



RELATED CORRESPONDENCE

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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OFFICE OF SECRETARY
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BRANCH

MEMORANDUM FOR: Richard W. Krimm
Assistant Associate Director
Office of Natural and Technological Hazards
Federal Emergency Management Agency

FROM: Edward L. Jordan
Director, Office of Emergency Preparedness
and Engineering Response
Office of Inspection and Enforcement
Nuclear Regulatory Commission

SUBJECT: SAN ONOFRE NUCLEAR GENERATING STATION -
REMANDED PROCEEDING REGARDING 10 C.F.R.
§ 50.47(b)(12), ARRANGEMENTS FOR MEDICAL
SERVICES

During the NRC/FEMA Steering Committee meeting held on January 20, 1987, the referenced subject was briefly discussed. To summarize the background of this issue, in the course of the operating license proceeding regarding San Onofre Nuclear Generating Station Units 2 and 3, conducted in 1981, a dispute arose concerning the proper interpretation of 10 C.F.R. § 50.47(b)(12) pertaining to arrangements for medical services. In particular, the controversy centered on whether the requirement for such arrangements extended to members of the public offsite who were exposed to high levels of radiation as opposed to such persons who were contaminated and traumatically injured. The Commission, in a decision issued in April 1983, CLI-83-10, determined that the requirement did extend to the former population of individuals but was satisfied by the inclusion of a list of capable medical facilities. In February 1985, the U.S. Court of Appeals, in GUARD v. NRC, 753 F.2d 1144, (D.C. Cir. 1985), reversed the Commission, holding that a mere "list" could not be equated with "arrangements" as required by the regulation, and remanded the matter to the Commission for further action.

In September 1986, the Commission issued a policy statement providing its views on the need to provide additional measures to demonstrate compliance with 10 C.F.R. § 50.47(b)(12). In addition, it remanded to the Atomic Safety and Licensing Board in the San Onofre proceeding, the issue of the adequacy of arrangements made for medical services required by that regulation. In doing so, the Commission instructed the Licensing Board to hold the matter in abeyance pending development and implementation of detailed guidance by FEMA and the NRC staff. That guidance was issued in November 1986 in the form of Guidance Memorandum - Medical Services 1. A

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copy of GM MS-1 was sent to the Licensing Board and parties in the San Onofre proceeding on December 10, 1986.

On December 29, 1986, the Licensing Board issued an Order resuming the proceeding and scheduling a conference call among the Board and parties for January 12, 1987. In its Order, the Board opined that the implementation schedule contemplated by GM MS-1 "appears to be unnecessarily long." (You will recall that GM MS-1 provides that the arrangements called for are to be included in the annual update of the emergency plans following 9 months from the effective date of GM MS-1.) The principal matter of discussion during the conference call was, accordingly, the licensee's schedule for submission of revisions to the appropriate emergency plans which address the Guidance Memorandum. In response to the Licensing Board's suggestion that the revisions be submitted by April 1, 1987 (as opposed to July 1988, as would be permitted for San Onofre per the GM MS-1 provision), the licensee indicated that July 1, 1987 would be more realistic in light of the need to involve FEMA and appropriate government organizations. The staff supported the licensee's suggestion, noting that the GM MS-1 implementation schedule represented an acceptable outer bound for implementation. The staff also suggested that the licensee submit its plans for review by FEMA and that FEMA provide its evaluation prior to requiring the intervenor, GUARD, to raise any matters it might wish to contest; in this fashion, it would be more likely that better defined issues can be framed.

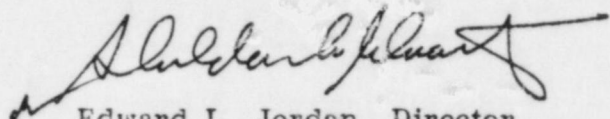
On January 13, 1987, the Licensing Board issued a brief Order directing that the licensee submit appropriate revisions implementing GM MS-1 by July 1, 1987 but that it should exert its best efforts to file them by April 1, 1987. If the licensee is unable to file revisions by April 1, it is to file a status report.

