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June 22, 1984  
UNRC

'84 JUN 22 P1:11

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

OFFICE OF PUBLIC  
AFFAIRS

In the Matter of )  
THE REGENTS OF THE UNIVERSITY )  
OF CALIFORNIA )  
(UCLA Research Reactor) )  
\_\_\_\_\_ )

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

EMERGENCY PETITION FOR OFF-SHIPMENT OF SPECIAL NUCLEAR MATERIAL FROM  
UCLA REACTOR FACILITY BEFORE THE JULY OLYMPICS

On June 14, 1984, the University of California withdrew its application for renewal of its license for its reactor facility on its Los Angeles campus, announcing its intention to permanently close and decommission the reactor facility.<sup>1/</sup> The withdrawn application had been for a combined reactor operating license and license to possess Special Nuclear Material (SNM) associated therewith.<sup>2/</sup> Also on June 14, the University requested suspension of evidentiary hearings, scheduled to begin the following week<sup>3/</sup>, hearings which were to assess the adequacy of security at the facility, particularly in light of the proximity of the reactor to the Olympic Village and Olympic competition sites a few hundred yards away. The reactor has been widely identified as a potential target for terrorist attack during the upcoming Olympics.<sup>4/</sup>

1/ June 14, 1984, letter from UCLA Chancellor Young to Chairman Palladino  
2/ UCLA Application for License Renewal, page 5  
3/ See, e.g., Newsweek of 6/27/83, New York Times of 7/30/83, Playboy of May 1983

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At issue in the forthcoming security hearings which UCLA requested be suspended was in part, the adequacy of protection against acts of sabotage, protection against which the University had stated was not included in its security plan: "University wishes to note that its physical security plan, which is not designed to provide protection against sabotage ..."<sup>4/</sup> The Atomic Safety and Licensing Board ruled that some measures to protect against sabotage were required, consistent with the Columbia University case and 10 CFR 73.40(a), and that the scheduled evidentiary hearings would determine what additional protection measures were necessary at UCLA to provide adequate protection against sabotage.<sup>5/</sup> The Board, taking official notice of the rise in terrorist incidents and the unique dangers associated with the upcoming Olympics, committed itself to completing the security hearing and ruling on what additional measures might be necessary for the Olympics prior to the start of the Olympics.

In addition to requesting suspension of the security proceedings due to withdrawal of the application, UCLA wrote to the NRC, indicating its intention to expeditiously remove the nuclear material at the reactor site and requesting NRC assistance in expediting said removal.<sup>6/</sup>

On June 15, in a conference call with the Atomic Safety and Licensing Board Chairman and the parties, all parties stipulated to the suspension of the proceedings on the condition that the nuclear material on site--the additional security precautions for which were to have been resolved in the forthcoming hearings being suspended--be expeditiously removed offsite. This stipulation was memorialized in the Board's June 18 Memorandum and Order (attached):

...it was stipulated to suspend further proceedings, to ship the irradiated fuel presently on site at UCLA offsite as soon as possible, if possible prior to the Olympic games, and that all parties would use their best efforts to make the necessary arrangements and obtain the necessary government approvals to accomplish this goal.

A written stipulation to this effect was to be signed by all parties, and on that basis and with those provisos, the Board suspended the proceedings.

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4/ UCLA Response in Support of Staff Motion for Reconsideration on Contention XX, August 13, 1983. This statement was involved in a finding by the Board that counsel for Applicant had made a material false statement; Applicant continues to insist the statement is true.

5/ Orders of May 11 and October 25, 1983

6/ Letter, June 14, 1984, UCLA's Wegst to NRC's Denton

Thus, evidentiary hearings which were to determine what additional security measures might be necessary to protect the UCLA reactor facility against acts of sabotage, particularly during the 1984 Olympics, were suspended on the condition that "all parties would use their best efforts" to assure that the reactor fuel was shipped offsite, if at all possible, prior to the rapidly approaching Olympics. However, UCLA has not complied; only a few days remain in which to start the off-shipment process; urgent and immediate action by the Commission is necessary to ensure the fuel is off-site before the Olympics.

In response to the June 15 stipulation by parties and the June 18 Order by the Board, the NRC's Safeguards staff has carried out its part. It has determined that a shipping cask is apparently available from Brookhaven, and another one possibly available from GE at Vallecitos. It passed that information on immediately to UCLA, telling UCLA to make the arrangements for the casks. The Staff also determined that the various approvals (routing, etc.) could be expedited so that the SNM could be off-shipped prior to the arrival of the Olympic athletes at the UCLA Olympic Village, which is to occur sometime around July 14. The Commission's Safeguards staff indicated it merely awaited formal request from UCLA to commence its part of the process, and then could move quite expeditiously.

