

**RAS 8569**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

**DOCKETED 10/05/04**

**SERVED 10/05/04**

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Alan S. Rosenthal, Presiding Officer  
Dr. Anthony J. Baratta, Special Assistant

In the Matter of

SEQUOYAH FUELS CORPORATION

(Gore, Oklahoma Site)

Docket No. 40-8027-MLA-6

ASLBP No. 03-812-03-MLA

October 5, 2004

ORDER

Global settlement negotiations have been underway for a considerable period of time encompassing this and other proceedings involving the decommissioning of the Sequoyah Fuels Corporation's Gore, Oklahoma site. (One of the related proceedings is pending before an NRC licensing board; another is before a federal court of appeals on a petition for review of a Commission decision). To accommodate the negotiations, the time for the filing of the written presentations of the Petitioners at hand, State of Oklahoma and Cherokee Nation, has been extended several times. As matters now stand, those presentations are due to be filed and served on or before October 15, 2004.

It appears from the disclosures during an October 4, 2004 telephone conference with counsel for the parties to the proceeding that, although considerable progress has been made towards achieving a global settlement, some issues remain unresolved. In the circumstances, we are agreeable to one final adjustment of the schedule for the written presentations. In our view, in the exercise of appropriate diligence, this should enable the parties to reach a settlement of those issues (whether it be all or just some) that are, in actuality, resolvable

without further litigation. Stated otherwise, given the amount of time that the Gore decommissioning matter has been in settlement negotiations, it is reasonable to conclude that, if agreement cannot be reached on a particular issue without significant further delay, it is unlikely that additional discussions would prove fruitful.

Accordingly, the schedule for the filing of the written presentations is further adjusted as follows:

<u>November 15, 2004</u>	Petitioners' presentations
<u>December 15, 2004</u>	Licensee's and NRC Staff's responsive presentations
<u>January 14, 2005</u>	Petitioners' rebuttal presentations

Absent extraordinary circumstances, a request for yet another adjustment will not be favorably received.

During the telephone conference, Petitioners' counsel expressed concern that the NRC Staff might not find acceptable some of the decommissioning measures that might be agreed upon by the parties, with possible resultant prejudice to their clients' interests. In response to this concern, Staff counsel indicated that, upon presentation to it, the Staff would undertake to determine the acceptability of the terms of a proposed agreement on decommissioning measures. Manifestly, we would not terminate this proceeding on the strength of a settlement unless and until the Staff had indicated its lack of objection to its terms.

In that connection, it is our hope that the Staff will attach a high priority to its review of any settlement proposal that might be put before it for review. As we are certain it appreciates, there is a decided public interest to be served in having the site decommissioning effort move forward as expeditiously as possible. We would think that any site restoration measures found acceptable by both the Licensee and the Petitioners (one of which is the State in which the site is located) would likely receive Staff approval as well. Be that as it may, however, should the

Staff perceive a problem with one or more of the settlement terms, the sooner the objection surfaces the earlier it can be confronted to the benefit of all concerned.

It is so ORDERED.

BY THE PRESIDING OFFICER<sup>1</sup>

*/RA/*

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Alan S. Rosenthal  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
October 5, 2004

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<sup>1</sup> Copies of this order were sent this date by e-mail transmission to counsel for the parties.

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NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
SEQUOYAH FUELS CORP. ) Docket No. 40-8027-MLA-6  
GORE, OKLAHOMA )  
 )  
(Materials License Amendment) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER DATED 10/05/04 have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 40-8027-MLA-6  
LB ORDER DATED 10/05/04

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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 5<sup>th</sup> day of October 2004