

**ORIGINAL**

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

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In the matter of:

UCLA RESEARCH REACTOR

Docket No. 50-142 OL

(Proposed Renewal of  
Facility License)

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Location: Los Angeles, Ca.

Pages: 3367 - 3408

Date: Thursday, February 9, 1984

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:      :
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UCLA RESEARCH REACTOR : Docket No. 50-142 OL
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(Proposed Renewal of Facility :
License)                :
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University of California at LA  
Chancellor Room  
Pauley Pavillion  
Los Angeles, California 90024

Thursday, February 9, 1984

The prehearing conference in the above-  
entitled matter reconvened, pursuant to recess, at  
9:00 a.m.

BEFORE:

JOHN FRYE, ESQ., Chairman  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

GLEN BRIGHT, Member  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

**TAYLOE ASSOCIATES**  
1625 I STREET, N.W. - SUITE 100  
WASHINGTON, D.C. 20006  
(202) 293-3950

## 1 APPEARANCES:

2  
3 On Behalf of the Licensee:4 WILLIAM H. CORMIER, ESQ.  
5 CHARLES E. ASHBAUGH, III  
6 University of California at Los Angeles  
7 Room 2241, Murphy Hall  
8 405 Hilgard Avenue  
9 Los Angeles, California 9002410 On Behalf of the Nuclear Regulatory Staff11 COLLEEN WOODHEAD, ESQ.  
12 Office of the Executive Legal Director  
13 United States Nuclear Regulatory Commission  
14 Washington, D. C. 2055515 DON CARLSON  
16 Division of Safeguards  
17 United States Nuclear Regulatory Commission  
18 Washington, D. C.19 On Behalf of the Intervenor, Committee to  
20 Bridge the Gap:21 JOHN BAY, ESQ.  
22 DANIEL O. HIRSCH, ESQ.  
23 DEAN HANSELL, ESQ.  
24 Nuclear Law Center  
25 6300 Wilshire Boulevard  
Los Angeles, California 90048

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## P R O C E E D I N G S

1  
2 JUDGE FRYE: Let's go on the record.

3 We have determined in an off-the-record  
4 conversation with the parties to have them summarize their  
5 positions with regard to the qualifications of the four  
6 witnesses who were voir dired yesterday to see protected  
7 information. So let's start with CBG since it is CBG's  
8 burden to justify their qualifications.

9 MR. BAY: Let me preface my specific remarks  
10 about specific witnesses with a general clarification of  
11 what it is we are doing here.

12 We have a contention before us in essence that  
13 the security at this facility is inadequate. In litigating  
14 that issue we will be offering evidence to show what is a  
15 credible attack, be that one person or many people, what is  
16 the envelope of threat to this facility.

17 We will also then analyze the security of the  
18 facility in terms of whether or not it is capable and  
19 adequate to withstand such a threat.

20 We have proposed expert witnesses that are  
21 professionally and expertly qualified to do precisely that  
22 on both counts. We have proposed what amounts to a panel or  
23 team of witnesses whose expertise and backgrounds  
24 complement each other to give a complete and whole picture  
25 of the security.

1 Security at a facility is not something that is  
2 separable. The locks, the keys, the alarms are all run by  
3 people, particularly the University's facility where one of  
4 the underlying principles of management, as we have seen in  
5 other phases, is that it is at a university facility where  
6 it is basically a school and it is not an industrial  
7 concern and it is not a defense concern where certain types  
8 of security measures and other kinds of measures are  
9 normal everyday occurrences.

10 Thus, the qualitative side of their security is  
11 extremely important to look at, the controls on their  
12 people, the way that the hardware is handled, the way that  
13 it is monitored and the way that it is maintained. That is  
14 easily as important, and probably more important than the  
15 nuts and bolts of the hardware itself.

16 You can have the most sophisticated alarm in  
17 the world and if you don't maintain it and don't monitor it  
18 and don't have the funds with which to get capable and  
19 qualified technical people to maintain and monitor it, and  
20 you don't have that expertise in-house, then it is one more  
21 box on the wall.

22 So it is important to view the security at this  
23 facility as a whole. There is a suggestion in the  
24 regulations, which we will argue at length at another  
25 occasion, that one of the key elements of the theft

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1 protection is detection rather than prevention. Detection  
2 and response, again looking at the response and looking at  
3 the personnel policies and looking at what is really going  
4 to happen and not just what is on paper and what is  
5 sticking on the wall and what camera is scanning the room.

6 Specifically what we have attempted to do  
7 yesterday and which we will be arguing about today is to  
8 qualify specific experts to view secured information and  
9 protected information on the security possessed by UCLA.

10 It is important to understand that that is  
11 exactly what we are doing. We can tell a great deal about  
12 the facility without having seen the protected information.  
13 We have experts that can tell you a great deal about the  
14 credible threat for this facility without the protected  
15 information. Obviously though, those opinions are always  
16 subject to the attack of well, that is taken care of by the  
17 secured information.

18 To really do a review of whether the facility  
19 can withstand the credible threat it is necessary to look  
20 at what their plan is on paper and to also get some sense  
21 of whether they actually implement that plan and what their  
22 systems for implementing it are.

23 We have heard a great deal of discussion so far  
24 in this proceeding, and I suspect more this morning, about  
25 the standards set forth in ALAB 410, the Appeal Board 's

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1 decision relative to security matters in the Diablo case  
2 which sets forth what it terms to be guidance to the  
3 Licensing Board in looking at the question of what persons  
4 should get access to what protected information.

5 I think it is very important to once again note  
6 that this Appeal Board ultimately was given the  
7 opportunity to apply its own standards due to the  
8 procedural occurrences in that case where the Appeal Board  
9 essentially conducted a trial de nova on the security  
10 issues.

11 They had experts proposed by the intervenors in  
12 that case and they ruled on their qualiifications. In fact,  
13 they qualified experts that are extremely similar in  
14 background to the ones that CBG has proposed in this  
15 proceeding, an Assistant Police Chief from San Francisco  
16 with 20 years experience on the force and general  
17 responsibility for security at San Francisco police  
18 stations, in many ways very similar to Mr. Rogge's  
19 qualifications, 30 years with the FBI and direct security  
20 responsibility for several field offices. With Mr. Rogge we  
21 know the specifics that indeed he had hands on experience  
22 through attempting to breach that security through various  
23 means.