UCLA, however, despite the Board Order and its previous stipulation, now refuses to provide the NRC Staff with such an expedited request for off-shipment prior to the Olympics, saying instead they will take six months to carry out the off-shipment. Furthermore, on June 19, Counsel for Applicant refused to sign the written stipulation, the terms of which he had previously agreed to, demanding in particular the elimination of the previously-agreed-to commitment to remove the fuel prior to the Olympics if possible.

On June 20, Counsel for Applicant refused repeatedly to return calls to CBG to resolve the impasse, although he did return calls to the Board's clerk. CBG requested the Board set up a conference call to hear CBG motions on the matter and enforce compliance with the stipulation and the Board Order; UCLA's counsel declined to participate in such a conference call, and no such conference call was thus held.

On June 21, Counsel for Applicant did speak by phone with CBG, informing CBG UCLA had no intention of shipping the fuel offsite before the Olympics and had not yet even contacted the cask owners suggested by the NRC Safeguards Staff days earlier. No good reason whatsoever was provided for refusing to get the material offsite before the Olympics, nor for refusing to sign the stipulation.

In short, hearings that were to put additional security measures in place at the UCLA reactor to protect against terrorist attack during the Olympics were suspended, at UCLA's request, on condition that UCLA would use its "best efforts" to expedite the off-shipment, and that the fuel would be offsite before the Olympics, if at all possible. UCLA, after having agreed to that, now refuses to sign the written stipulation and to comply with the Board Order, instead intending to take a far more leisurely approach and not have the fuel offsite until many months after the Olympics.

CBG has exhausted its remedies, and the time is so short and the international ramifications of an untoward incident at the Olympics so grave that emergency action by the Commission is needed, within the next few days if there is any chance to get that fuel out of risk in time. The parties have stipulated and the Board has ordered, but UCLA fails to comply. Attempts to have the Board Order enforced have proven futile, as UCLA has refused to even participate in a conference call to resolve the problem. Waiting for written motions and written responses, appeals and enforcement actions for failing to comply with stipulations and Orders would be futile given the time frame involved--if the fuel is to be off-site before the Olympic athletes arrive at UCLA Olympic Village, the shipping arrangements must be commenced within the next few days.

UCLA's Technical Specifications mandate that fuel can be handled within three weeks of shutdown; the reactor has already been shutdown far longer than that due to a control blade failure. The core is opened and all the fuel therein removed in one day during routine fuel unloading practices.<sup>7/</sup> The NRC Staff is committed to expediting approvals and the line, has tentatively identified shipping casks, and awaits merely a request for schedule approval from UCLA, a request UCLA refuses to make.

<sup>7/</sup> see Application, Page III/8-4

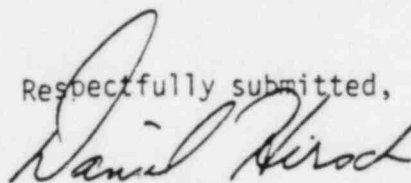
The only barrier preventing completion of off-shipment prior to the Olympics, with the attendant reduction in risks of terrorism at that very important international event, is UCLA's refusal to comply with the stipulated agreement and Board Order to ship the nuclear material offsite as soon as possible.

Because of the potential international ramifications of an untoward terrorist incident at the Olympics involving irradiated nuclear fuel at a reactor adjacent to Olympic Village, CBG respectfully petitions the Commission for an immediate order directing the SNM be removed prior to the arrival of the Olympic athletes at the UCLA Olympic Village. Having withdrawn its application for license renewal, current license authority to possess nuclear material lapses, existing as it did only by virtue of the facility license which expired in 1980 and extended only under color of the timely renewal application provisions of 10 CFR Part 2. Having withdrawn its renewal application, UCLA no longer has license authority to possess the nuclear material, nor any need for the material given closure of its reactor. Given the unique circumstances surrounding the risks of terrorist action at the fast-approaching Olympics, CBG respectfully requests the Commission order immediate removal of the SNM, enforcing the Board's Order in this regard. There is no time to go through normal procedures here--if a decision is not made and the preparations commenced by Tuesday or Wednesday of next week, it may well be too late, given the time necessary for transporting the cask to the site.

The Commission need not reach any factual or legal issue regarding protection of a licensed research reactor against sabotage threats. UCLA is no longer a licensed facility, its license having lapsed with the withdrawal of the renewal application and the expiration of the former license. (CBG requests the Commission immediately accept the withdrawal, contingent upon such conditions the Board may see fit to attach.) The only issue is the speed with which the SNM for which UCLA has no longer either need nor license is to be off-shipped--before or after the Olympics. CBG submits that a serious international incident can be avoided if the Commission expeditiously assures the removal of that material in advance of the Olympics, as stipulated by the parties and directed by the Board.

CBG respectfully requests the Commission issue such an Order (a proposed version is attached), and that, due to the fast approach of the Olympics and the very few days left in which to initiate the off-shipment arrangements, the Commission, if it must await the responses of the parties before acting, hear oral argument on the matter on June 25 or 26 in Washington and issue its decision immediately. Any delay beyond that may make resolution of a serious international concern that is time-urgent beyond reach.

