UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

In the Matter of	Docket No. 40-8027-EA
SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS	(Decontamination and Decommissioning Funding)
(Gore, Oklahoma Site)	May 5, 1994

SEQUOYAH FUELS CORPORATION'S ANSWER IN OPPOSITION TO CHEROKEE NATION'S APPLICATION FOR ORDER ALLOWING INTERVENTION

Sequoyah Fuels Corporation ("SFC") hereby submits this answer in opposition to the Cherokee Nation's "Application for Order Allowing Intervention" (hereafter "Application") in the above-captioned proceeding. [1/] The Cherokee Nation submitted its Application pursuant to a Notice of Hearing published in the Federal register on April 5, 1994 (59 Fed. Reg. 15,953) in accordance with a March 29, 1994 order of the Atomic Safety and Licensing Board ("Licensing Board"). SFC files this timely

[1/] This proceeding relates to an Order dated October 15, 1993 (hereafter, "Order") that was issued by the Nuclear Regulatory Commission ("NRC") to SFC and General Atomics ("GA").

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answer in opposition to the Application pursuant to 10 CFR § 2.714(c). [2/]

SFC opposes the intervention request of the Cherokee Nation because the Cherokee Nation has failed to identify any particularized "injury in fact" to its organizational interests or to the interests of a member, who has authorized the Cherokee Nation to act on her or his behalf, that will be affected by the subject matter of this proceeding. Contrary to the requirements of the NRC's Notice published in the Federal Register, the Cherokee Nation has failed to establish that it has a cognizable interest in this proceeding, has failed to show how its interests may be affected by the proceeding, and has failed to identify the specific aspect or aspects of the subject matter of the proceeding as to which it wishes to intervene. Notably, the Cherokee Nation has not stated whether it opposes the NRC's Order or whether, like NACE, it wishes to intervene for the purpose of arguing that the Order should be fully sustained. However, SFC assumes that the Cherokee Nation supports the Order. In any event, the Application is inadequate, as a matter of law, to establish the Cherokee Nation's standing in this proceeding.

BACKGROUND

SFC is the owner of NRC-licensed facilities at Gore, Oklahoma ("SFC Facility"). SFC is the sole licensee named in NRC

[2/] Although dated April 15, 1994, the Certificate of Service accompanying the Application indicates that it was served upon the parties to this proceeding by first class mail on April 20, 1994.

Source Materials License No. SUB-1010 (Docket No. 40-8027) ("SFC License"), and, pursuant to 10 CFR § 40.42(e), its activities are limited to those related to decommissioning the SFC Facility in accordance with the terms of its license, NRC regulations, and the Atomic Energy Act of 1954, as amended ("the Act"). [3/]

On October 15, 1993, NRC issued the Order to SFC and GA. The Order was published in the Federal Register on October 25, 1993 (58 Fed. Reg. 55,087). It provided that SFC, GA, and "any other person adversely affected by this Order" could request a hearing within 20 days, i.e., by November 4, 1993. The Order further provided that if a hearing were requested, the issue to be decided in such a hearing would be "whether this Order should be sustained." 58 Fed. Reg. at 55,092.

On November 2, 1993, SFC and GA separately requested a hearing on the Order. On November 18, 1993, the Secretary of the Commission referred the SFC and GA requests to the Licensing Board for further proceedings in accordance with 10 CFR § 2.772(j). At the same time, NACE filed a motion for leave to intervene in this proceeding for the purpose of arguing that the Order should be fully sustained. A Licensing Board was established on November 22, 1993, and notice of the proceeding, including the hearing requests of SFC and GA, was provided in the Federal Register on December 1, 1993. 58 Fed. Reg. 63,406.

[3/] Atomic Energy Act of 1954, Pub. L. No. 83-703, 68 Stat. 919 (codified as amended in scattered sections at 42 U.S.C.).

