

SEP 15 1983

DISTRIBUTION:
SGFF r/f s/f
CRONO
PSL r/f
DCarlson
RRentschler
ESuarez

SGFF:D/MC
50-142

MEMORANDUM FOR: Cecil O. Thomas, Chief
Standardization and Special
Projects Branch
Division of Licensing, NRR

FROM: Willard B. Brown, Chief
Fuel Facility Safeguards
Licensing Branch
Division of Safeguards, NRCSS

SUBJECT: TECHNICAL ASSISTANCE REQUEST: UCLA REVISION 5

This refers to your Technical Assistance Request dated March 16, 1983. Attached is a copy of the Memo To File which was prepared during our original review of Revision 5 to the UCLA Physical Security Plan which was submitted by letter dated August 10, 1982. Each change, as reflected in the Memo To File, is considered not to decrease the effectiveness of the plan. Therefore Revision 5 is acceptable.

We have determined that the Memo To File contains information of a type specified in 10 CFR 2.790(d). Accordingly, it is deemed to be information within the meaning of 10 CFR 9.5(a)(4) and is subject to public disclosure only in accordance with the provisions of 10 CFR 9.12.

Willard B. Brown, Chief
Fuel Facility Safeguards
Licensing Branch
Division of Safeguards, NRCSS

Attachment:
Memo To File

8805200257 880513
PDR FOIA
AFTERG085-196 PDR

05000142750 (CLOSED)

PICKED	SGFF	SGFF	SGFF							
AME	DCarlson:ah	RRentschler								
ATE	9/14/83	9/14/83	9/15/83							

C/110

NR 8 1983

MEMO TO FILE

By letter dated August 10, 1982, UCLA submitted Revision 5 to their Physical Security Plan for the Protection of Special Nuclear Material of Moderate Strategic Significance. We have reviewed these page changes under the provisions of 10 CFR 50.54(p) and have determined that they do not decrease the effectiveness of the security plan and are therefore acceptable. A brief analysis of the 5 page changes follows:

- p. 1-4 There are 2 changes on this page which indicate that the licensee has reduced the 2 Pu-Be neutron sources to 1 source. This source will continue to be locked in a steel drum chained to the wall.
- p. 1-5 Two sentences were deleted which 1) dealt with the fuel being exempt because of its inaccessibility and 2) the fact that the fuel reads greater than 100 rem/hour at one meter. The licensee has reduced the total amount of fuel on site to less than 5000 grams by shipping material offsite. Therefore, the licensee can delete these sentences which dealt with exempt material and does not have to meet the requirements of 10 CFR 73.60.

Figure 4 This drawing shows the ground floor of the Nuclear Energy Laboratory. The addition of 2 key locks and one lock change is indicated in the legend in the revision.

Figure 5 This drawing shows the addition of a shaded area on the 2nd floor of the Nuclear Energy Laboratory that has been designated as a security area.

p. A/8 This table describes the amounts of stored nuclear materials onsite. The new revision excludes the exempt material referenced on page 1-5 that was deleted. The licensee is now below 5000 grams of material onsite.

Barry Manili

DISTRIBUTION:
SGFF r/f & s/f
CRONO
Manili

8805200254 (1p)
[Redacted]

OFFICE	SGFF	SGFF	WFO				
NAME	Manili:mb						
DATE	2/1/83		3/2				

COMMITTEE TO BRIDGE THE GAP

1637 BUTLER AVENUE #203
LOS ANGELES, CALIFORNIA 90025
(213) 478-0829

March 21, 1985

Director
Office of Administration
Division of Rules and Records
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

BY EXPRESS*

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-85-196

rec'd 03/25/85

FOIA Request

Dear Sir:

Pursuant to the Freedom of Information Act, as amended, I hereby request the following records and documents regarding the UCLA reactor facility, Docket 50-142, and the Special Nuclear Material formerly possessed pursuant to Facility License R-71:

- (1) The security plan as submitted to NRC in 1980.
- (2) All subsequent amendments thereto.
- (3) All prior security plans for the UCLA reactor facility, and all amendments thereto, from 1959 on.
- (4) All security inspection reports for the UCLA reactor facility, including notices of violation, and responses thereto, from 1959 on.
- (5) All correspondence between UCLA and the AEC/NRC, and between the AEC/NRC and UCLA, 1959 to the present, dealing with the security plans or amendments, occurrences at the facility of a security interest, or any other matter associated with the security of the UCLA reactor and/or its Special Nuclear Material.
- (6) All transcripts, correspondence, pleadings, Board Memoranda and Orders, written testimony, affidavits, and other documents generated in or associated with the UCLA reactor relicensing proceeding which were not released to the Public Document Room because they allegedly contained information related to the security of the UCLA reactor and its SNM.
- (7) Any other documents or records not included in items (1) through (6) related to Docket 50-142 from 1959 to the present that were not released to the Public Document Room because they allegedly contained safeguards or security information.
- (8) Memoranda, correspondence, or other documents or records generated by Hal Bernard or Colleen P. Woodhead since June 1984 discussing response to any request by UCLA for return or restriction of release of documents associated with the UCLA reactor or its Special Nuclear Material formerly classified as containing Safeguards Information. This shall include, but not be limited to, any request by Hal Bernard or Colleen P. Woodhead to other NRC Staff personnel or offices for return of UCLA former safeguards documents such as security plan and amendments.

89 09030347 (4pp)

(9) Memoranda, correspondence, or other documents or records generated by other NRC personnel than Hal Bernard or Colleen P. Woodhead on the subject identified in (8) above. This shall include responses by NRC personnel to any such memoranda, correspondence, or other documents or records.

(10) Memoranda, correspondence, or other documents or records not included in (8) or (9) above discussing the post-June 1984 status of the UCLA security plan, amendments thereto, and other UCLA documents in possession of NRC that were formerly categorized as not releasable to the public because they contained Safeguards Information. These documents or records to include, but not be limited to, items that address the issue of releasability of former safeguards information once the Special Nuclear Material that was being safeguarded has been removed from the site in question and the NRC-approved security plan and associated safeguards information protection requirements no longer apply.

(11) Documents or records not included in response to items (8), (9) or (10) but discussing matters surrounding these issues.

This request includes all agency records as defined in 10 CFR 9.3a(b) and the NRC Manual, Appendix 0211, Parts 1.A.2 and A.3 (approved October 8, 1980) whether they exist currently in the NRC official, "working," investigative or other files, or at any other location.

The last four categories of records requested above should represent, among other items, all documents and records in the agency's possession as of receipt of this request that discuss response to UCLA's request of January 16, 1985, for return or restriction of its former (most recent) security plan and amendments thereto, as well as all other documents and records discussing the status of releasability of UCLA documents formerly categorized as containing Safeguards Information now that the Special Nuclear Material has been removed and the facility is considered by UCLA and the NRC Staff to no longer be required to have an NRC-approved security plan nor comply with Part 73 requirements.

The first seven categories of documents should represent all documents and records possessed by the NRC as of the date of receipt of this FOIA request related to Docket 50-142 and License R-71 which have not previously been included in the public docket because they were alleged at the time to contain information properly categorized as safeguards information or otherwise discussing security matters. Because of UCLA's decision to permanently close down and dismantle its reactor facility, and because all reactor fuel has been reported by UCLA to have been removed from the site, these documents are no longer properly categorized as containing safeguards information and should be released, as required by 10 CFR 73.21(i).

10 CFR 73.21(i) (Removal from Safeguards Information Category) requires that:

Documents originally containing Safeguards Information shall be removed from the Safeguards Information category whenever the information no longer meets the criteria contained in this section.

Section 73.21 of Title 10 of the Code of Federal Regulations provides the criteria by which the NRC may properly restrict distribution of unclassified safeguards information. Those criteria are that the information related to physical protection of licensees can and should be restricted from public release if the licensee (1) possesses a formula quantity of strategic special nuclear material, (2) is authorized to operate a nuclear power reactor, or (3) transports, or delivers to a carrier for transport, a formula quantity of strategic special nuclear material or more than 100 grams of irradiated reactor fuel.

The documents in question are no longer properly protectable from release because none of the three criteria specified in the regulation are met. (1) UCLA no longer possesses any fuel. (2) UCLA was a research, not power reactor, and in any event, is no longer authorized to operate the research reactor, its license having been amended to a possession only status. (3) All irradiated fuel has already been transported off-site.

