

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
OFFICE OF THE GENERAL COUNSEL



1111 Franklin Street, 8th Floor • Oakland, California 94607-5200 • (510) 987-9800 • FAX (510) 987-9757

Charles F. Robinson  
VICE PRESIDENT AND GENERAL COUNSEL

Writer's direct line: (510) 987-9938  
E-mail: charles.robinson@ucop.edu

August 8, 2007

**VIA FACSIMILE AND FEDEX**

The Honorable John D. Dingell  
Chairman, Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515-6115

The Honorable Bart Stupak  
Chairman, Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515-6115

Re: Security Issues at Los Alamos National Laboratory

Dear Chairmen Dingell and Stupak:

I am writing on behalf of Richard Blum, Chairman of The Regents of the University of California, in response to your letter to him of August 2, 2007, regarding security issues at Los Alamos National Laboratory. In that letter, you requested a response to several questions regarding the University's legal posture with regard to the current proceeding initiated by the Department of Energy to impose a civil penalty on the University of California.

As a general matter, because the University has been deemed by the courts to be a branch of government of the State of California, we routinely consider Eleventh Amendment immunity when we face the potential for litigation in federal court. However, we seek to assert such immunity only in the appropriate case or proceeding. The current DOE proceeding is not such an appropriate case. We should not have suggested that it might be. The reference in our submission was in error and we are so advising the DOE of this conclusion.

We regard to your specific questions, we respond as follows:

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The Honorable John D. Dingell  
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Question No. 1: It is not our position that UC is immune under the Eleventh Amendment from suits brought by the Federal Government. We acknowledge our accountability to the Federal Government where it is shown that we have erred, in the current DOE proceeding or any other proceeding brought by the Federal Government.

Question No. 2: We do not contend that UC is immune under the Eleventh Amendment from suits brought by the Federal Government under the Atomic Energy Act, nor under any other Federal statute of which we presently are aware.

Question No. 3: To the best knowledge of current Management (based on reasonable inquiry), the University has not obtained any Federal court ruling supporting a contention that the University is immune under the Eleventh Amendment from suits brought by the Federal Government, nor are we asserting such contention.

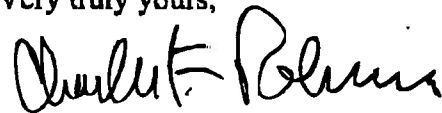
Question No. 4: To the best knowledge of current Management (based on reasonable inquiry), the University has never asserted the Eleventh Amendment as a defense in any proceeding brought by the Federal Government.

Question No. 5: By hard copy of this letter, which we are sending out by Federal Express mail today, we are forwarding the information you have requested regarding Federal grants and other assistance or reimbursements received by the University in the previous three calendar years.

Please be assured that the University of California continues to share your concern that the highest possible levels of security be sustained at both the Los Alamos and Lawrence Livermore National Laboratories, with significant accountability where errors are shown. We sincerely regret any misunderstanding that our submission to DOE in the current proceeding may have created. We look forward to a fair and expeditious resolution of the current proceeding.

We would be happy to respond to any other questions you may have.

Very truly yours,



Charles F. Robinson  
Vice President and General Counsel

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