24 JUDGE FRYE: Let me ask you a question.

25 MR. BAY: Sure.

1 JUDGE FRYE: To some extent anyway don't the  
2 qualifications of Mr. Rogge and Mr. Cornwell overlap?

3 MR. BAY: They certainly complement each other.  
4 There are areas that they overlap certainly and there are  
5 areas that they complement, and I will comment specifically  
6 on what I see as the strongest and weakest areas of their  
7 expertise.

8 JUDGE FRYE: All right.

9 MR. BAY: The other witnesses at Diablo, we had  
10 an FBI officer that was essentially a line officer, as I  
11 understand it, and then we had another expert who was  
12 essentially an anti-terrorist expert. I believe he works  
13 with President Reagan now on anti-terrorism and  
14 anti-sabotage.

15 JUDGE FRYE: What was he doing at the time?

16 MR. BAY: At the time of Diablo?

17 JUDGE FRYE: Yes.

18 MR. BAY: As far as I know, he wasn't working  
19 for President Reagan, but he was generally consulting in  
20 that area. I don't know any more particularly.

21 JUDGE FRYE: He was a private consultant?

22 MR. BAY: I believe so. I wouldn't put too much  
23 on that.

24 JUDGE FRYE: And this, I take it, is what you  
25 have gleaned from the counsel who represented the

1 intervenor?

2 MR. BAY: Exactly. I had a conversation Tuesday  
3 afternoon with Harry Willis who was the attorney  
4 representing Mothers for Peace at Diablo and particularly  
5 in the security aspects.

6 In fact, according to Mr. Willis, and this is  
7 all according to Mr. Willis, I have no personal knowledge  
8 of that case, all three of those qualified experts saw the  
9 entire plan.

10 I will momentarily deal directly with each of  
11 the witnesses as I see their qualifications and the  
12 foundation we have laid.

13 I would make a couple more comments on ALAB  
14 410. The decision really sets down very broad guidelines  
15 that it is explicit as being very broad guidelines for the  
16 Licensing Board. The real key is the plan should be shown  
17 to experts who have expertise in the area that their are  
18 being shown the plan. They have a need to know in order to  
19 complete their assessment of security within their  
20 expertise.

21 I think that is the key factor, do they need  
22 the information to do an adequate review of the security  
23 within their expertise. That is sort of the bottom line  
24 question, do we have people that can assist and aid the  
25 Board in reviewing the adequacy of this security plan.

1           Looking to the specific witnesses, there has  
2 been no question raised about the integrity of any of the  
3 witnesses that we have put forth and I believe that is  
4 appropriate. They all have been subject to numerous  
5 security clearances in the past and fortunately that is not  
6 an area that we need dwell on.

7           Mr. Cornwell, as was clear through the  
8 submitted written qualifications and the voir dire  
9 conducted yesterday, is a bona fide expert in all facets of  
10 the security of persons and property. He has a current and  
11 working knowledge of security hardware, sensing devices,  
12 alarms, doors and barrier types of hardware of one sort or  
13 another. That is a current, up-to-date, hands-on working  
14 knowledge.

15           He also has a strong background in the threat,  
16 the terrorism and sabotage. He has a personal background in  
17 those areas also, not to mention that he is a terrorist or  
18 saboteur, but in his days in the military.

19           He has considerable experience in evaluating  
20 what I believe he set out as one of the key parts to a  
21 security system, that is, will it actually happen the way  
22 it is supposed to happen on paper, will the systems be  
23 maintained or what kind of maintenance is necessary and how  
24 often do you have to monitor and repair them and who has  
25 got the keys and what are the redundant controls. So that

1 when the people running the system become familiar with the  
2 system and begin to through that familiarity not keep track  
3 of it and really follow the letter of the plan, is there a  
4 backup to that, the qualitative side. He is personally  
5 qualified to look at the personnel review policy's  
6 clearances and information access to the hardware.

7 In short, I believe that Mr. Cornwell  
8 demonstrated a clear expertise in all areas of security  
9 having to do with this facility. He did so without  
10 reservation, with current knowledge and with an extensive  
11 background in the area, and he testimony and his analysis  
12 would not only be useful to the Board, but I have no doubt  
13 that it would be useful to the staff and UCLA as well in  
14 this upcoming period of the heightened potential for  
15 terrorism and sabotage.

16 Mr. Rogge also has an extremely strong general  
17 security background. He did not hold himself out to be a  
18 locksmith and he did not hold himself out to be a hardware  
19 man in the sense of being intimately familiar with the  
20 details and wiring of alarm system and other security  
21 hardware.

22 I don't think that is something we should get  
23 particularly hung up on. What makes that security system  
24 tick is not the hardware. It is whether the hardware is  
25 placed appropriately and whether it can easily be disabled

1 and, more importantly, whether the system is implemented.

2 In the areas of system implementation and the  
3 qualitative side of the security as I am terming it, I  
4 think Mr. Rogge's credentials are rather impressive. He has  
5 the background to walk over that facility and I have no  
6 doubt to walk himself into the secured areas. He has done  
7 that professionally for the FBI and others.

8 JUDGE FRYE: His particular expertise would be  
9 in finding vulnerable places within the system.

10 MR. BAY: That would be one area of very clear  
11 expertise. He also has very clear expertise in the area of  
12 establishing the credible envelope of threat. I believe he  
13 also has a very clear expertise in the personnel side of  
14 the security.

15 He has in his experience with the FBI and in  
16 his private work extensive experience in the human side of  
17 the security and is the system really going to work given  
18 the number of people we have working it, the types of  
19 people and the controls on whether those people are  
20 actually going to do what they are supposed to under the  
21 plan.

22 JUDGE FRYE: So when you say personnel you are  
23 not thinking in terms of background investigations and  
24 things of that nature, but you are thinking in terms of the  
25 administrative aspects.