At the January 20 Steering Committee meeting it was recognized that there are resource constraints and other priorities that both FEMA and the NRC are encumbered by. With this in mind, it was requested that FEMA determine the time that it anticipates will be necessary to complete its review of the medical service arrangements contained in the revised San Onofre plans and whether, and to what extent, it will require that these matters be drilled prior to development of a FEMA finding on the issue. (As reflected in the transcript of the conference call, counsel for the licensee is of the opinion that a drill is not needed to demonstrate compliance with the Guidance Memorandum; see, Tr. 9-10.) Because the issue relates principally to offsite planning, the NRC staff's schedule will largely be dependent on FEMA's timetable. To the extent that such matters might bear on the schedule to be developed by the Licensing Board, it would be desirable to inform the Board and parties as soon as possible.

For your information and convenience, attached are copies of the Commission's Remand Order as well the the Orders subsequently issued by the Licensing Board. A copy of the Board Notification issued by the staff on December 10, which appends the Commission policy statement relevant to

medical services, as well as a copy of the transcript of the January 12, 1987 conference call are also attached. (Please note that the transcript contains a number of errors including the names of counsel for the licensee - it should read Mr. Pigott, not Pickett - and counsel for the intervenor - it should read Mr. McClung, not McQuang.)

To facilitate the effective review and participation of both the NRC staff and FEMA in this proceeding, I would suggest that appropriate technical and legal staff discuss the foregoing matters as soon as practicable. The NRC contact on this matter is Lawrence J. Chandler, Special Litigation Counsel, Office of the General Counsel; he can be reached at 492-8658.

A handwritten signature in dark ink, appearing to read "Edward L. Jordan", with a stylized flourish at the end.

Edward L. Jordan, Director
Division of Emergency Preparedness
and Engineering Response
Office of Inspection and Enforcement
Nuclear Regulatory Commission

Attachments: As stated

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Lando W. Zech, Jr., Chairman
Thomas M. Roberts
James K. Asselstine
Frederick M. Bernthal
Kenneth M. Carr

In the Matter of

SOUTHERN CALIFORNIA EDISON
COMPANY,

(San Onofre Nuclear Generating
Station, Units 2 and 3)

DOCKET NOS. 50-361 OL
50-362 OL

REMAND ORDER

In CLI-83-10, 17 NRC 528 (1983), the Commission interpreted 10 CFR 50.47(b)(12) ("planning standard (b)(12)") as applicable to individuals both onsite and offsite, construed "contaminated injured individuals" as including members of the public who were exposed to dangerous levels of offsite radiation following an accident, and held that the requirement that there be "arrangements ... for medical services" was satisfied by the development of a list of area medical treatment facilities. 17 NRC at 536-37. On appeal, the United States Court of Appeals for the District of Columbia ("Court") held that the Commission had not reasonably interpreted planning standard (b)(12) when it generically found that a pre-accident list of treatment facilities constituted "arrangements" for post-accident medical treatment of radiologically-exposed members of the public. GUARD v. NRC, 753 F.2d

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1144 (D.C. Cir. 1985). For this reason, the Court vacated and remanded the relevant portion of CLI-83-10.

In a Policy Statement issued contemporaneously with this Order and attached hereto, the Commission re-affirms its prior construction of planning standard (b)(12) as applicable to both onsite and offsite individuals and to individuals suffering only from severe radiological exposure but otherwise uninjured. However, in response to the Court's remand, the Commission must interpret "arrangements" to require more than the development of a list of area treatment facilities. Nonetheless, the necessary additional arrangements need not be elaborate. As set out in the attached Policy Statement, the Commission has concluded that the arrangements required under planning standard (b)(12) should include (1) a list of local or regional medical treatment facilities and transportation providers appropriately annotated to show their capacities, special capabilities or other unique characteristics, (2) a good faith reasonable effort by licensees or local or state governments to facilitate or obtain written agreements with the listed medical facilities and transportation providers, (3) provision for making available necessary training for emergency response personnel to identify, transport and provide emergency first aid to severely exposed individuals, and (4) a good faith reasonable effort by licensees or state or local governments to see that appropriate drills and exercises are conducted which include simulated severely-exposed individuals.