The NACE motion presented the novel legal question of whether a petitioner can claim to be injured based upon the fact that the outcome of a proceeding may be that the NRC will not take an enforcement action (or will take some other lesser action) that the petitioner could not compel in the first instance. The Licensing Board answered this question in the affirmative, concluding in Section II.A of LBP-94-5, 39 NRC ___, (Feb. 24, 1994), that a petitioner can intervene as of right in a 10 CFR § 2.202 enforcement proceeding in order to support the NRC Staff's proposed order. LBP-94-5, 39 NRC ____, slip op. at 38. However, the Licensing Board referred this question, in accordance with 10 CFR § 2.730(f), for immediate review by the Commission. [4/]

In LBP-94-5, the Licensing Board also ruled that NACE had shown "injury in fact" sufficient to establish NACE's representational standing on behalf of one of its members. LBP-94-5, 39 NRC ___, slip op. at 17-26 (Section II.B). The Licensing Board's decision that NACE had standing to intervene as a party in this proceeding was contingent upon the admission of

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[4/] By order dated March 3, 1994, the Commission invited the parties to this proceeding to file briefs with the Commission addressing the questions of whether Commission review is appropriate under the standards of 10 CFR § 2.786(g) and whether the ruling in section II.A of LBP-94-5 should be sustained. SFC filed its "Initial Brief in Opposition to the Ruling in Section II.A of LBP-94-5" on March 11, 1994 ("SFC's Initial Brief"), and filed its "Reply Brief in Opposition to the Ruling in Section II.A of LBP-94-5" on March 17, 1994 ("SFC's Reply Brief"). GA concurred with and adopted SFC's briefs, and NACE and the NRC Staff filed briefs opposing Commission review and supporting the Licensing Board's rulings.

at least one qualified contention. See LBP-94-8, 39 NRC ___, slip op. at 1 & n.1 (March 22, 1994). This contingency was fulfilled when the Licensing Board issued LBP-94-8, in which it admitted NACE's two contentions.

In LBP-94-8 the Licensing Board provided that its decisions in LBP-94-5 and LBP-94-8 could be appealed within ten days in accordance with 10 CFR § 2.714a(a). SFC filed a timely appeal of LBP-94-5 and LBP-94-8 on April 13, 1994, and this appeal, including an appeal of the ruling in section II.A of LBP-94-5, remains pending before the Commission.

The Cherokee Nation now seeks to intervene in this proceeding. As discussed more fully below, SFC opposes the Cherokee Nation's request.

DISCUSSION

I. LEGAL STANDARDS FOR INTERVENTION

The Notice of Hearing published in the Federal Register on April 5, 1994, provides that "any person whose interest may be affected by this proceeding may petition for leave to intervene." [5/] The notice further explains:

> In accordance with 10 CFR 2.714(a)(2), the petition must set forth in detail (1) the interest of the petitioners in the proceeding; (2) how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to (a) the nature of the petitioner's right under the Act to be made a party to the proceeding, (b) the nature and

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[5/] SFC assumes that the Application will be treated as a petition for leave to intervene.

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

The Cherokee Nation has the burden to submit sufficient information regarding the three factors stated in the notice in order to establish a right to party status in this proceeding. Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-91-2, 33 NRC 42, 44 (1991) ("the burden rests with the petitioner to demonstrate that he or she satisfies the requirements [of the regulation]"); see also Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), LBP-79-10, 9 NRC 439, 459 (1979) ("A petitioner is responsible for providing a Board with sufficient information for determining whether that petitioner has standing of right.").

In determining "whether a petitioner has established the requisite 'interest' to intervene, the Commission has long applied contemporaneous judicial concepts of standing." Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993) (and cases cited therein); see also Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 614 (1976). A clear statement of the judicial requirements for standing was

recently provided by the Supreme Court in Lujan v. Defenders of Wildlife, 112 S. Ct. 2130, 2136 (1992):

> Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements: First, the plaintiff must have suffered an "injury in fact" -- an invasion of a legally-protected interest which is (a) concrete and particularized; and (b) "actual or imminent, not 'conjectural' or 'hypothetical.'" Second, there must be a causal connection between the injury and the conduct complained of -- the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court." Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision."