1 MR. BAY: whether background checks are done  
2 would be part of that. I don't envision any of our experts  
3 attempting to do background checks on the personnel that  
4 are there.

5 JUDGE FRYE: The reason I asked that is because  
6 I am not aware of anything in the regulations which are  
7 applicable here that talks about personell investigations  
8 nor am I aware of anything in the contention that goes into  
9 that either.

10 MR. BAY: I think you are missing my point that  
11 what is important, and which I think is embodied in the  
12 contention already and from my 15-minute review of the  
13 security plan, and I would absolutely like to include it,  
14 is the security administration of per-sonnel is inadequate  
15 to actually implement the system.

16 JUDGE FRYE: In terms of who has keys and ---

17 MR. BAY: Who has keys and what kind of  
18 administrative controls and reviews there are. A small  
19 piece that would be one factor of many that might go into  
20 assessing that overall is whether they ever bothered to do  
21 a background check. It may or may not be called for by the  
22 regulations, but it still might be a salient point of  
23 whether the security is as good as it could be or as good  
24 as it should be.

25 JUDGE FRYE: Yes.

1 MR. BAY: In the area of response, which is an  
2 area that is not explicitly referred to in the contention  
3 for the obvious reason that the contention was drawn  
4 without access to any of the protected information, it  
5 would have been highly speculative for us to have without  
6 that claim that their response capabilities were  
7 inadequate.

8 In my brief review of the plan I would put the  
9 parties on notice that I think there is a good chance when  
10 our experts review that that that will be an area of grave  
11 concern that in a system where response is a key part of  
12 the system it is going to be very important, the nature of  
13 that response and all the factors that go into it and  
14 whether that response is adequate given the credible  
15 threat, and I think Mr. Rogge and Mr. Cornwell are highly  
16 qualified to look at that aspect of the security.

17 I am going to attempt to put forward what I  
18 believe is the reasonable balanced approach to the  
19 qualifications of the witnesses and what portions of the  
20 plan it is necessary for them to see in order to give a  
21 complete security review. I think that is what ALAB 410  
22 calls for.

23 I don't believe that Mr. Rogge personally would  
24 have need to see the model names, serial numbers and  
25 combinations of the various security equipment. I wouldn't

1 even argue that. I think Mr. Cornwell has the expertise and  
2 that would be very important.

3 Dr. Plotkin has a strong background in systems  
4 analysis. As you recall his comments about designing the  
5 system for the California Department of Corrections, one of  
6 the things that was important to do that analysis was  
7 figuring out what the security functions were and designing  
8 a system to meet those functions.

9 His expertise in looking at the UCLA security  
10 as a system would be I believe most useful to the Board. He  
11 also has extensive credentials in the area of electronics.  
12 He has three degrees and extensive experience and he is  
13 competent and an expert in the area of electronics systems,  
14 including alarms and sensors and how to bypass those  
15 systems and that input would be extremely valuable to this  
16 proceeding.

17 Dr. Kohn has again systems analysis expertise  
18 and he has the added attraction of being the one of these  
19 proposed witnesses that has the nuclear background that,  
20 frankly, I don't consider a big factor whether you are  
21 protecting a diamond or nuclear reactor. The key is keeping  
22 people from getting to it.

23 Dr. Kohn also has strong credentials in the  
24 area of sensors and that would be his primary input. I am  
25 not holding him out as a terrorist expert or as a barrier

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1 expert. He has strong electronics and a very strong  
2 expertise in sensing devices which are undoubtedly  
3 important to the security system.

4 I do believe that the best way for the Board to  
5 get a full review of the security system, which after all  
6 is the function of the intervenor in these proceedings and  
7 the one in the ALAB decision the Board notes that Indian  
8 Point, I believe it was, that the intervenors were very  
9 helpful in bringing matters to the attention of the Board  
10 and having the outcome be the best possible security system  
11 under the circumstances.

12 That is ultimately what we are doing here and  
13 we shouldn't get confused in other rhetoric and the  
14 understandable emotionalism that goes with talking about  
15 security and protected information. We have proffered a  
16 team that can give the whole picture and that is really  
17 what is important, and within that team people have varying  
18 degrees of expertise in different areas.

19 I believe that they should all have access to  
20 the complete plan. That is the way that you will get an  
21 interactive and comprehensive analysis of the security  
22 system.

23 Under ALAB 410 what is important is to balance  
24 the potential harm from potential security leaks with the  
25 interests of the litigation which is to analyze and review

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1 the security of this facility.

2 I do not believe that in the real context of  
3 this proceeding, this facility and this security plan that  
4 there is any great rationale or in fact any reason that it  
5 is necessary limit specific experts to specific areas, and  
6 it will hamper obviously the interaction of our witnesses,  
7 which I think can be one of the real strengths that we can  
8 get an interactive whole review. If they are limited to  
9 specific portions, that will obviously be limited as well.

10 To quickly review, I believe Mr. Cornwell is  
11 eminently qualified to review all aspects of the security  
12 of this facility and review all protective information.

13 Mr. Rogge is eminently and expertly qualified  
14 to review all aspects of security at this facility. He is  
15 not a hardware expert and he does not hold himself out to  
16 be. Thus, if the Board were to take a specific approach to  
17 the witnesses and their need to see the protected  
18 information, we would have no problem with his not being  
19 privy to the specifics of the hardware.

20 Dr. Plotkin should be privy to all the  
21 specifics of the hardware and I think it would be important  
22 and necessary. His expertise really goes beyond the kind of  
23 expertise that Mr. Cornwell has. He knows the hardware and  
24 he has dealt with the specific alarm hardware.

25 Dr. Plotkin's experience is broader and in some

1 ways much deeper. Even if he doesn't have the catalog with  
2 all the gory details that are specs in it, he has the  
3 background to just go in there and design around it.

4 Dr. Kohn again, his specific expertise is in  
5 the detection sensing devices.

6 The final note, and then I will turn it over to  
7 opposing counsel, the final note I would like to make is  
8 that CBG recognizes and believes it has fulfilled its  
9 independent burden to qualify his expert witnesses and to  
10 qualify them to see protected information. We are not  
11 dealing in a vaccum. We are dealing in the context of this  
12 proceeding, and it is important for the Board to keep in  
13 mind the qualifications of the other experts that have so  
14 far been offered in this proceeding by opposing counsel.