The Commission has directed the staff to develop, consistent with the attached policy statement and within 60 days, detailed and specific

guidance on the nature of the medical services to be available to exposed individuals and on the application of planning standard (b)(12) to NRC licensees and applicants for licenses to operate commercial nuclear power reactors. The Commission has also directed the staff to consider whether and under what criteria it is necessary or appropriate for the staff to verify the appropriateness of training, and drills or exercises associated with the handling of severely exposed persons.

This matter is remanded to the Atomic Safety and Licensing Board and should be held in abeyance until the staff's detailed, generic guidance on planning standard (b)(12) is issued and implemented. Upon receipt of that guidance, the Board should initiate appropriate proceedings to consider the adequacy of the applicant's emergency medical arrangements with due regard to the attached Policy Statement and subsequent generic staff guidance.

It is so ORDERED.



For the Commission*

Samuel J. Chilk
 SAMUEL J. CHILK
 Secretary of the Commission

Dated at Washington, D.C.

this 12th day of September, 1986

* Commissioner Carr was appointed Commissioner after this order was affirmed by the Commission. He did not participate in this action.

NUCLEAR REGULATORY COMMISSION
Emergency Planning - Medical Services

AGENCY: Nuclear Regulatory Commission

ACTION: Statement of Policy on Emergency Planning Standard 10 CFR
50.47(b)(12)

SUMMARY: The Nuclear Regulatory Commission ("NRC" or "Commission") believes that 10 CFR 50.47(b)(12) ("planning standard (b)(12)") requires pre-accident arrangements for medical services (beyond the maintenance of a list of treatment facilities) for individuals who might be severely exposed to dangerous levels of offsite radiation following an accident at a nuclear power plant. While concluding that planning standard (b)(12) requires such additional arrangements, the Commission leaves to the informed judgment of the NRC staff, subject to general guidance from the Commission, the exact parameters of the minimally necessary arrangements for medical services. To fulfill this mandate the staff (and FEMA) will issue appropriate guidance to licensees, applicants, and state and local governments.

The United States Court of Appeals for the District of Columbia ("Court") vacated and remanded a previous Commission interpretation of planning standard (b)(12) which required only the development and maintenance of a list of treatment facilities on which post-event, ad hoc arrangements for medical treatment could be based. GUARD v. NRC, 753 F.2d 1144 (D.C. Cir. 1985). Pending final Commission action in

response to the GUARD remand, the Commission issued a statement of interim guidance which permitted, pursuant to 10 CFR 50.47(c)(1), the issuance of full power licenses where the applicant satisfied the requirements of planning standard (b)(12) as interpreted by the Commission prior to GUARD, and where the applicant committed to full compliance with the Commission's final response to the GUARD remand. The Commission's prior interim guidance will continue to govern the issuance of full power licenses until issuance and implementation of the NRC staff's specific guidance on this matter, at which point the new policy will apply.

EFFECTIVE DATE: September 17, 1986

FOR FURTHER INFORMATION CONTACT: C. Sebastian Aloit, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (202) 634-3224.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the wake of the Three Mile Island accident in 1979, the Nuclear Regulatory Commission ("NRC" or "Commission") promulgated regulations requiring its licensees and applicants for licenses to operate commercial nuclear power reactors to develop plans for emergency responses to accidents at their facilities. Among those requirements was 10 CFR 50.47(b)(12) ("planning standard (b)(12)"), which provides:

- - (b) The onsite and offsite emergency response plan for nuclear power reactors must meet the following standards:

(12) Arrangements are made for medical services for contaminated injured individuals.

In Southern California Edison Company, et al. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-E3-10, 17 NRC 528 (1983) ("SONGS decision"), the Commission itself faced for the first time the question whether planning standard (b)(12) applied to members of the public who were exposed to offsite radiation following an accident at a nuclear power facility but were not otherwise injured, and if so to what extent. In considering this question, the Commission sought the views of the parties in the SONGS proceeding, reviewed the principal purposes of the planning standard, analyzed the likelihood of serious exposures to the public requiring emergency medical treatment, and evaluated the type of emergency treatment likely to be required. Based on this review, the Commission concluded as a generic matter that: (1) planning standard (b)(12) applied to individuals both onsite and offsite; (2) "contaminated injured individuals" was intended to include seriously irradiated members of the public as well as members of the public who are not seriously irradiated but also are traumatically injured from other causes and radiologically contaminated; and (3) adequate, post-accident arrangements for necessary medical treatment of exposed members of the public could be made on an ad hoc basis if emergency plans contained a list of local treatment facilities.