112 S. Ct. at 2136 (brackets and ellipses in original) (citations omitted).

Although variously described, the basic precepts contained in the Lujan formulation and its predecessors have been consistently applied in NRC case law. See, e.g., Babcock and Wilcox (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 81 (1993); Public Service Co. of New Hampshire (Seabrook Station, Unit 1), CLI-91-14, 34 NRC 261, 266-67 (1991). Significantly, it is clear that in order to establish "injury in fact" for standing, a petitioner must have a real stake in the outcome of the proceeding. Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), LBP-79-10, 9 NRC 439, 447-48, aff'd, ALAB-549, 9 NRC 644 (1979).

II. CHEROKEE NATION HAS FAILED TO MEET THE STANDARDS FOR INTERVENTION

A. Cherokee Nation Has No Right To A Hearing Under The Act

In reviewing a request for intervention, a Licensing Board is directed to consider, inter alia, "[t]he nature of the petitioner's right under the Act to be made a party to the proceeding." 10 CFR § 2.714(d)(1)(i) (1993). The Act does not provide for the right to a hearing with regard to the Order at issue in this proceeding. Therefore, this factor should be weighed against granting the Cherokee Nation request for intervention.

In relevant part, section 189 of the Act provides that "[i]n any proceeding under this Act, for the granting, suspending, revoking, or amending of any license . . . the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding." 42 U.S.C. § 2239(a)(1) (1988) (emphasis added).

The Order purports to make a declaratory judgment that GA and SFC are "jointly and severally responsible" for the decommissioning of the SFC Facility, and seeks to impose requirements upon GA and SFC. Order at 23-26. By its own terms, however, the Order does not in any way take actions to amend or modify the SFC License. Thus, the Order at issue in this proceeding does not involve the "granting, suspending, revoking or amending" of the SFC License, and therefore, any proceeding involving the Order does not implicate section 189.

The NRC Staff is well aware of the difference between an Order that modifies a license and other forms of enforcement action. For example, the NRC has issued orders regarding decommissioning funding which have been clearly styled as an "Order Modifying License." [6/] The absence of such terms in the Order strongly indicates that the NRC did not consider its Order to constitute an action of the type that would implicate section 189.

In fact, the NRC has successfully argued in the federal courts that certain enforcement orders do not fall within the terms of section 189. See, e.g., In re: Three Mile Island Alert, Inc. ("TMI Alert"), 771 F.2d 720, 729-30 (3d Cir. 1985), cert. denied sub nom. Aamodt v. NRC, 475 U.S. 1082, reh'g denied, 476 U.S. 1179 (1986). In TMI Alert the United States Court of Appeals for the Third Circuit held that section 189(a) was "not implicated" when NRC entered an order which lifted an immediately effective suspension of the TMI license, thereby permitting restart of TMI without an opportunity for hearing pursuant to section 189. Id. at 730.

It is therefore clear that the Cherokee Nation cannot have any right under the Act to participate in a hearing regarding the Order. The Cherokee Nation's only potential right

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[6/] See, e.g., Safety Light Corp., et al., Order Modifying Licenses (Effective Immediately) 54 Fed. Reg. 36,078 (1989). The NRC has also issued other orders to SFC which have been clearly styled as an "Order Modifying License." E.g., Sequoyah Fuels Corporation, Order Modifying License (Effective Immediately) 56 Fed. Reg. 51,421 (1991).

to participate in this proceeding is the right to petition to intervene afforded by the Notice of Hearing or under 10 CFR § 2.714(a)(1) for a person "whose interest may be affected by a proceeding" to petition for leave to intervene. In either case, as demonstrated in sections II.B, II.C, and II.D below, the Cherokee Nation has failed to establish that it has the requisite interest and "injury in fact" to intervene in this proceeding and has failed to identify the specific aspect or aspects of the subject matter of the proceeding as to which it wishes to intervene. [7/]