Respectfully submitted,



Daniel Hirsch  
President

COMMITTEE TO BRIDGE THE GAP

dated at Washington, D.C.  
this 22nd day of June, 1984

ADDENDA: After completion of this Emergency Petition, CBG was informed by phone by the Board's law clerk that the UCLA licensing board had vacated its June 18th Order requiring shipment of the fuel before the Olympics if possible, due to UCLA's refusal to sign the stipulation agreed to on the 15th. This EMERGENCY PETITION TO THE COMMISSION can thus be considered an Emergency Appeal of the Board's failure to enforce the June 18th Order and June 15th stipulation. There is no time to appeal the matter to the Appeal Board, and the unique situation regarding the Olympics and a licensee who suddenly withdraws an renewal application under which SNM possession had been permitted after expiration of previous license mandate Commission immediate action because of the unique policy and international ramifications.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Nunzio J. Palladino, Chairman  
Victor Gilinsky  
Thomas M. Roberts  
James K. Asselstine  
Frederick M. Bernthal

In the Matter of )

THE REGENTS OF THE UNIVERSITY )  
OF CALIFORNIA )

(UCLA Research Reactor) )

Docket No. 50-142

(Proposed Renewal of  
Facility License)

ORDER

On June 14, 1984, the University of California withdrew its application for renewal of its license for its research reactor facility. The withdrawal occurred one week before hearings were to begin before the Atomic Safety and Licensing Board as to adequacy of security at the facility, particularly in light of the July-August 1984 Olympics to be held in part at UCLA. The University announced its intention to permanently close the reactor facility and decommission it.

UCLA's possession of Special Nuclear Material (SNM) was by virtue of its reactor license which expired in 1980. SNM possession and reactor operation have continued since that time because of UCLA's application for license renewal--pursuant to the timely renewal application provisions of 10 CFR Part 2--an application now withdrawn.

The Commission accepts the withdrawal of the application, subject to such conditions as the Atomic Safety and Licensing Board may see fit to require. The Commission directs UCLA--and directs the NRC Staff to assist in ensuring that this directive is carried out--to remove the SNM from the UCLA site prior to the arrival of the Olympic athletes at the UCLA Olympic Village.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

84 JUN 19 A9:48

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:  
John H. Frye, III, Chairman  
Glenn O. Bright  
Emmeth A. Luebke

OFFICE OF SECURITY  
& SERVICES  
BRANCH

SERVED JUN 19 1984

In the Matter of  
THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA  
(UCLA Research Reactor)

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

June 16, 1984

MEMORANDUM AND ORDER

On June 14, 1984, counsel for UCLA advised the Board and parties that UCLA had determined to withdraw its license renewal application and to seek permission to decommission the reactor. On the same date, counsel served UCLA's written request to withdraw the license application and a motion to suspend proceedings pending action on its withdrawal request. Evidentiary proceedings are scheduled to commence on CBG's Contention XX in Bethesda, Maryland, on June 21, and continue in Los Angeles on June 25.

In a conference telephone call of Friday, June 15, in which UCLA, Staff, CBG, and the Board Chairman participated, it was stipulated to suspend further proceedings, to ship the irradiated fuel presently on site at UCLA offsite as soon as possible, if possible prior to the Olympic Games, and that all parties would use their best efforts to make the necessary arrangements and obtain the necessary government approvals to accomplish this goal. This stipulation is being reduced to writing and will be executed by the parties and the Board.

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In light of the short time remaining prior to the scheduled commencement of the Contention XX evidentiary hearings, the Board is issuing its Order cancelling those hearings today in advance of receipt of the written stipulation.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD



John H. Foye, III, Chairman  
ADMINISTRATIVE JUDGE

Bethesda, Maryland  
June 18, 1984

Declaration of Service

I declare that copies of CBG Emergency Petition for Off-Shipment of Special Nuclear Material from UCLA Reactor Facility Before the July Olympics have been served on the following this 22nd day of June, 1984:

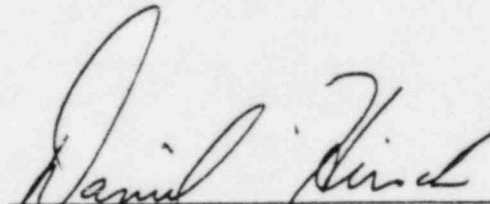
by hand delivery to NRC mail system:

Chairman Palladino  
Commissioners Gilinsky, Roberts,  
Asselstine, Bernthal  
Secretary Chilk  
Docketing and Service Section  
Judges Frye, Bright, & Luebke  
Counsel for Staff Woodhead

by express mail:

William H. Cormier  
Office of Administrative Vice Chancellor  
UCLA  
Los Angeles, CA 90024

Christine Helwick/Glenn Woods  
Office of General Counsel  
University Hall  
Berkeley, CA

  
Daniel Hirsch