10 CFR 73.21 provides the criteria by which security information can be properly prohibited from public release. Section (i) of that regulation requires that documents originally containing Safeguards Information must be removed from the category of information requiring protection "whenever" the information no longer meets the criteria contained in 10 CFR 73.21. The information in question, dealing with past (in some cases, 25 years past) security for Special Nuclear Material no longer on site and former plans which UCLA itself says NRC regulations no longer require, no longer meets any of the 73.21 criteria and therefore must be removed from the protected category and made releasable.

Whereas the documents in question may once have been protectable from disclosure under 73.21 (and, before the promulgation of that regulation, 10 CFR 2.790) because they assertedly contained Safeguards Information, that is no longer the case. (Please note that even 2.790(d), under which some of the material was previously categorized, no longer applies, because it only deals with documents containing information, not otherwise categorized as Safeguards Information, related to the physical protection of Special Nuclear Material, which UCLA no longer possesses.) With the decision to close the facility and the off-shipment of the SNM--i.e., the nuclear material the NRC is mandated to protect--the original basis, and the only relevant legal NRC authority for restraining release of the material (now almost entirely historical) has vanished.

CBG requests that fees be waived, because the "information can be considered as primarily benefitting the general public," 5 U.S.C. 552 (a)(4)(a). CBG is a non-profit, nonpartisan public interest organization concerned with safeguards matters related to nonpower reactors and with appropriate conduct of NRC and licensee employees in proceedings before the NRC, as well as being party to the on-going UCLA reactor proceeding (no termination order has yet issued) and petitioner for leave to intervene in the UCLA dismantlement proceeding.

Pursuant to the requirements of the Freedom of Information Act and the practice and procedure of the NRC in carrying out its obligations under FOIA, CBG requests that no documents related to this request in possession of the NRC as of the date of receipt of this request be destroyed or transferred from the custody of the NRC until final resolution of this

request, including any appeal that may result therefrom, and that the FOIA office promptly so inform NRC staff personnel who may be currently in possession of documents related to this request. By copy of this letter, we are informing Colleen P. Woodhead, Hal Bernard, Joseph Gray, Harold Denton, Cecil Thomas, and the Director of OIA that the above documents are subject of an active FOIA request and that destruction or transfer of any of them from NRC custody is therefore prohibited until the FOIA request is finally resolved. Please make your own notification to all relevant offices and individuals as soon as possible.

Some of the documents identified in this request are, we believe, subject of a previous FOIA request submitted by CBG last year for all documents associated with an investigation by the Office of Inspector Auditor into allegations of misconduct made by the Atomic Safety and Licensing Board with respect to certain NRC employees. In particular, the security plan and some of the inspection reports for UCLA were specifically identified by the ASLB in its February 24, 1984 Memorandum and Order making the charges of misconduct and are, we believe, likely to be part of the OIA investigatory file subject to our earlier request. Any destruction or transfer of custody of these documents pending final resolution of that earlier FOIA request would likewise violate agency obligations under FOIA (see, e.g., the Applegate case). We renew our inquiry as to the long-delayed response to that previous FOIA submission.

Should any of the documents identified in this FOIA request, or associated with it but identified previously in the earlier FOIA request related to the OIA investigation, have been destroyed or transferred from NRC custody, we request full description of the circumstances surrounding the removal, transfer, or destruction of the requested records, including the identity of all individuals involved, and the relevant dates.

The above documents are currently subject of settlement negotiations among the parties to the UCLA proceeding, the results of which may affect matters related to this request.

Please promptly take the necessary steps to assure that the documents in question are neither destroyed nor removed from NRC custody while response to these FOIA requests are being processed (or, in the unlikely event that any portions of these documents are not provided despite their no longer containing protectable Safeguards Information, until all appeals have been exhausted.)

Sincerely,

Steven Aftergood
Steven Aftergood
Executive Director (5)

cc: H. Denton*
C. Thomas*
H. Bernard*
C. Woodhead*
J. Gray*
Director, OIA*
W. Cormier (UCLA)