B. The Cherokee Nation Does Not Have the Requisite Interest To Intervene

The Cherokee Nation has failed to establish a sufficient interest in this proceeding. In order to meet the requirements for standing, an "organization must show injury either to its organizational interests or to the interests of members who have authorized it to act for them." Philadelphia Electric Co. (Limerick Generating Station), LBP-82-43A, 15 NRC 1423, 1437 (1982) (citing Warth v. Seldin, 422 U.S. 490, 511 (1975); Sierra Club v. Morton, 405 U.S. 727, 739-40 (1972)); see also Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), CLI-91-13, 34 NRC 185, 187 (1991). The Cherokee Nation appears to claim both organizational and representational standing.

[7/] For the same reasons, even if this proceeding were considered to implicate section 189, the Cherokee Nation would have failed to establish its right to intervene.

1. Cherokee Nation's Organizational Standing

Apparently in support of standing based upon its organizational interests, the Cherokee Nation asserts that it is "the owner of a portion of the bed of the Arkansas River with the responsibility to protect the asset for future generations" and notes that the SFC Facility "is located adjacent to the Illinois River approximately one-half (1/2) mile above its confluence with the Arkansas." Application at 2. The Cherokee Nation also notes that it "is concerned about the extent to which the environment surrounding th[e Sequoyah] plant has been contaminated by its operation over the years" and that unidentified persons "believe[] that contaminants from the site have been allowed to escape and settle on nearby tribal lands." Id. Finally, the Cherokee Nation indicates that the NRC "has previously permitted intervention by this tribe as a party in licensing proceedings concerning this same facility." Id. at 3. These interests are clearly insufficient to establish organizational standing.

The Cherokee Nation has offered no evidence to substantiate its claim that it has a cognizable ownership interest in a portion of the bed of the Arkansas River. A mere assertion of an ownership interest in property that is within geographic proximity to an NRC materials licensee's facility is insufficient to confer standing. Moreover, the Cherokee Nation has failed to establish that any such interest could be affected by this proceeding.

The Cherokee Nation's broad interest in the decommissioning of SFC and concern about the environment surrounding the Sequoyah facility is insufficient to confer standing. The Commission has long held that "assertions of broad public interest . . . do not establish the particularized interest necessary for participation by an individual or a group in agency adjudicatory processes." Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-83-25, 18 NRC 327, 332 (1983). Commission practice has made clear that "a 'generalized grievance' shared in substantially equal measure by all or a large class of citizens will not result in a distinct and palpable harm sufficient to support standing." Id. at 333; see also Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), ALAB-952, 33 NRC 521, 529 (1991). The Cherokee Nation attempts to particularize its interests by positing an unsubstantiated claim that undefined "contaminants" from the Sequoyah facility have been allowed to settle on "nearby tribal lands" that the Cherokee Nation fails to identify with any particularity. These assertions are speculative and insufficient to confer standing.

Finally, Cherokee Nation's participation as a party in other NRC proceedings regarding the Sequoyah facility has no bearing on whether it has standing to participate in this separate enforcement proceeding. See, e.g., Georgia Power Co. (Vogtle Electric Generating Plant, Units 1 and 2), LBP-90-29, 32 NRC 89, 91 (1990) (a petitioner for intervention may not base its

standing on reference to its participation in other NRC or non-NRC proceedings). But see Georgia Power Co. et al. (Vogtle Electric Generating Plant, Units 1 and 2), 34 NRC 138, 141 (1991); and compare Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-92-27, 36 NRC 196, 198 (1992).

Thus, the Cherokee Nation has failed to establish that it has the requisite organizational interest in this proceeding to confer standing.

