, CBG argues, in anticipation of a ruling the Board may wish to make at some later time the

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<sup>3/</sup> A portion of the UCLA campus will serve as one of the three "Olympic Villages" housing athletes participating in the "Games" and UCLA will be the site of the gymnastics and tennis competition. The Games open on July 28, 1984 and close on August 12, 1984. The Los Angeles Olympic Organizing Committee (LAOOC) is responsible for the conduct of the Games.

Board should shut down the facility "now . . . so that the irradiation level can decline in preparation for possible off-shipment (of fuel prior to the Olympics)." (Id., at 3.) CBG claims further that the actions it is proposing - curtailment of operations and preparations for off-shipment - can always be reversed. (Id.) CBG asserts that sabotage at the UCLA facility would have devastating results based on certain assertions of CBG's witnesses in testimony submitted at the October session of the safety hearing. (Id., at 4-5.) Concerning this last assertion, however, it is to be noted that the previously offered testimony of CBG's witnesses consists largely of unsupported speculations, matters which in any case are vigorously disputed in the testimony of University's and Staff's witnesses. CBG's factual assertions are not supported by affidavits.

B. CBG Misrepresents the Record on the Security Contention

On page 7 of its Second Motion, CBG states

"UCLA, instead of assuring the public that adequate security precautions will be taken, continues to assert that some are required. The matter is public -- both the attractive nature of the target and the assertions by its supposed protectors that the reactor is essentially unprotected." (Emphasis added)

That statement deliberately misrepresents the record in this proceeding. University certainly has never asserted that its facility is "essentially unprotected" nor that "security precautions are (not) required." Consistent with its interest in the security of the UCLA facility, University has so far in this proceeding refrained from discussing specific features of its security system or the effectiveness of those features in protecting against radiological sabotage and theft of SNM. Counsel for University has stated on the record that

the UCLA security plan was not designed to protect against radiological sabotage, in the sense of preventing all possible acts of sabotage, which is the claim apparently being made in CBG's security contention.<sup>4/</sup> Certainly, UCLA's security system provides some measure of protection against radiological sabotage. Moreover, it is a matter of public knowledge that a number of local and federal governmental agencies are coordinating security efforts for the 1984 Olympic Games. Olympic Games security planners, which include UCLA officials, are well aware of the presence of the reactor at UCLA. CBG acts irresponsibly in this sensitive security area by seeking public attention for its inaccurate claims that the UCLA reactor is and will be essentially unprotected during the Olympic Games. The purveyors of misinformation, especially those who claim devastating consequences for acts of radiological sabotage at the UCLA facility, bear at least part responsibility for whatever attractiveness the UCLA facility has as a target for terrorist activity. The implicit assumption that Olympic Games security planners are in some way waiting for the Licensing Board to act is groundless.

C. CBG's Motion is Deficient in Form

The Commission's rules of practice require that written motions "shall state with particularity the grounds and the relief sought, and shall be accompanied by any affidavits or other evidence relied on, and, as appropriate, a proposed form of order." 10 CFR Sec. 2.730 (b). In this respect Commission practice follows the federal rules. USC Rules of Civil Procedure, Rule 7(b). Of course, in administrative proceedings the general rule is construed with

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<sup>4/</sup> See, "University's Position Concerning Contention XX", dated December 13, 1983, pp 4-5.

reasonable liberality. Nevertheless, due process considerations require that any request by a party for extraordinary relief in an NRC proceeding which runs against the rights and interests of a facility licensee be contained in a motion that is sufficiently specific to put the licensee on notice of the legal basis for the relief requested.

Here, CBG is requesting the ultimate relief, shutting down the facility immediately in anticipation of removing the fuel from UCLA prior to the 1984 Olympic Games. Yet, CBG's motion contains no discussion of the legal grounds for this exercise of authority by the Board which CBG is requesting. Surely, University should not be left to wonder what provisions CBG is relying on for its implicit assertion that the Board has the authority to grant the relief requested in the circumstances of this proceeding. In particular, CBG does not explain under what authority the Board could summarily direct University to cease operations, not on the basis of any factual record compiled in the proceeding, nor on the basis of any violation of the Commission's regulations, but solely in order to preserve the Board's "option" to order that fuel be removed in anticipation of the summer Olympics. CBG's two motions appear to be based on confusing the functions of the Commission's Licensing Boards with the responsibilities of the Commission's operating branches. However, CBG has not addressed these basic legal questions in either of its two motions and University cannot fairly be expected to respond.

University does note that the specific concern raised in CBG's Second Motion is whether the UCLA facility will be adequately protected against an

international terrorist incident during the summer Olympics. This specific concern is to be distinguished from the concerns raised in CBG's Contention XX over the level of security that should be required during the license renewal period. The issue now being raised by CBG, special precautions for the Olympics, is in the nature of an enforcement action and is not a licensing action. It would be inappropriate for the Board to make ad hoc rulings concerning solely the security precautions to be taken at the UCLA facility prior to the Olympic Games. University also notes that the specific relief requested by CBG -- immediate curtailment of operations -- will have an irreversible and damaging effect on UCLA facility operations.

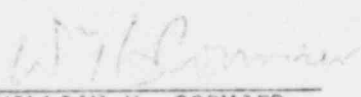
### III. CONCLUSION

For the reasons above, University respectfully requests that CBG's motions be denied.

Dated: January 11, 1984.

DONALD L. REIDHAAR  
GLENN R WOODS  
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By

  
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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached: UNIVERSITY'S RESPONSE  
TO CBG'S MOTION FOR CURTAILMENT (II)

in the above-captioned proceeding have been served on the following by  
deposit in the United States mail, first class, postage prepaid, addressed  
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