On appeal, the United States Court of Appeals for the D.C. Circuit concluded that the Commission had not reasonably interpreted planning

standard (b)(12) when it generically found that a pre-accident list of treatment facilities constituted "arrangements" for post-accident medical treatment. GUARD v. NRC, 753 F.2d 1144 (D.C. Cir. 1985). For this reason, the Court vacated and remanded that part of the Commission's SONGS decision that had interpreted planning standard (b)(12) to require only the preparation of a list of local treatment facilities. However, in doing so, the Court made clear that the Commission had on remand, in its sound discretion, flexibility in fashioning a reasonable interpretation of planning standard (b)(12).

II. Arrangements Beyond A List Of Treatment Facilities Required

When originally faced with the question whether the phrase "contaminated injured individuals" was intended to encompass, inter alia, members of the public who, as a result of an accident, were exposed to dangerous levels of radiation, the Commission found no explicit and conclusive definition of the phrase in the regulation itself or its underlying documents. Nonetheless, the Commission concluded that the prudent risk reduction purpose of the Commission's regulations required interpreting planning standard (b)(12) to apply to such offsite exposed individuals, given the underlying assumption of the NRC's emergency planning regulations that a serious accident could occur and the Commission presumption that such an accident could result in offsite individuals being exposed to dangerous levels of radiation (a presumption concurred in by the Federal Emergency Management Agency). After reconsideration of

this matter following the GUARD decision, the Commission has decided to re-affirm this prior interpretation of planning standard (b)(12).

However, the Commission has come to a different result with respect to the minimum arrangements necessary for individuals who might be seriously exposed, but not otherwise injured, in a radiologic emergency. In originally resolving the scope of arrangements issue, the Commission focused on the particular needs of offsite exposed individuals for emergency medical treatment of their radiation injury. In this fashion, the Commission made a distinction between the need for immediate or near-term medical care, which was in its view the goal of planning standard (b)(12), and the need for long-term medical care. As to exposed individuals, the Commission found that:

the special hazard is posed by the radiation exposure to the patient. The nature of radiation injury is that, while medical treatment may be eventually required in cases of extreme exposure, the patients are unlikely to need emergency medical care (footnote omitted). The non-immediacy of the treatment required for radiation-exposed individuals provides onsite and offsite authorities with an additional period of time to arrange for the required medical service. 17 NRC 535-36.

From this, the Commission reasoned that the long-term treatment needs of exposed individuals could be adequately met on ad hoc basis.

After reconsideration in light of the GUARD decision, the Commission has concluded that some additional planned arrangements beyond the development of a list of treatment facilities are necessary to provide additional assurance of effective management of emergency medical services in the hours or days following a severe accident. However, the

Commission continues to believe that the long-term treatment needs of exposed individuals can be adequately met on an ad hoc basis.

The minimally necessary arrangements for the person that may be exposed need not be elaborate. As previously stated by the Commission, "[i]t was never the intent of the regulations to require directly or indirectly that state and local governments adopt extraordinary measures, such as construction of additional hospitals or recruitment of substantial additional medical personnel, just to deal with nuclear plant accidents." 17 NRC at 533. Rather, the Commission believes that satisfactory arrangements should include (1) a list of local or regional medical treatment facilities and transportation providers appropriately annotated to show their capacities, special capabilities or other unique characteristics, (2) a good faith reasonable effort by licensees or local or state governments to facilitate or obtain written agreements with the listed medical facilities and transportation providers, (3) provision for making available necessary training for emergency response personnel to identify, transport, and provide emergency first aid to severely exposed individuals, and (4) a good faith reasonable effort by licensees or state or local governments to see that appropriate drills and exercises are conducted which include simulated severely-exposed individuals. If good faith efforts are not successful in a particular case, the licensee shall provide or arrange for adequate compensatory measures, consistent with the Commission's intent to limit the need for extraordinary measures noted above. The compensatory measures must be approved by NRC. This level of planning would help

(1) provide additional assurance of the cooperation of medical facilities, (2) ensure proper training, (3) ensure the availability of transportation, and (4) demonstrate a capability to provide necessary services through drills and exercises.