15 The University, and we shouldn't forget this,  
16 they have the affirmative burden and obligation, now that  
17 this matter of security is properly at issue, which it is,  
18 to affirmatively demonstrate to the Board that their  
19 security is adequate to protect the public health and  
20 safety.

21 To that end they must come forward with a plan  
22 and people expertly qualified to sponsor that plan and to  
23 withstand cross-examination of it to render their  
24 conclusions that it is adequate and offer that to the  
25 Board.

1           To date the witnesses, as I hope we will get  
2 more into later today, the witnesses they have put up  
3 absolutely pale in comparison to the ones that CBG has put  
4 up, and the same statement to a lesser degree, but I  
5 believe it is also a true statement, would go for the  
6 staff's expert witnesses that have been proposed so far.

7           That should take care of it.

8           JUDGE FRYE: You began by pointing out that you  
9 all approached this from two points of view, first of all,  
10 the threat that was present and, second of all, the  
11 adequacy of the security system to deal with that threat.  
12 The four witnesses that we have heard from so far seem to  
13 me, and correct me if I am wrong, to really deal with the  
14 second point; isn't that correct?

15           MR. BAY: That is clearly true as Dr. Kohn and  
16 Dr. Plotkin. Mr. Cornwel and Mr. Rogge, I believe both have  
17 the threat expertise as well. I would have to look at my  
18 notes so I don't confuse the two men. One of them clearly  
19 stated in answer to a question that he believed he was up  
20 to date and expert -- Mr. Cornwell -- that as part of his  
21 business in protecting his multimillionaire clients that  
22 he is up to date and expert in terrorism and  
23 anti-terrorism.

24           JUDGE FRYE: That is right.

25           MR. BAY: Mr. Rogge I believe is also qualified

1 from his FBI and security work.

2 JUDGE FRYE: While I realize we haven't and  
3 aren't going into the qualifications of Dr. Taylor and Dr.  
4 Hafemeister, they would I gather be aimed purely at the  
5 first point, would they not?

6 MR. BAY: Dr. Hafemeister would be aimed purely  
7 at the first point. Dr. Taylor has in his background  
8 considerably experience in reviewing physical security for  
9 its ability to protect against terrorism. He is not a nuts  
10 and bolts hardware guy at all and he doesn't have the type  
11 of law enforcement background. But with his expertise and  
12 background in the threat side comes a valuable knowledge of  
13 the access control side.

14 JUDGE FRYE: So it would be necessary, if he  
15 were qualified, for him to see some portion or all of the  
16 security plan?

17 MR. BAY: It would be helpful. I believe Dr.  
18 Taylor could offer very enlightening and important opinions  
19 and conclusion to this Board without seeing protected  
20 information, but I believe they could go further and be  
21 more helpful if they did see it.

22 JUDGE FRYE: How about Dr. Hafemeister?

23 MR. BAY: I believe that his contribution could  
24 be fully adequately taken care of without review of  
25 protected information.

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1 JUDGE FRYE: Without review of the plan. Okay.  
2 Mr. Cormier.

3 MR. CORMIER: First, I would like to say that  
4 the procedures established by the Appeal Board in ALAB 410,  
5 ALAB 600 and ALAB 653, the relevant Diablo Canyon  
6 decisions, are on the record and parties have had occasion  
7 to refer to them. I am sure the Board will want to look at  
8 them when it makes its ruling on the qualifications of the  
9 witnesses.

10 I must take exception to Mr. Bay's comments  
11 upon the qualifications of the witnesses finally approved  
12 in Diablo Canyon. Of course, at least the University and  
13 presumably the rest of the parties and the Board are not  
14 aware of all the information that may have been submitted  
15 as to those witnesses in Diablo Canyon upon which the  
16 Appeal Board made its ruling.

17 We can't comment on that and to suggest that  
18 their qualifications are the same, the witnesses proffered  
19 in this proceeding is without basis.

20 I must also comment in general about the  
21 University's concerns. We are concerned that the witnesses  
22 be qualified, expertly qualified both under the general  
23 federal standards as well as the particular standards under  
24 ALAB for access to this information.

25 CBG's witnesses bear a different burden than

1 any of the other witnesses in this proceeding because they  
2 are getting access to the security plan or some portion of  
3 it. They are also getting access to other information  
4 relating to the actual physical security system; that is,  
5 they are going to be probably part of some tour that may  
6 occur in the future if we agree and the Board agrees that  
7 they are qualified.

8 That is a different burden than any burden the  
9 University of staff witnesses must satisfy in this  
10 proceeding. It is not equal. Sorry, but it is not an equal  
11 position of the two parties.

12 There are two concerns then, that the witnesses  
13 be expertly qualified and, secondly, that the minimum  
14 number be given access to sensitive security information.

15 The University has already argued in its  
16 pleading as to its concerns about the qualifications of  
17 CBG's witnesses. The University would like to refer the  
18 Board back to that pleading and the arguments made there.

19 First of all, we are concerned about the number  
20 of witnesses being proposed. We think just in general terms  
21 the number being proposed is excessive and unnecessary, and  
22 one of the criteria, a criteria that does not apply when  
23 you qualify witnesses otherwise, but only applies in  
24 qualifying witnesses in security matters under the  
25 Commission's rules is that the intervenor establish the

1 necessity of its witnesses seeing the information, and by  
2 implication that includes the necessity of the number of  
3 witnesses also.

4           So we are concerned about the number and we  
5 note that there appears to be an obvious duplication of the  
6 functions of the witnesses proffered by CBG. We have  
7 discussed that in our pleading and there is no use in  
8 repeating that here.

9           Mr. Bay discussed at length the proposed  
10 testimony that we may expect to receive from this team of  
11 experts being proffered, but I am not sure that I  
12 completely understand at all what it is that these  
13 witnesses are going to contribute either as a total group  
14 or their individual contributions.

