

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'94 JAN -7 A10:51

Before Administrative Judges:

James P. Gleason, Chairman
Dr. Jerry R. Kline
G. Paul Bollwerk, III

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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In the Matter of

SEQUOYAH FUELS CORPORATION
and GENERAL ATOMICS

(Gore, Oklahoma Site
Decontamination and
Decommissioning Funding)

Docket No. 40-8027-EA

Source Material License
No. SUB-1010

ASLBP No. 94-684-01-EA

January 6, 1994

MEMORANDUM AND ORDER

(Memorializing Rulings on Pending
Motions; Prehearing Conference Agenda)

Pending before the Licensing Board are requests by intervenor Native Americans for a Clean Environment (NACE), licensee Sequoyah Fuels Corporation (SFC), and General Atomics (GA) regarding several procedural matters. The Board received written responses to some of these motions, discussed all of them with the participants during a January 5, 1994 telephone conference, and made oral rulings on the various requests.

This memorandum and order memorializes the Board's rulings regarding these matters. In addition, we provide the participants with further information regarding the subject matter of the upcoming prehearing conference.

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I. Pending Motions

A. NACE Request to Extend Its Time to File Contentions.

In its December 30, 1993 "Request for Extension of Time for Filing Contentions as of Right and Request for Expedited Consideration," intervenor NACE declares that in light of the Board's December 17, 1993 memorandum and order setting a prehearing conference for January 19, 1994, pursuant to 10 C.F.R. § 2.714(a)(3), its contentions are due on or before January 4, 1994. Citing the press of other business, it asks that it be allowed to file its contentions either thirty days from January 4 or thirty days from the date of any Board order granting its pending intervention request. NACE prefers the latter filing date. In responses filed January 3, 1994, SFC and GA have indicated they have no objection to NACE's extension request. In response to the Board's telephone inquiry, the NRC staff declared that it also has no objection to NACE's motion.

NACE's request for an extension of time to file its contentions is granted. NACE's contentions shall be filed within thirty days of the date of any Board order granting it party status in this proceeding.

B. SFC/GA Motions for Permission to File Response to Reply.

In a January 3, 1994 "Motion for Leave to Reply to [NACE's] Supplemental Factual Allegations, New Arguments and Request for Discretionary Intervention," SFC asks that the

Board authorize it to file a pleading addressing several matters discussed by NACE in its December 30, 1993 reply to SFC's answer to NACE's intervention request. During the January 5 telephone conference GA made an oral request for similar authority.¹ In response to the Board's inquiry, neither NACE nor the staff posed any objection to these requests.

The SFC and GA motions for leave to file a response to NACE's reply to SFC's answer to NACE's intervention request are granted. The responses of SFC and GA shall be filed on or before Tuesday, January 11, 1994. In addition to regular service by mail on each Board member and the other participants, SFC and GA should send a copy of their filings to the Board and the other participants by facsimile transmission or other means that will ensure receipt by 4:30 p.m. EST on the day of filing.

C. SFC Request to Delay Prehearing Conference.

As part of its January 3 response to NACE's request for an extension of time to file its contentions, SFC asks that the Board postpone the prehearing conference now scheduled for Wednesday, January 19, 1994. SFC suggests that any

¹ The NACE responsive filing is labeled as a reply to the answer filed by SFC; however, in its reply NACE acknowledges that GA submitted a separate answer that adopted the substance of SFC's filing and that NACE's reply is a response to both pleadings. See [NACE] Reply to [SFC's] Answer in Opposition to NACE's Motion to Intervene (Dec. 30, 1993) at 2.

prehearing conference is premature until all questions regarding NACE's intervention status and contentions are resolved. During the telephone conference, GA and the staff indicated they agree with SFC. NACE stated it had no objection to the conference going forward.

Given the nature of NACE's interest in this proceeding, we do not agree with SFC's concern that the conference will be premature. The Board also is concerned that this proceeding not be delayed unnecessarily. Therefore, SFC's request to delay the prehearing conference is denied. The prehearing conference remains scheduled for Wednesday, January 19, 1994, beginning at 9:30 a.m., in the NRC Hearing Room, Fifth Floor, West Tower, East West Towers Building, 4350 East West Highway, Bethesda, Maryland.

II. Prehearing Conference Agenda

During the prehearing conference, the Board will have questions for the participants regarding some of the issues raised in the various pleadings relating to NACE's motion to intervene. The Board anticipates providing the participants with a outline of its general areas of inquiry prior to the prehearing conference.

In addition, the Board contemplates soliciting during the prehearing conference the parties' views on their "theory of the case" relative to the statutory and regulatory authority underlying the agency's October 15,

1993 order. Prior to the prehearing conference, the Board will provide an outline of the matters it would like to see addressed in this discussion.

Finally, each participant may provide the Board with a list of any topics it would like to have considered at the prehearing conference. This agenda list should be filed on or before Friday, January 14, 1994. In addition to regular service by mail, each participant should provide a copy of its list to the Board and the other participants by facsimile transmission or other means that will ensure its receipt by 4:30 p.m. EST on the day of filing.

It is so ORDERED.²

FOR THE ATOMIC SAFETY
AND LICENSING BOARD



James P. Gleason, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland

January 6, 1994

² Copies of the memorandum and order are being sent this date to counsel for SFC, GA, and NACE by facsimile transmission and to staff counsel by E-Mail transmission through the agency's wide area network system.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
SEQUOYAH FUELS CORPORATION
(Sequoyah Facility)

Docket No.(s) 40-8027-EA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (MEMORIALIZING...) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
James P. Gleason, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
G. Paul Bollwerk, III
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Richard G. Bachmann, Esq.
Steven R. Hom, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Maurice Axelrad, Esq.
John E. Matthews, Esq.
Newman & Holtzinger, P.C.
1615 L Street, N.W., Suite 1000
Washington, DC 20036

Diane Curran, Esq.
c/o IEER
6935 Laurel Avenue, Suite 204
Takoma Park, MD 20912

Stephen M. Duncan, Esq.
Bradfute W. Davenport, Jr., Esq.
Mays & Valentine
110 South Union Street
Alexandria, VA 22314

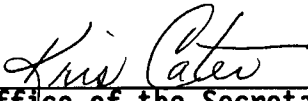
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LB M&O (MEMORIALIZING...)

John R. Driscoll
General Atomics Corporation
3550 General Atomics Court
San Diego, CA 92121

John H. Ellis, President
Sequoyah Fuels Corporation
P.O. Box 610
Gore, OK 74435

Lance Hughes, Director
Native Americans For A Clean
Environment
P.O. Box 1671
Tahlequah, OK 74465

Dated at Rockville, Md. this
7 day of January 1994


Office of the Secretary of the Commission