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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'99 AUG 27 P3:50

BEFORE THE PRESIDING OFFICER

OFFICE OF THE PRESIDING OFFICER
RULES AND PROCEDURES
ADJUDICATION DIVISION

In the Matter of)	Docket No. 40-8027 - <i>MLA-4</i>
)	
SEQUOYAH FUELS CORPORATION)	Re: Request to Amend Source
Gore, Oklahoma)	Material License No. SUB-1010

NRC STAFF'S RESPONSE TO SEQUOYAH FUELS CORPORATION'S MOTION FOR RECONSIDERATION

INTRODUCTION

The "Sequoyah Fuels Corporation's Motion for Reconsideration" (Motion for Reconsideration), filed August 19, 1999, is before the Presiding Officer for decision. Sequoyah Fuels Corporation (SFC) requests reconsideration of a Memorandum and Order (Order) of August 12, 1999. The Order granted a "Motion for Leave to Supplement Request for Hearing and to Reply to Sequoyah Fuels Corporation and NRC Staff" filed by the State of Oklahoma (Oklahoma) on August 12, 1999. Oklahoma opposes the SFC Motion for Reconsideration by its "Objection to Sequoyah Fuels Corporation's Motion for Reconsideration", filed August 23, 1999.

DISCUSSION

The Presiding Officer has discretionary authority pursuant to 10 C.F.R. § 2.1209 to allow supplemental requests for Subpart L hearings. *Babcock and Wilcox* (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-92-24, 36 NRC 149, 152 (1992). Under the Administrative Procedure Act, 5 U.S.C. 706(2)(A), the standard for review of the exercise

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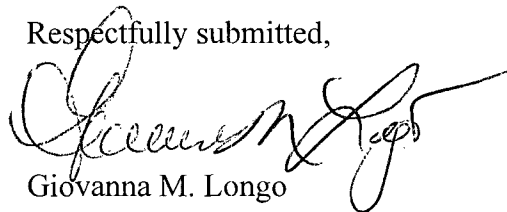
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of authorized discretionary powers is whether that exercise was arbitrary, capricious or an abuse of discretion. *Citizens to Preserve Overton Park, Inc., et al v. Volpe*, 401 U.S. 402, 416 (1971). SFC does not argue that the Order was arbitrary, capricious, or an abuse of discretion, and the NRC Staff would not so argue. Accordingly, the NRC Staff does not support SFC's Motion for Reconsideration.

CONCLUSION

Wherefore, for the reasons stated above, the NRC Staff does not support the "Sequoyah Fuels Corporation's Motion for Reconsideration".

Respectfully submitted,



Giovanna M. Longo
Counsel for NRC Staff

Dated at Rockville, Maryland
this 27th day of August 1999

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OFFICE OF THE PRESIDING OFFICER
RULEMAKING AND ADJUDICATIONS
U.S. NUCLEAR REGULATORY COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO SEQUOYAH FUELS CORPORATION'S MOTION FOR RECONSIDERATION" in the above-captioned proceeding have been served on the following by deposit into the United States mail, or through deposit in the Nuclear Regulatory Commission's internal mail system as indicated with an asterisk, or with a double asterisk by hand delivery on this 27th day of August 1999.

Administrative Judge*
Charles Bechhoefer
Atomic Safety and Licensing Board
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge*
Thomas D. Murphy
Atomic Safety and Licensing Board
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Adjudicatory File (2)*
Atomic Safety and Licensing Board
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board Panel*
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

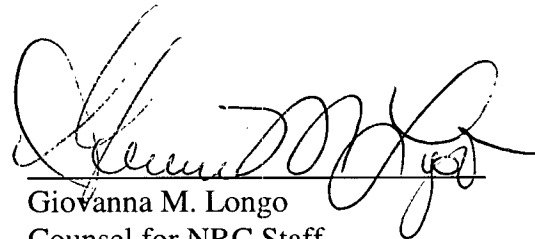
Office of the Secretary (2)**
ATTN: Rulemaking and Adjudications
Staff
Mail Stop: O-16G15
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Craig Harlin
Sequoyah Fuels Corporation
P.O. Box 610
Gore, Oklahoma 74435

Stephen L. Jantzen
Assistant Attorney General
State of Oklahoma
Environmental Protection Unit
2300 N. Lincoln Boulevard, Suite 112
Oklahoma City, OK 73105

Office of Commission Appellate
Adjudication**
U.S. Nuclear Regulatory Commission
Mail Stop: O-16G15
Washington, D.C. 20555

Alvin H. Gutterman, Esq.
Donald J. Silverman, Esq.
Goran P. Stojkovich, Esq.
Morgan, Lewis & Bockius, LLP
1800 M Street, N.W.
Washington, D.C. 10036



Giovanna M. Longo
Counsel for NRC Staff