15           Mention was made that they are going to tell us  
16 about the threat to the security of the facility. One of  
17 the void areas in this proceeding so far is some  
18 explanation of not just how you penetrate a facility, but  
19 what the threat is to presumably the fuel. If we are  
20 talking about theft or diversion, you have to consider fuel  
21 in the reactor as well as fuel in storage. There are  
22 different concerns there.

23           No showing was made that any of the witnesses  
24 have familiarity with those particular circumstances of the  
25 location of the fuel at least with respect to the fuel in

1 the reactor.

2 We note that none of them have any particular  
3 nuclear engineering expertise. Indeed, I comment here,  
4 though it is inappropriate to get into it now, that because  
5 of that the qualifications of their witnesses in the  
6 University's opinion pale in comparison to the obvious  
7 qualifications of the University's witnesses in those  
8 things. That is the first order of consideration, the fact  
9 that you have got nuclear material in a nuclear reactor of  
10 a particular construction and type and of a particular  
11 composition.

12 JUDGE FRYE: Does it really matter what we are  
13 protecting? The idea, it seems to me, is to keep people  
14 from getting into the lab and I am uncertain as to what the  
15 relevance is of what is there to be protected.

16 MR. CORMIER: Well, let me point out without  
17 getting much further into it that I am not so sure that it  
18 is so important to keep people from getting in the lab.  
19 That is an assumption you may wish to make.

20 JUDGE FRYE: Isn't that the point of the  
21 security system you have got?

22 MR. CORMIER: well, the design of the security  
23 system is to detect intrusion.

24 JUDGE FRYE: Okay.

25 MR. CORMIER: You have to ask the question, and

1 I ask it rhetorically now, what happens if people get  
2 inside the lab or inside the reactor room? What do they do?

3 You have all seen the reactor already and Judge  
4 Bright will probably see it this afternoon. But what do  
5 they do once they are inside that reactor room?

6 JUDGE FRYE: That is an argument for not having  
7 a security system at all though, isn't it?

8 MR. CORMIER: No. It is an argument for  
9 recognizing that we have got a series of redundancies  
10 there. The most obvious first barrier to any penetration of  
11 that facility is the reactor itself, and I would like to  
12 call the Board's attention to the fact that in the upgrades  
13 rule in 73.67, which the Board may wish to refer to, the  
14 proposed rule, the Commission makes explicit reference to  
15 safeguards credit for Argonaut reactor design.

16 we certainly at the appropriate point want to  
17 draw the Board's attention to the fact that there is a  
18 particular design of this reactor that is a very important  
19 consideration.

20 It is not a simple matter to simply talk about  
21 can you penetrate a door. what do you do when you penetrate  
22 the door? we don't want anybody penetrating the doors, but  
23 we are also aware that that is not simply the end of it,  
24 once you penetrate a door and hopefully we will get a  
25 chance to perhaps remark on that this afternoon if we go

1 through the facility.

2 So there are a lot of assumptions apparently in  
3 the contention that are not on the table which I comment  
4 now argue for some additional clarification of where we are  
5 going this with this contention and what is the burden and  
6 what needs to be shown.

7 JUDGE FRYE: In order to go any farther into  
8 this, though, I gather we are going to have to go into an  
9 In Camera session.

10 MR. CORMIER: Yes, that is why I am trying to  
11 speak circumspectly about this.

12 JUDGE FRYE: Yes.

13 MR. CORMIER: we heard some discussion about the  
14 credible envelope of threat. I don't know what that means.  
15 I don't know what we are talking about and I still don't  
16 know what we are talking about. It is inappropriate to  
17 comment on that, but that is another reason why the  
18 University, and I believe the Staff join us in that, will  
19 seek additional clarification of this contention.

20 I think it is paramount before we go any  
21 further to understand what we are talking about and that  
22 concern is related to my previous remarks.

23 Nobody on this side of the table or this corner  
24 of the table is going to pretend to tell the Board that it  
25 is impossible to penetrate the reactor room. First of all,

1 that is not the standard in the regulations and, secondly,  
2 that would be a foolhardy statement to make with regard to  
3 any security on any system that it cannot be penetrated  
4 outside of something like Fort Knox which doesn't concern  
5 us here.

6 It is because of that that we are going to have  
7 to insist on clarity of the contention and, unfortunately,  
8 all these things are tied up because we have to have the  
9 contention clear to be able to focus clearly on what the  
10 qualifications of the witnesses are to bring evidence to  
11 bear on particular issues in the contention.

12 I wish to note specially that there are a  
13 number of matters that are simply not part of the  
14 contention. There is no mention or no claim anywhere in  
15 CBG's contentions about any inadequacies in the  
16 University's intrusion alarm system.

17 Indeed, CBG's argument has been, and we think  
18 it is an argument that goes beyond the regulations, that it  
19 is not sufficient to simply detect intrusion, but  
20 apparently they assume you must be able to prevent  
21 intrusion though they haven't been that candid in  
22 explaining precisely what their position is.

23 JUDGE FRYE: well, you have got to recognize  
24 though that the regulation, 73.67, has a purpose of  
25 preventing theft, and the way they do that is to detect

1 intrusion. But the whole purpose, and it starts out in the  
2 very first part of it and says the purpose is to prevent  
3 theft.

4 MR. CORMIER: It says to minimize. That is what  
5 the words are. I guess I should comment here that we have  
6 gotten hung up in this proceeding, in the University's  
7 opinion, on the words "protection against radiological  
8 sabotage" as a phrase and "protection against or prevention  
9 of theft."

10 I think too stick adherence to the precise  
11 syntax of those phrases has been applied by the Board and  
12 certain of the parties in the proceeding. When those  
13 phrases appear, they appear as a general prohibition or a  
14 general prescription without elaboration.

15 They are given definition when you look at the  
16 specific detailed requirements under, in the case of a  
17 power reactor, 73.55, in the case of nonpower reactor,  
18 73.60, if it applies, and 73.67.

19 Certainly it is a general cannon of  
20 interpretation that specific takes precedence over the  
21 general, and to assume, if we are to assume, that a phrase  
22 like "protection against radiological sabotage" means you  
23 must prevent it or "protection against theft or diversion"  
24 means you must prevent it is not a necessary conclusion  
25 from those general phrases.