2. Cherokee Nation's Representational Standing

The Cherokee Nation also asserts representational interests based upon an alleged potential injury to its unnamed members who allegedly "live within a ten (10) mile radius of the [Sequoyah] plant." Application at 2. This assertion is inadequate, because well-established NRC precedent makes clear that the Cherokee Nation cannot intervene in order to represent the interests of unnamed individuals who have not authorized it to intervene on their behalf. See Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit No. 2), ALAB-470, 7 NRC 473, 474 n.1 (1978); Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1421 (1977); Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-77-11, 5 NRC 481, 483-84 (1977); Allied-General Nuclear Services (Barnwell Fuel Receiving and Storage Station), LBP-75-60, 2 NRC 687, 690 (1975).

SFC acknowledges that an organization can acquire representational standing if one of its members "has standing in his or her own right and the member authorizes the organization to represent his or her interests." See, e.g., Turkey Point, ALAB-952, 33 NRC at 530. Under this approach the organization's standing is derivative of the member's standing. Id. at 531. The Cherokee Nation asserts that "the unique relationship between the Cherokee Nation and its membership[] adequately establish that the Cherokee Nation has standing to intervene in these proceedings." Application at 3. However, the potential affects of this proceeding require, under the circumstances presented by this enforcement action, that the Cherokee Nation specifically identify the individuals whose interests it believes will be affected and describe the manner in which an outcome of this proceeding could affect those interests. The Cherokee Nation's assertion of a unique relationship with its members is insufficient to establish representational standing.

Thus, the Cherokee Nation has failed to show the requisite interest in the outcome of this proceeding to establish standing, and its request to intervene should therefore be denied. Moreover, SFC demonstrates below in section II.C that even if the Cherokee Nation could assert a cognizable interest, it has not established that it could be injured in fact by any outcome in this proceeding.

C. The Cherokee Nation Has Failed To Establish That Its Interests Could Be Injured By the Outcome Of This Proceeding

The Cherokee Nation has a substantial and difficult burden to establish standing in this case, because the proposed discretionary NRC Order is being issued to impose requirements upon SFC and GA. The Order would not permit SFC or GA to engage in any previously unauthorized activity which could potentially affect the Cherokee Nation's interests. In addition, the Order would not in any way reduce or eliminate pre-existing license, regulatory, or statutory requirements. Thus, the only possible outcomes in this proceeding are (1) maintenance of the status quo ante; (2) imposition of all of the requirements of the Order, which are presumably favored by the Cherokee Nation; or (3) imposition of some of the requirements of the Order, which are presumably favored by the Cherokee Nation. Therefore, the Cherokee Nation cannot be injured by this proceeding.

Where a petitioner is attempting to intervene in the government's efforts to regulate a third party, injury in fact is "ordinarily 'substantially more difficult' to establish." Lujan, 112 S. Ct. at 2137 (quoting Allen v. Wright, 468 U.S. 737, 758 (1984); Simon v. Eastern Kentucky Welfare Rights Org., 426 U.S. 26, 44-45 (1976); and Warth v. Seldin, 422 U.S. 490, 505 (1975)). The Lujan Court stated that when "a plaintiff's asserted injury arises from the government's allegedly unlawful regulation (or lack of regulation) of someone else, much more is needed" to establish standing, than in a situation where the plaintiff

himself is the object of the government action. Id. at 2137 (emphasis in original). Since the Cherokee Nation will presumably allege that its injury arises from a potential NRC "lack of regulation" of SFC in that the Order might not be fully sustained in the hearing, it is "substantially more difficult" for Cherokee Nation to establish standing.

The Cherokee Nation has asserted merely that "[t]he property interests and membership obligations of the Cherokee Nation will undoubtedly be affected by the result of these proceedings." Application at 3. Thus, the Application fails to show an injury in fact that is in any way concrete, particularized, actual, or imminent.