The Commission has directed the staff to develop, consistent with this interpretation of the planning standard, detailed and specific guidance on the nature of the medical services to be available to exposed individuals and on the application of planning standard (b)(12) to NRC licensees and applicants for licenses to operate commercial nuclear power reactors. The Commission has also directed the staff to consider whether and under what criteria it is necessary or appropriate for the staff to verify the appropriateness of training, and drills or exercises associated with the handling of severely exposed persons.

The Commission has determined that the arrangements contemplated under this Statement of Policy are the minimum required by a reasonable reading of planning standard (b)(12). Accordingly, although implementation of this reading of the standard will entail some additions to, and some modifications of, the emergency procedures and organizations for which licensees are ultimately responsible, the requirements of the backfit rule, 10 CFR § 50.109 (1986), for a cost-benefit analysis and a finding that the costs of the modifications are justified by a substantial increase in safety are not applicable, since these modifications fall under the backfit rule's exception for modifications necessary to bring facilities into compliance with a rule

of the Commission. See 10 CFR §§ 50.109(a)(2) and (a)(4) (1986). The analysis which the backfit rule requires be done to justify the application of any of its exception provisions constitutes the core of this Statement of Policy. See Id.

III. Interim Guidance

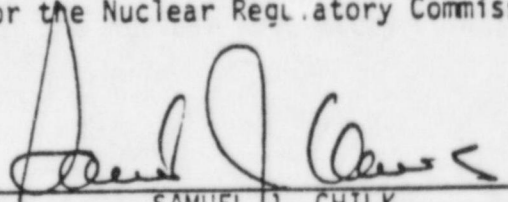
In its prior statement of policy, the Commission identified three factors which justified an interim policy of granting applicants for full-power license an equitable exception to the requirements of planning standard (b)(12) under 10 CFR 50.47(c)(1) where the applicant satisfied the requirements of planning standard (b)(12) as interpreted by the Commission prior to the GUARD decision and committed itself to full compliance with any additional requirements imposed by the Commission in response to the GUARD remand. Statement of Policy on Emergency Planning Standard 10 CFR 50.47(b)(12), 50 FR 20891 (May 21, 1985). The three factors were: (1) the possibility that the scope of planning standard (b)(12) would be limited; (2) the possibility that delay in compliance with the post-GUARD requirements could be found to be insignificant due to the low probability of accidents during the interim period; and (3) the possibility of "other compelling reasons" justifying a brief exception where applicants had relied in good faith upon prior Commission interpretation of planning standard (b)(12).

In this Statement of Policy interpreting planning standard (b)(12) the Commission directs the NRC staff to develop (in consultation with FEMA)

and issue by 11/17/86 appropriate detailed guidance on the exact contours of the necessary arrangements consistent with the Commission's determination that planning standard (b)(12) require arrangements for medical services (beyond the maintenance of a list of pre-existing treatment facilities) for offsite exposed individuals. The Commission believes that the last two factors, discussed in detail in its May 21, 1985 Statement of Policy, continue to justify reliance on the interim guidance for the period necessary for the NRC staff to issue and licensees, applicants, and state and local governments to implement the detailed guidance. Therefore, until appropriate detailed guidance consistent with this policy statement is issued and implemented, the Licensing Boards may continue to reasonably find that any hearing regarding compliance with 10 CFR 50.47(b)(12) shall be limited to issues which could have been heard before the Court's decision in GUARD v. NRC.

Dated at Washington, D.C. this 12th day of September, 1986.

For the Nuclear Regulatory Commission



SAMUEL J. CHILK,
Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

SOUTHERN CALIFORNIA EDISON)
COMPANY, ET AL.)

(San Onofre Nuclear Generating)
Station, Unit Nos. 2 and 3))
)
)
)

Docket No.(s) 50-361
50-362

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this
15th day of SEPT 1976.