**TAYLOE ASSOCIATES**

1625 I STREET, N.W. - SUITE 1004

WASHINGTON, D.C. 20006

(202) 293-3950

1 JUDGE FRYE: Well, aren't we getting off now  
2 into something that is collateral to the qualifications of  
3 these four witnesses?

4 MR. CORMIER: Well, yes.

5 JUDGE FRYE: Those are matters we need to get  
6 into, I agree with you.

7 MR. CORMIER: Those are matters we need to get  
8 into.

9 JUDGE FRYE: I agree with you, but let's do that  
10 when we can go In Camera and have a full discussion of it.

11 MR. CORMIER: I left off the point that there is  
12 nothing in the contentions that raises a concern about the  
13 intrusion alarm system. That is outside the contention as  
14 it stands now.

15 Simply because CBG has taken the tact  
16 apparently that the University must prevent entry into its  
17 protected areas and therefore under CBG's reasoning it  
18 makes no difference if you can simply detect it. So the  
19 adequacy of the intrusion alarm system is not raised by the  
20 contention. The Board has already said it wanted to  
21 strictly limit this to the statement of the contention.

22 As to the University's burden in this  
23 proceeding, which Mr. Bay commented upon, I would like to  
24 point out to the Board that there is basically a prima  
25 facie case already before the Board.

1           The University has an NRC approved security  
2 plan and, in addition, it has the advantage, since it has  
3 been an operating facility, of having years of inspection  
4 by the NRC's Safeguard Section as to the satisfactory  
5 performance of its security responsibilities. In addition,  
6 the NRC has in its safety analysis review examined the  
7 University's facility and found it satisfactory.

8           The University's burden in this proceeding is  
9 to respond to the contentions raised by CBG.

10          As to the particular witnesses, again the  
11 University refers the Board to the University's arguments  
12 and notes again that the University is willing to waive its  
13 objections to Mr. Cornwell and Dr. Plotkin provided that  
14 CBG does not seek to qualify the balance of its witnesses;  
15 that is, that there would be only two security witnesses  
16 from CBG.

17          After the additional information we heard  
18 yesterday, the University's initial instincts as to Mr.  
19 Cornwell's qualifications were essentially verified. The  
20 University believes that he is a qualified expert witness  
21 in this proceeding. The University still has concerns about  
22 all the rest of the witnesses.

23          As to Mr. Rogge, first of all, it seems  
24 apparent to the University that Mr. Cornwell duplicates all  
25 the expertise that Mr. Rogge may have. In fact, the only

1 specific points that came out in Mr. Rogge's voir dire were  
2 his comments about the examination of the cargo door  
3 entrance and his ability to express an opinion on whether  
4 that is satisfactory or the exit doors to the facility are  
5 satisfactory barriers.

6 Mr. Cornwell spoke exactly to the same issue  
7 and has the same qualifications. In addition, he has all  
8 the additional experience and knowledge needed to evaluate  
9 other aspects of the system that Mr. Rogge didn't even  
10 profess to have.

11 I recall for the Board that Mr. Rogge stated  
12 that in these areas of locks he had more than the average  
13 layman, but he didn't profess to be an expert in the area.

14 We think Mr. Cornwell is qualified as an expert  
15 and in light of that that Mr. Rogge's participation is not  
16 needed in this proceeding and could not be countenanced on  
17 the necessity standards set out by the Appeal Board for  
18 expert witnesses in security matters.

19 As to Dr. Plotkin, again we indicated we were  
20 willing to waive, if we were limited to that, but we must  
21 note again that we don't think on balance that he has  
22 adequately demonstrated his qualifications. He indicates a  
23 period of two years in the late '60s when he was part of  
24 two proposals evaluating the security system at the State  
25 Department of Corrections and also at one of TRW's

1 buildings. We don't think that is a substantial  
2 demonstration that he is qualified to evaluate the matters  
3 in place here.

4 we note additionally that the intrusion alarm  
5 system is not at issue in the contention.

6 As to Dr. Kohn, we have exactly the same  
7 concerns we expressed in our pleading. We don't think that  
8 anything that Dr. Kohn indicated yesterday in voir dire  
9 would cause us to change our opi. Frankly, we found his  
10 characterization of his experience a. ng more in the  
11 area of sensors than, I don't know how he put it, laser  
12 technology. We found that characterization somewhat  
13 unbelievable.

14 In any case, to the extent it goes to the  
15 doppler effect of various systems or optical sensor  
16 systems, it is not relevant to this proceeding and it is  
17 not relevant to the contention.

18 Again, Dr. Kohn did not profess any particular  
19 expertise in any of the other areas, notwithstanding his  
20 experience with burglar alarms and his familiarity with  
21 taking keys apart.

22 So as it stands now the University is prepared  
23 to waive objections to Mr. Cornwell on no conditions and we  
24 would be prepared to, in addition, waive objections to Dr.  
25 Plotkin provided that it is only Dr. Plotkin and Mr.

1 Cornwell who are experts for CBG and have access to various  
2 portions of the security plan.

3 JUDGE FRYE: Ms. Woodhead, do you have any  
4 comments?

5 MS. WOODHEAD: Yes.

6 JUDGE FRYE: Oh, excuse me.

7 JUDGE BRIGHT: I have one little question.

8 Mr. Cormier, has UCLA ever had an external  
9 review or audit of the whole security system other than the  
10 NRC?

11 MR. CORMIER: Other than the NRC?

12 JUDGE BRIGHT: Yes.

13 MR. CORMIER: No, other than the fact that we do  
14 coordinate through our police department with the LAPD as  
15 well as recently with the FBI and they are aware of certain  
16 matters. I would not consider any of that involvement  
17 amounting to anything like an evaluation or an outside  
18 assessment. We wouldn't pretend that that is the case.

19 Perhaps there are a couple of things we could  
20 remark upon later in the day when we are In Camera that may  
21 be relevant.

22 JUDGE BRIGHT: Okay. Thank you.

23 JUDGE FRYE: Ms. Woodhead.

24 MS. WOODHEAD: Yes. The staff has no objection  
25 to Mr. Cornwell's expert qualifications in relation to the

1 contention and continues to object to all the rest of the  
2 witnesses because the only part of the UCLA security system  
3 that is at issue here by this contention are found in  
4 Section 3D which talks about inadequate doors, locks, keys  
5 and procedures to control access. That is attacking the  
6 present security system. All of the rest of the contention  
7 alleges that other things should be done which are not in  
8 place now.

9 To evaluate the security plan as it exists and  
10 the security system as it is in place would require someone  
11 who is an expert in the security of doors, locks, keys and  
12 procedures of controlling access, and Mr. Cornwell is  
13 really the only one who demonstrated these qualifications.

14 Mr. Rogge stated that his responsibility in the  
15 FBI was simply to make sure that the FBI's regulations for  
16 security systems were met at each office and that he had no  
17 working knowledge of the system per se and he was supposed  
18 to test them for their adequacy. So that he freely admitted  
19 that he would not be able to speak to the mechanical  
20 functioning of the doors, locks and keys which are at issue  
21 in this contention.

22 Then Dr. Plotkin and Dr. Kohn are quite clearly  
23 electronics experts and freely admit that they don't know  
24 much about doors, locks and keys and couldn't speak to  
25 that.

1           So for that reason the Staff believes only Mr.  
2           Cornwell is a qualified expert in this particular kind of  
3           security which is at issue here.

4           JUDGE FRYE: Good. Thank's very much.

5           JUDGE BRIGHT: I have one little question.

6           Ms. Woodhead, the security criteria for power  
7           reactors are pretty well known and you have nice, specific  
8           guidelines to go by.

9           MS. WOODHEAD: Yes.

10          JUDGE BRIGHT: I just wonder, does Staff have a  
11          set of comparable guidelines that they have made up for  
12          research reactors?

13          MS. WOODHEAD: Yes, Judge Bright, I attached  
14          that Reg. Guide to the response to the allegations of CBG  
15          against Mr. Carlson and Mr. Miller. There is a Reg. Guide.  
16          I am sorry I didn't bring it.

17          Do you have it?

18          MR. CARLSON: No, ma'am.

19          MR. CORMIER: It is 5.59.

20          MS. WOODHEAD: I realize that was a very thick  
21          mass of papers I sent you, but it is in that Staff  
22          response.

23          JUDGE FRYE: In fact, I thought you had sent it  
24          even earlier than that.

25          MS. WOODHEAD: I may have. It has been so long.

1 JUDGE FRYE: Do you want to respond, Mr. Bay?

2 MR. BAY: Yes, briefly to several points.

3 I find Ms. Woodhead's remarks a little  
4 confusing that we are only evaluating the security system  
5 in terms of whether locks, keys and doors are inadequate  
6 and that everything else goes to the features that are in  
7 place.

8 Frankly, the idea is to review the security at  
9 the facility which consists of physical barriers that are  
10 there, the mechanical barriers that have been put in place,  
11 the personnel and the implementation of that system. I  
12 really believe all of that has been put at issue by the  
13 contention and the parties are on notice as to that.

14 JUDGE FRYE: I think we will get into that when  
15 we start talking about the contention.

16 MR. BAY: Mr. Rogge did not say that all he was  
17 doing was comparing security to regulations, although that  
18 would be a useful exercise even in this proceeding. He  
19 actively tried to break his own security systems and made  
20 recommendations that he couldn't force the service to be  
21 more strict than the regs. He at one point stated that he  
22 would make recommendations of how he thought things ought  
23 to be improved. There is no objection to Mr. Cornwell in  
24 that.

25 Although we will obviously argue it more in the

1 future, I think it is absolutely paramount to address the  
2 idea that CBG has a different burden than UCLA in this  
3 phase of the proceedings.

4 As to qualifications of experts, there is no  
5 different burden. The standard for experts is common to all  
6 experts as to whether they are qualified to render expert  
7 conclusions and opinions to the Board and that applies to  
8 all parties.

9 A to the ability to see protected information,  
10 there is protected information on both sides of the table  
11 at this point and the showing should be the same.

12 Mr. Cormier commented that the reactor itself  
13 provides some sort of a redundant barrier and that we had  
14 proposed no witnesses qualified to deal with that aspect of  
15 their security system. That is one area where Dr. Taylor  
16 could be absolutely helpful. He is eminently qualified in  
17 the area of nonproliferation which a key part of it is from  
18 the proliferation point of view how do you get fuel out of  
19 a reactor and do something untoward with it. I don't think  
20 you could find a better expert around the country to  
21 address that specific question than Dr. Taylor.

22 JUDGE FRYE: I want to get into discussing the  
23 contention in the In Camera session and I would like to  
24 explore that aspect more.

25 MR. BAY: Yes, and I don't intend to get any

1 deeper into that.

2 Furthermore, it is important not to forget that  
3 we are dealing both with sabotage and with theft, and that  
4 as far as sabotage, and we can speak more freely at a later  
5 point, but in getting close to the reactor you may not need  
6 any more expertise in a reactor to comment on its  
7 vulnerability to sabotage.

8 I believe your comments about whether it is  
9 really relevant what you are protecting were quite on  
10 point. You must assume that an intruder, and our witnesses  
11 will testify that you must assume this in the world today,  
12 that an intruder will be well financed and knowledgeable  
13 and you don't want them to have the time to do whatever  
14 they are smart and well financed enough to be able to do.  
15 The key is to keep them from getting into the facility and  
16 having that kind of time.

17 Mr. Cormier said there is no objection to the  
18 intrusion alarm system. The contention specifically puts at  
19 issue whether access to the vital areas of this facility  
20 are adequately protected. Again, without seeing the plan  
21 and without seeing the alarm system, it would be  
22 speculative to raise a blanket objection to the intrusion  
23 alarm system.

24 From our outside review and from the cursory  
25 tours that we have taken through we would raise that as a

1 contention, and I think we have based on the information  
2 before us. ALAB 410 is clear that the intervenor must be  
3 given at least sufficient access to set forth is  
4 contention and that we have indicated will be done.