Moreover, it is likely that Cherokee Nation intends to support issuance of the NRC's order, like NACE. As SFC has demonstrated to the Commission, however, it is not possible that this proceeding could adversely affect a person or organization that supports the order. SFC has already fully briefed this question, which is now on appeal before the Commission. Therefore, SFC incorporates by reference, as if fully set forth herein, the arguments set forth in its Initial Brief and Reply Brief filed in response to the Commission's order following the Licensing Board's referral of its ruling in section II.A of LBP-94-5. [8/]

[8/] Simultaneously with the filing of this answer, SFC is providing courtesy copies of its Initial Brief and Reply Brief (as identified in footnote 4 above) to the Cherokee Nation.

D. Cherokee Nation Has Failed To Identify the Specific Aspect or Aspects of the Subject Matter of This Proceeding As To Which It Wishes To Intervene

The Notice of Hearing and 10 CFR § 2.714(a)(2) require that a petition to intervene set forth "the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene." The burden is on the Cherokee Nation to satisfy this requirement. 10 CFR § 2.732; Three Mile Island, CLI-83-25, 18 NRC 327, 331 (1983). Other than a broad concern about environmental contamination that "will have to be adequately dealt with during decommissioning," the Cherokee Nation has failed meet the minimal requirements that it identify the aspect(s) of this proceeding as to which it wishes to intervene.

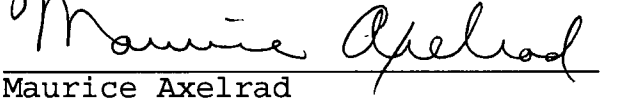
SFC concedes that "[t]here is little guidance in NRC case law concerning the meaning of 'aspect' as the term is used in 10 CFR § 2.714." Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), LBP-90-6, 31 NRC 85,89 (1990). It has been suggested "that an 'aspect' is probably broader than a 'contention' but narrower than a general reference to our operating statutes." Consumer Power Co. (midland Plant, Units 1 and 2), LBP-78-27, 8 NRC 275, 278 (1978). However, at a minimum, the requirement that the petitioner set forth the specific aspect or specific aspects of the proceeding must mean that the petitioner has an obligation to identify "general potential effects of the licensing action or areas of concern that are within the scope of matters that may be considered in the

proceeding." Vermont Yankee, LBP-90-6, 31 NRC at 89-90. The Cherokee Nation has wholly failed to identify the areas of concern that it has that are within the scope of this proceeding. [9/]

CONCLUSION

FOR THE FOREGOING REASONS, the Cherokee Nation's request to intervene in these proceedings should be denied.

Respectfully submitted,



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May 5, 1994

[9/] In addition, the Cherokee Nation has failed to submit any contentions, and its broad suggestion that contamination at the Sequoyah site "will have to be adequately dealt with during decommissioning" is clearly insufficient to satisfy the criteria for contentions set forth in 10 CFR § 2.714(b)(2).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

James P. Gleason, Chairman
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In the Matter of	)	**Docket No. 40-8027-EA**
SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS	)	**(Decontamination and Decommissioning Funding)**
(Gore, Oklahoma Site)	)	**May 5, 1994**

CERTIFICATE OF SERVICE

I hereby certify that copies of "Sequoyah Fuels Corporation's Answer In Opposition to Cherokee Nation's Application for Order Allowing Intervention" 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:

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May 5, 1994

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Dear Mr. Wilcoxen:

As noted in footnote 8 of "Sequoyah Fuels Corporation's Answer In Opposition to Cherokee Nation's Application for Order Allowing Intervention" dated May 5, 1994 ("SFC's Answer"), I am enclosing copies of "SFC's Initial Brief in Opposition to the Ruling in Section II.A of LBP-94-5" dated March 11, 1994 and "SFC's Reply Brief in Opposition to the Ruling in Section II.A of LBP-94-5" dated March 17, 1994.

These documents were incorporated by reference in "SFC's Answer."

Very truly yours,

John E. Matthews

Enclosures

cc (w/out encls.): Service List