

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

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Title: Pre-Hearing Conference  
In the matter of:  
Sequoyha Fuels Corp. & General Atomics

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Docket Number: 40-8027-EA

Location: Rockville, Maryland

Date: May 31, 1995

Work Order No.: NRC-239

Pages 246-294

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

PRE-HEARING CONFERENCE

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

-----

Wednesday, May 31, 1995

Hearing Room (T3 B45)  
U.S. Nuclear Regulatory Commission  
1145 Rockville Pike  
Rockville, Maryland

The above-entitled matter came on for a pre-hearing conference, pursuant to notice, at 1:30 p.m.

BEFORE:

JAMES P. GLEASON, CHAIRMAN  
B. PAUL BOLLWERK, III, ADMINISTRATIVE JUDGE  
JERRY P. KLINE, ADMINISTRATIVE JUDGE

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APPEARANCES:

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ON BEHALF OF THE NUCLEAR REGULATORY COMMISSION:

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P R O C E E D I N G S

[1:33]

1  
2  
3 JUDGE GLEASON: This is a hearing  
4 connected with NRC's Staff Order holding SFC,  
5 Sequoyah Fuels Corporation and General Atomics Lab  
6 offer financial assurances for Decommissioning of  
7 SFC's license facilities at Gore, Oklahoma.

8 The hearing today relates to the board's  
9 order for the staff to show cause why we should not  
10 severe the issues in the issue of reliability in  
11 this proceeding, so that we can perhaps give more  
12 consideration to expediting proceeding and  
13 concentrating on the issue of jurisdiction  
14 initially.

15 If I could ask the parties to identify  
16 themselves for the record, and let's just go left to  
17 right.

18 MR. HOM: Judge Gleason, I'm Steve Hom  
19 for the staff and Cathy Marco also for the staff.

20 MR. AXELRAD: Maurice Axelrad of Morgan,  
21 Lewis and Bockius, appearing for Sequoyah Fuels  
22 Corporation.

23 MR. DUNCAN: Steve Duncan of Mays &  
24 Valentine, and I'm appearing on behalf of General  
25 Atomics.

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1 MS. CURRAN: Diane Curran. I'm here on  
2 behalf of Native Americans for a Clean Environment  
3 and the Cherokee Nation.

4 JUDGE GLEASON: All right. I believe  
5 our order indicated that the staff will go first,  
6 and so I'll just let Mr. Hom proceed as you will.

7 MR. HOM: Thank you, Judge.

8 JUDGE GLEASON: And we'll have some  
9 questions later on, and we also probably will want  
10 to get into, depending on how things go, some of the  
11 issues involving this jurisdiction matter. But go  
12 ahead for now.

13 MR. HOM: Thank you, Judge Gleason and  
14 members of the board.

15 The May 23rd order to show cause directs  
16 the staff to demonstrate why the board should not  
17 declare that the "reliance theory", and I use that  
18 in quotes, set forth in the October 1993 order has  
19 been abandoned, and that's paraphrasing the show  
20 cause order.

21 This directive as we read it assumes  
22 that there is in fact some reliance theory set forth  
23 in the October order. From reviewing the order to  
24 show cause it's apparent that the board appears to  
25 be focusing on control, number one, and reliance,

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1 number two, when the board cites to portions of the  
2 October order.

3 We believe the staff's position is that  
4 the proper focus should be, yes, on control number  
5 one, but number two on the commitment by General  
6 Atomics through its chairman, Neal Blue.

7 I don't have anything new or earth  
8 shattering to tell the board. I want to reemphasize  
9 a couple of points that we have made in January '94  
10 at the initial pre-hearing conference, also more  
11 clearly articulated in our April 13, 1994 response  
12 to General Atomics motion for summary disposition,  
13 and more recently I believe in a telephonic  
14 conference we have with the board several weeks ago.

15 The first point I want to emphasize is  
16 that one legal theory that the staff is not basing  
17 this case on is some type of common law quasi  
18 contractual promissory estoppel contract detrimental  
19 reliance type theory.

20 On pages 106-107 of the pre-hearing  
21 transcript of last January I think I articulated  
22 that, citing to pages 33 and 34 of the April 13,  
23 1994 staff answer. We cited that position. And  
24 even more recently in the staff's answers to General  
25 Atomics' interrogatory, specifically numbers 14, 15

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1 and 20, subpart A, where it was put point blank to  
2 us whether we were relying on some type of contract  
3 theory, and the answer was no.

4 In actuality the first reference that  
5 I'm aware of to any type of quasi contract theory  
6 was suggested by the board in its pre-hearing  
7 memorandum of last January, I believe January 13,  
8 1994. At that time the board asked the staff to  
9 comment on potentially three theories that the board  
10 viewed as apparent from the terms of the order, and  
11 I think at that time at the first pre-hearing  
12 conference we tried to make it clear that we were  
13 not basing this case on a quasi contractual  
14 detrimental reliance type theory. We also stated  
15 that we were not relying on a wrongdoing type case  
16 as put forth in the board's memorandum of that date.  
17 We left open the door to a de facto licensee, as the  
18 board termed it, theory of liability. We still  
19 stand by all of those statements made in January,  
20 April, and more recently in the last month.

