

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of )  
Sequoyah Fuels Corporation )  
and General Atomics ) Docket No. 40-8027-EA  
) Source Material License No.  
) SUB-1010  
(Gore, Oklahoma, Site )  
Decontamination and ) ASLBP No. 94-684-01-EA  
Decommissioning Funding) April 15, 1994

APPLICATION FOR ORDER ALLOWING INTERVENTION

This submission is made by the Cherokee Nation in response to the Order of March 29, 1994, by Administrative Judge James P. Gleason, Chairman of the Atomic Safety and Licensing Board.

It has been determined that there will be a hearing conducted in these proceedings and that those parties with interests which may be affected by this proceeding may petition for leave to intervene within twenty (20) days of publication of notice of hearing. The Cherokee Nation submits its application for an order allowing it to intervene as an interested party within the time so specified.

In order to establish standing the moving party must comply with 10 C.F.R. Section 2.714(a)(2). The petition must set forth in detail (1) interest of the petitioner in the proceeding; (2) how that interest may be affected by the results of the proceeding, including the reasons why the petitioner should be permitted to intervene, with particular reference to (a) the nature of the petitioner's right under the Atomic Energy Act to be made a party

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to the proceeding, (b) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (c) the possible affect of any order that may be entered in the proceeding upon the petitioner's interest; and (3) the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene.

The Cherokee Nation has a standing membership of over 150,000. The Cherokee Nation, as a tribal government, has the obligation to protect the health, safety and welfare of its members where possible. The tribe is also the owner of a portion of the bed of the Arkansas River with the responsibility to protect the asset for future generations. The riverbed itself is held in trust by the U.S. For the benefit of the tribe.

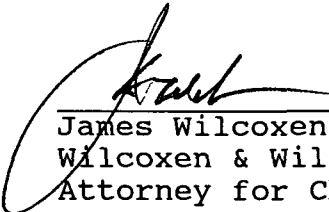
Essentially the Cherokee Nation is concerned about the extent to which the environment surrounding this plant has been contaminated by its operation over the years. It is known that significant quantities of contaminants remain at the plant site and will have to be adequately dealt with during decommissioning. It is also believed that contaminants from the site have been allowed to escape and settle on nearby tribal lands. The unknown factor is the degree to which the contamination has been allowed to take place and the attending cost of removing the contamination.

This plant is located adjacent to the Illinois River approximately one-half (1/2) mile above its confluence with the Arkansas. The plant is also located within the fourteen (14) county area of the old Cherokee Nation and it is known that many tribal members live within a ten (10) mile radius of the plant.

The property interests and membership obligations of the Cherokee Nation will undoubtedly be affected by the result of these proceedings. It is clear that the National Environmental Policy Act applies to federal actions impacting tribal trust lands. Davis v. Morton, 469 F.2nd 593(CA 10 NM 1972); Manygoats v. Kleppe, 558 F.2nd 556. (CA 10 1977). It is also well settled that the United States has a fiduciary duty to Indian tribes in managing their property. United States v. Creek Nation, 295 U.S. 103 (1935); Seminole Nation v. United States, 316 U.S. 286 (1942). While the Atomic Energy Act itself is silent as to the status of Indian tribes and trust land, it is not unusual for tribes to appear as parties before the N.R.C. In fact this Commission has previously permitted intervention by this tribe as a party in licensing proceedings concerning this same facility.

The federal trust responsibility to properly manage and protect tribal trust lands for the benefit of the tribe, and the unique relationship between the Cherokee Nation and its membership, adequately establish that the Cherokee Nation has standing to intervene in these proceedings.

**WHEREFORE**, the Cherokee Nation would respectfully request permission to intervene in these proceedings.

  
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CERTIFICATE OF SERVICE

I certify that on the 20th day of April, 1994, copies of Application for Order Allowing Intervention were served on the following by first class mail, to the following:

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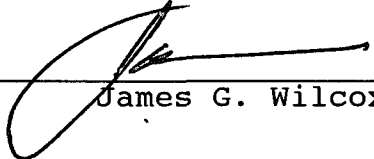
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Washington, DC 20555

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