5 Another area of Mr. Rogge's qualifications that  
6 I failed to comment on that is not particularly duplicated  
7 by Mr. Cornwell and could be extremely important in these  
8 proceedings is his expertise in demolition explosives. Mr.  
9 Cornwell has a general background, but it comes from many  
10 years back and is not state of the art which doesn't mean  
11 it is not useful, but Mr. Rogge clearly professed a much  
12 more current knowledge of demolition explosives.

13 I have many more comments on what Mr. Cormier  
14 said, but they largely go to what it is that we are here  
15 arguing about and what is required in the proceeding which  
16 probably it will be more constructive to take up in the  
17 later proceeding.

18 Do you have final comments, Dan?

19 MR. HANSELL: I do have a couple comments more  
20 in talking about the standard that is sort of at issue  
21 here and it is something that I think is important to keep  
22 sight of in making a determination about the qualifications  
23 of these four gentlemen who appeared yesterday before the  
24 group, and that is the purpose to be served by this entire  
25 exercise of trying to qualify the witnesses.

1           Essentially it is that expert testimony, like  
2 all other testimony, has to be probative. That is to say,  
3 their comments have to tend to make a particular point in  
4 issue more true or less true. In order for testimony of an  
5 expert nature to be of benefit it has to be proffered by  
6 people who are competent to bring it forth.

7           Generally there are four standards on this  
8 particular point and I am sure that when the University  
9 and the Staff attempt to qualify their people they will  
10 raise these four standards, but essentially it is that one  
11 can become qualified by virtue of education, by virtue of  
12 training, by virtue of research and by virtue of  
13 experience.

14           That is sort of a broad standard, and the  
15 reason is because the test is this. Will somebody's  
16 analysis of a particular issue assist the finder of fact,  
17 and in this particular situation yourselves, the Licensing  
18 Board, in being able to assess the truth or lack of truth  
19 of a particular contention. That is the standard, it is a  
20 very simple standard and this should not be a game.

21           I am worried just judging from some of the  
22 comments that it sounds like it almost is, I tried to beat  
23 the intervenors or something. That is not the case at all.  
24 There are certain issues that have been raised and certain  
25 people that have been offered to speak on those issues.

1           The question simply again is is their testimony  
2 probative and would their testimony assist the fact finders  
3 in trying to determine the truth or non-truth of the  
4 information that is offered.

5           Now part of it, since we are dealing with the  
6 security issue, and it is of a different nature, but we it  
7 is not different in that that standard changes, but it is  
8 different in regard to the delicacy of the information.  
9 That is to say it is information that we have closed  
10 hearings, et cetera, that we establish a standard and that  
11 standard is a necessity. You don't want more people than  
12 you need to to have access to that particular information.

13           That is one reason that has a lot to do with  
14 the timing on it. In a typical situation you have discovery  
15 and then at the very last minute you can qualify a witness  
16 to testify on it, but the discovery is fairly loose.

17           On this one some of the voir dire precedes that  
18 particular point, but not because you have a higher  
19 standard, but it simply changes the timing in this  
20 situation.

21           JUDGE FRYE: I think there were some new points  
22 raised there, particularly with regard to Mr. Rogge's  
23 demolition expertise. Do you want to respond to any of  
24 that?

25           MR. CORMIER: Yes. I picked up on Mr. Bay's

1 comment there and I guess I was astounded. I didn't hear  
2 anything particularly interesting that Mr. Rogge has  
3 testified to yesterday regarding his expertise in  
4 demolitions. I am not so sure where that fits into the  
5 contention precisely anyway.

6 Both Mr. Rogge and Mr. Cornwell expressed to  
7 having some experience in demolition. On the basis of their  
8 statements of qualifications, Mr. Cornwell is the only one  
9 that shows that real background, not Mr. Rogge,  
10 notwithstanding his remarks that he made yesterday which I  
11 did not interpret as implying that he had extensive  
12 experience in explosives.

13 JUDGE FRYE: Well, it will be evident from the  
14 transcript I am sure whatever he said.

15 Well, shall we at this point having been  
16 through that session take about a 15-minute break and then  
17 we can come back In Camera. We got into to such a great  
18 extent what the contention is all about, that perhaps that  
19 might be the best thing to take up first.

20 Do you all agree?

21 MS. WOODHEAD: I might suggest we go into CBG's  
22 information, get that resolved and then we can go to what  
23 the contention means.

24 JUDGE FRYE: I suspect that it will be all  
25 wrapped up together anyway.

1 MS. WOODHEAD: Yes, and I thought it would be  
2 helpful for Mr. Carlson and Mr. Ashbaugh to be here for the  
3 contention part, and if we can clear up the CBG information  
4 first, then that won't be a problem.

5 MR. CORMIER: In clarifying that I would  
6 certainly want to argue, and all I need to argue today is  
7 that Mr. Ashbaugh, and I suspect the argument would be the  
8 same for Mr. Carlson, certainly require access to that  
9 wholly aside from any question about the qualifications of  
10 experts.

11 MR. BAY: That needs to be resolve In Camera  
12 though.

13 JUDGE FRYE: Yes. I think what they are saying  
14 is we will resolve it In Camera and then they are confident  
15 we will agree with them and then Mr. Ashbaugh and Mr.  
16 Carlson will come in into the In Camera session. That is  
17 the way I interpret it.

18 Let's take a 15-minute break.

19 (Whereupon, 10:07 a.m., the open session  
20 concluded and the parties resumed in an In Camera session  
21 after a brief recess.)

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CERTIFICATE OF PROCEEDINGS

This is to certify that the attached proceedings before the U. S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board in the matter of a UCLA Research Reactor (Proposed Renewal of Facility License) at the University of California at LA, Chancellor Room, Pauley Pavillion, Los Angeles, California 90024 on Thursday, February 9, 1984, were held as herein appears, and that this is the original transcript for the files of the Nuclear Regulatory Commission.

Mary C. Simons

Official Reporter - Typed

*Mary C. Simons*

Official Reporter - Signature