21 In terms of focusing towards the  
22 discovery angle that I think drives us here today,  
23 the staff's position is that reliance by the  
24 commission, or reliance by a person, a member of the  
25 commission, or even by the staff in this type of

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1 detrimental reliance context is not going to be and  
2 is in fact not a material fact to any theory of  
3 liability that staff intends to put forth.

4 MR. BOLLWERK: All right then, why does  
5 the order --

6 JUDGE GLEASON: You want to finish?

7 MR. HOM: Yes, I have a few more  
8 comments.

9 MR. BOLLWERK: Finish your statement.  
10 I'm sorry.

11 MR. HOM: In fact in citing back to the  
12 April 13, '94 brief that we filed, we tried to make  
13 it very clear that reliance in the black letter  
14 common law sense was not an issue; it was not a  
15 material fact to any theory underpinning this order.  
16 We agreed that, with respect to any relevant issue  
17 in the case, we would make available staff  
18 witnesses, but we try to distance ourselves from  
19 specifically factual reliance by the commission or  
20 by a member of the staff.

21 We also in that same document in  
22 response to an issue that GA raised as to whether  
23 the order fails to state a claim, we proffered three  
24 variations of theories of liability.

25 I would cite pages 26 and 27 of the

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1 April 13, '94 pleading. None of those theories in  
2 any fashion contain any statement of factual  
3 reliance by the commission or the staff, and  
4 essentially we still are basing this case on those  
5 types of theories that we set forth in that  
6 April 13 --

7 JUDGE GLEASON: Would you mind eliciting  
8 or elaborating on what those are again? We don't  
9 have the script in front of us.

10 MR. HOM: Sure.

11 If it's all right I'll read from the  
12 document. On the bottom of page 26,

13 "Contrary to GA's assertion the order  
14 states one or more claims upon which relief may be  
15 granted. These may include but are not necessarily  
16 limited to the following.

17 1. By reason of GA's 100 percent  
18 ownership of SFC and its direct involvement in  
19 certain activities of SFC, going beyond the mere  
20 exercise of voting control over SFC, GA has effected  
21 or engaged in matters over which the NRC has subject  
22 matter jurisdiction and has become subject to the  
23 NRC's broad authority to issue the order to it,  
24 which under these facts a reasonable necessary,  
25 rationale and lawful exercise of the NRC's broad

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1 authority granted by Congress to enable the NRC to  
2 fulfill its statutory mandate to protect health and  
3 minimize danger to life or property."

4 Reading from the top of page 27.

5 2. "By reason of GA's 100 percent  
6 ownership of SFC and its direct involvement in  
7 certain activities of SFC going beyond the mere  
8 exercise of voting control over SFC, GA has effected  
9 or engaged in matters over which the NRC has subject  
10 matter jurisdiction and has become a de facto  
11 licensee fully subject to the NRC's regulations and  
12 broad authority to issue the order to it, which  
13 under these facts constitutes a reasonable,  
14 necessary, rationale and lawful exercise of the  
15 NRC's broad authority granted by Congress to enable  
16 the NRC to fulfill its statutory mandate to protect  
17 health and minimize danger to life or property."

18 Number 3.

19 3. "By reason of GA's 100 percent  
20 ownership of SFC and its direct involvement of  
21 certain activities of SFC going beyond the mere  
22 exercise of voting control over SFC, GA has effected  
23 or engaged in matters over which the NRC has subject  
24 matter jurisdiction and has become subject to the  
25 NRC's broad authority to issue the order to it,

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1 which under these facts coupled with GA's voluntary  
2 commitment to guarantee financially the  
3 decommissioning funding for clean up of the SFC  
4 site, constitutes a reasonable, necessary, rationale  
5 and lawful exercise of the NRC's broad authority  
6 granted by Congress to enable the NRC to fulfill its  
7 statutory mandate to protect health and minimize  
8 danger to life or property."

9 As you can see, none of these three  
10 proffered theories contains any reference to the  
11 recipient of the commitment by Neal Blue in the  
12 March '92 meeting or the follow-up letter as to  
13 factual reliance by any person or entity on that  
14 commitment.

15 Essentially to conclude, Your Honors,  
16 given the consistent statements that the staff has  
17 made since January '94, the staff believes that the  
18 board does not need to make any declaration of  
19 abandonment. It appears to the staff that  
20 essentially there was no theory that has been  
21 abandoned.

22 It is understandable that one may view  
23 the word reliance as it appears in the order as  
24 denoting some type of quasi contractual theory, but  
25 I think the staff has attempted to make it clear

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1 from the beginning that we were not basing this case  
2 on a quasi contract doctrine.

3 JUDGE GLEASON: And you did not consider  
4 that in that third recital there that you made that  
5 reliance is a part of that?

6 MR. HOM: No. We are basing that third  
7 theory on the fact that the voluntary commitment was  
8 made to the commission and in essence that it was a  
9 material statement made to the commission, period.