Peggy R. Lawrence
Office of the Secretary of the Commission

Board and parties continued:

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Phyllis M. Gallagher, Esq.
1695 West Crescent Avenue, Suite 222
Anaheim, California 92801

Mr. James C. Holcombe
Vice President - Power Supply
San Diego Gas & Electric Company
P.O. Box 1831
San Diego, California 92112

Charles E. McClung, Jr., Esq.
Fleming, Anderson, McClung & Finch
24012 Calle de la Plata
Suite 330
Laguna Hills, California 92653

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges

James L. Kelley, Chairman
Cadet H. Hand, Jr.
Elizabeth B. Johnson

In the Matter of

SOUTHERN CALIFORNIA EDISON
COMPANY, ET AL.

(San Onofre Nuclear Generating
Station, Units 2 and 3)

Docket Nos. 50-361-OL
50-362-OL

(ASLBP No. 86-538-06-OL-R)

December 29, 1986

ORDER

(Initiating Proceedings Concerning
Emergency Medical Arrangements)

By memorandum dated December 10, 1986, the NRC Staff served on the Board and Parties FEMA Guidance Memorandum MS-1 concerning arrangements for medical services required by 10 CFR 50.47(b)(12). In its Remand Order of September 12, 1986, the Commission directed this Board, following receipt of this Staff-FEMA guidance, to "initiate appropriate proceedings to consider the adequacy of the applicant's emergency medical arrangements" Commission Order, p. 3. This Order is in response to that Commission directive.

The emergency medical arrangements called for by the Commission's Statement of Policy and the more detailed Staff-FEMA guidance presumably have not yet been fully implemented by the licensee and the interested

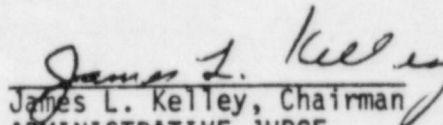
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State and local governments. Indeed, under the Staff-FEMA guidance as we read it, implementation would not be required until "the next annual update [of the San Onofre emergency plans] following nine months from the effective date" of the FEMA guidance memorandum. FEMA Guidance Memorandum, p. 5. See also Staff Board Notification, p. 1. The annual update of the San Onofre plans is due in July. This means that, under the Staff-FEMA view of an appropriate implementation schedule, upgraded emergency medical arrangements would not be required for San Onofre until July 1988. Considering the nature and extent of the arrangements now called for by the Staff-FEMA guidance, the arrangements the licensee in this case has already made, and the fact that such arrangements are, by hypothesis, required to protect public health and safety, the period of time proposed by the Staff and FEMA for implementation appears to be unnecessarily long.

The Board's tentative view is that the licensee should be able to complete and submit its upgraded medical arrangements to the Board and parties by April 1, 1987. The Board is scheduling a telephone conference with the parties for Monday, January 12, 1987 at 1 p.m., EST to discuss the Board's proposed implementation date or other implementation dates the parties may wish to propose. The Board will then set a specific implementation date and this proceeding will remain in abeyance until the licensee serves its upgraded emergency medical arrangements. At that time, the Board will establish procedures for

the filing of any specific contentions the Intervenor GUARD may wish to advance with respect to such arrangements. This is the only notice the parties will receive of the January 12, 1987 telephone conference.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD


James L. Kelley, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges

James L. Kelley, Chairman
Cadet H. Hand, Jr.
Elizabeth B. Johnson

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In the Matter of

SOUTHERN CALIFORNIA EDISON
COMPANY, ET AL.

San Onofre Nuclear Generating
Station, Units 2 and 3)

Docket Nos. 50-361-OL
50-362-OL

(ASLBP No. 86-538-06-OL-R)

January 13, 1987

ORDER

(Setting Deadline for Implementation
of Medical Arrangements)

The Board has considered the views of the parties on an appropriate deadline for the Applicants to submit their showing of implementation of emergency medical arrangements to the Board and parties and FEMA, as expressed in the telephone conference of January 12, 1987. Such showing shall be submitted no later than July 1, 1987. Furthermore, the Applicants shall exert their best efforts to submit such showing by April 1, 1987. If the Applicants cannot meet the April 1, 1987 date, they shall submit to the Board and parties a status report of their progress at that time.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

James L. Kelley
James L. Kelley, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland