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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	
SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS	Docket No. 40-8027-EA
(Sequoyah Facility)	March 4, 1994

RESPONSE OF SEQUOYAH FUELS CORPORATION TO NATIVE AMERICANS FOR A CLEAN ENVIRONMENT'S MOTION FOR LEAVE TO REPLY TO SEQUOYAH FUELS CORPORATION'S, GENERAL ATOMICS' AND NRC STAFF'S RESPONSES TO NACE'S SUPPLEMENTAL PETITION TO INTERVENE

In its motion dated March 2, 1994, Native Americans for a Clean Environment ("NACE") has failed to present any justification for filing yet another pleading not contemplated by the Commission's rules. NACE does not contend that the Staff or SFC or GA have introduced new facts or misrepresented the record or done anything else that would provide a legitimate reason to request leave to file a further reply. Rather, NACE claims only that the Staff, SFC and GA have made "erroneous arguments" and that its latest pleading "is necessary to make a complete and meaningful record." However, a party generally views its opponent's arguments as being erroneous and it is doubtful that NACE's regurgitation of its arguments will make the record any more complete or meaningful. Accordingly, NACE's motion should be denied and no consideration given to its Reply.

Should the Board choose to examine the substance of NACE's Reply, its lack of merit will quickly become evident.

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With respect to SFC's Answer, NACE contends that it should be permitted to contest the adequacy of SFC's $86 million cost estimate because "this issue was first put into contention by SFC itself." This assertion is unsound both factually and logically. SFC obviously is not contesting the adequacy of its own cost estimates. All that SFC did was to deny in its Answer any "implication" in the NRC order that the estimated amount might be insufficient. Such understandable caution on SFC's part cannot create a contested issue where none is otherwise present.

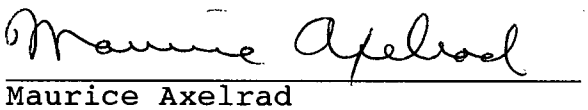
The actual requirements sought to be imposed by the Order are clear. The Order states that "GA shall provide financial assurance for decommissioning and decontamination in the amount of $86 million." Order at VII. NACE's attempt to raise as a contention that the costs may exceed $86 million would be relevant only to requiring financial assurance in an amount greater than $86 million. This would constitute remedial action beyond that set forth in the Order, and is precluded from consideration in this proceeding. Bellotti v. NRC, 775 F.2d 1380 (D.C. Cir. 1983).

CONCLUSION

For the reasons set forth above, NACE's motion to file a reply should be denied. In any event, the Board should reject as a basis for any contention NACE's allegations regarding the

adequacy of SFC's estimates of decommissioning costs or the components thereof.

Respectfully submitted,



Maurice Axelrad
John E. Matthews

NEWMAN, BOUKNIGHT & EDGAR, P.C.
1615 L Street, N.W., Suite 1000
Washington, D.C. 20036
(202) 955-6600

ATTORNEYS FOR
SEQUOYAH FUELS CORPORATION

March 4, 1994

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "Response of Sequoyah Fuels Corporation to Native Americans For A Clean Environment's Motion For Leave to Reply to Sequoyah Fuels Corporation's, General Atomics' And NRC Staff's Responses to NACE's Supplemental Petition to Intervene" were served upon the following persons by deposit in the United States mail, first class postage prepaid and properly addressed on the date shown below:

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Docketing & Service Branch
(Original and two copies)

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

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

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

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

Administrative Judge Thomas D. Murphy
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Steven R. Hom, Esq.
Susan L. Uttal, Esq.
Richard G. Bachmann, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

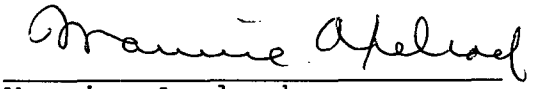
Stephen M. Duncan, Esq.
Mays & Valentine
110 South Union Street
P.O. Box 149
Alexandria, VA 22313-0149

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

John R. Driscoll
General Atomics
P.O. Box 85608
San Diego, California 92186-9784

Lance Hughes, Director
Native Americans for a Clean Environment
P.O. Box 1671
Tahlequah, Oklahoma 74465

Dated this 4th day of March 1994.



Maurice Axelrad

Newman Bouknight & Edgar, P.C.
1615 L Street, N.W.
Suite 1000
Washington, D.C. 20036
(202) 955-6600