

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'94 JUL 15 P4:06

BEFORE THE COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
SEQUOYAH FUELS CORPORATION)	Docket No. 40-8027-EA
GENERAL ATOMICS)	
)	Source Material License
(Gore, Oklahoma Site)	No. SUB-1010
Decontamination and)	
Decommissioning Funding))	
)	

NRC STAFF'S ANSWER IN OPPOSITION TO
GENERAL ATOMICS' MOTION TO STAY DISCOVERY

Steven R. Hom
Susan L. Uttal
Counsel for NRC Staff

July 15, 1994

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On July 6, 1994, General Atomics (GA) filed a Motion to Stay Discovery (Stay Motion) before the Commission, requesting a stay all further discovery pending the Commission's determination as to whether GA's Petition for Review of LBP-94-17 and/or Motion for Directed Certification (June 24, 1994) (Petition for Review) will be granted, and, assuming the Petition for Review is granted, pending the Commission's final determination of the issues raised in GA's Motion For Summary Disposition Or For An Order Of Dismissal (Feb. 17, 1994).

Pursuant to 10 C.F.R. § 2.730(a), the Stay Motion properly lies before the Atomic Safety and Licensing Board (Board). This section provides that "[a]ll motions shall be addressed to the Commission *or, when a proceeding is pending before a presiding officer, to the presiding officer.*" 10 C.F.R. § 2.730(a) (emphasis added). As this proceeding is now before the Board, the Stay Motion should be addressed to the

Board and properly disposed of by it. Accordingly, GA's Stay Motion should be dismissed by the Commission.

Should the Commission, however, decide to exercise its inherent supervisory powers over adjudicatory proceedings¹ and review the Stay Motion on the merits, the Commission should deny the Stay Motion. As a practical matter, the effect of granting the Stay Motion could be to stay all discovery for well beyond the next "one or two months," which would be unreasonable. See Stay Motion at 4, paragraph 8. Furthermore, GA's concerns regarding substantial litigation costs incurred from discovery, at least over the next "one or two months," may not be warranted. The NRC Staff (Staff) will shortly be reviewing the responses to the first round of discovery it served on GA and Sequoyah Fuels Corporation, and does not anticipate proceeding with further discovery until review of the responses is completed. In any event, should GA be served with additional discovery, it always has the option of moving the Licensing Board for a protective order with respect to any discovery that may be unreasonably burdensome.

¹ See, e.g., *Ohio Edison Co., et al.*, CLI-91-15, 34 NRC 269 (1991).

Therefore, in view of the foregoing, the Commission should deny the Stay
Motion.

Respectfully submitted,



Steven R. Hom
Susan L. Uttal
Counsel for NRC Staff

Dated at Rockville, Maryland
this 15th day of July 1994

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NUCLEAR REGULATORY COMMISSION

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In the Matter of)
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SEQUOYAH FUELS CORPORATION) Docket No. 40-08027-EA
GENERAL ATOMICS)
) Source Material License
(Gore, Oklahoma Site Decontamination) No. SUB-1010
and Decommissioning Funding))

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S ANSWER IN OPPOSITION TO GENERAL ATOMICS' MOTION TO STAY DISCOVERY" in the above-captioned matter have been served on the following by deposit in the United States mail, first class, or as indicated by asterisk through deposit in the Nuclear Regulatory Commission's internal mail system this 15th day of July 1994:

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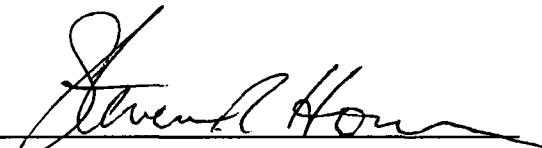
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¹Also served by hand by 4:15 p.m. on July 15, 1994.