10 MR. BOLLWERK: Doesn't commission  
11 reliance make it material in some way or another?  
12 If the statement was made and the commission didn't  
13 take any heed of it how is it material?

14 MR. HOM: Well it's material in the  
15 sense of the Orem case or Vepco in that -- We view  
16 it as an objective materiality standard. If it was  
17 something that the commission in the exercise of its  
18 responsibilities reasonably should take into account  
19 or reasonably should listen to, except that in and  
20 of itself is more or less an objective standard,  
21 whether or not the commission or any person in fact  
22 relied on that statement is essentially irrelevant.  
23 And I think that then points to determination as a  
24 matter of law, whether that statement by Neal Blue  
25 under those circumstances would be a material

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1 statement or not.

2 MR. BOLLWERK: In other words this was  
3 obviously so important to everyone that there's no  
4 way a reasonable commissioner could not have relied  
5 on the statement?

6 MR. HOM: Or it's something that a  
7 reasonable commissioner should have relied on or  
8 should have considered in the exercise of doing  
9 their job.

10 And as the Orem case clarifies, the  
11 Veeco case, it is really not a matter of whether in  
12 fact a decision was made but for the statement that  
13 was made to the commission.

14 MR. BOLLWERK: And so even if GA were to  
15 take discovery that the commissioners -- let's go  
16 and do a little supposition here, and everyone of  
17 them said no, I did not rely on that statement in  
18 deciding the issue of the license here, it wouldn't  
19 make any difference. It would be per se reasonable.  
20 This is a per se materiality standard?

21 MR. HOM: That's correct. That would be  
22 our position, that would be something that the board  
23 would have to rule on.

24 JUDGE GLEASON: You do not then  
25 necessarily tie together whatever was in their minds

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1 at the time they voted on this to the de facto  
2 issue? In other words to the claim -- one of you  
3 claims is that they were in fact a de facto  
4 corporation in this entire proceeding.

5 MR. HOM: Well the way that the  
6 statements in the order are phrased. Again our  
7 focus is on the representations or the commitment  
8 made by Mr. Blue, and that certainly ties into the  
9 de facto licensee, if you will, theory in that it  
10 certainly is -- Neal Blue's statement certainly is a  
11 piece of evidence to indicate some degree of control  
12 that GA exercised or believe it exercised over the  
13 subsidiary SFC. But trying to separate out the  
14 almost parenthetical set off by commas, "upon which  
15 the commission relied", essentially if anything goes  
16 to the materiality of the statement by Mr. Blue in  
17 terms of that commitment made. But it can be  
18 removed factually from the case as to what  
19 commissioner or staff person had in his or her mind  
20 at the time some decision was or was not made.

21 JUDGE GLEASON: Not consider that to be  
22 any part of the case?

23 MR. HOM: That is not a factual part of  
24 a theory of liability as far as the staff's  
25 concerned.

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1 MR. BOLLWERK: And the theory -- The  
2 order could have been written without the phrase  
3 "upon which the commission relied"?

4 MR. HOM: The order could have been  
5 written in a different way. I think that it may  
6 have been clear to indicate that the commitment  
7 which was of a material nature may be a rough  
8 equivalent to say which was something that would  
9 have been relied upon.

10 MR. BOLLWERK: Reasonably should have  
11 been relied upon or however you want to take it?

12 MR. HOM: Right.

13 JUDGE GLEASON: Were you finished with  
14 your remarks, Mr. Hom?

15 MR. HOM: Yes, Your Honor.

16 JUDGE GLEASON: I guess Mr. Duncan,  
17 we'll allow you to proceed at this point if you  
18 will.

19 Let me just sort of get enough things  
20 out on the table here. I noted in your response,  
21 Mr. Hom, to our query that we raised in the  
22 telephone conference about bifurcating these  
23 proceedings that you really didn't respond to that  
24 issue except implicitly by saying you couldn't come  
25 to agreement with the other parties on the time

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1 period to close out discovery.

2 What is your view on that issue? Are  
3 these issues so entwined that they cannot be  
4 separated, or is it feasible or would it be feasible  
5 in the light of the progress or lack of progress  
6 we've made on this case to date for us to bifurcate  
7 this issue and segregate the jurisdictional out for  
8 the early focus of the proceeding?

9 MR. HOM: Well I apologize at the  
10 outset, Your Honor, if I did not make it clear what  
11 our position was on bifurcation, but I will say that  
12 during the telephonic conference we were at least of  
13 the opinion, maybe not clearly stated, that  
14 bifurcation appeared to be a very reasonable way to  
15 go and that this jurisdictional issue could be  
16 fairly easily in the staff's view, fairly easily  
17 separated from the remainder of the case.

18 JUDGE GLEASON: Appreciate those  
19 comments.

20 All right, Mr. Duncan. I thought it  
21 important to get that out.

22 Proceed, if you will

23 MR. DUNCAN: Judge, I'm not being  
24 disingenuous to say I'm not quite sure I understand  
25 what counsels just argued.

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1           The fact of the matter is that as you  
2 look at the October 15, '93 order it's replete with  
3 language such as which appears on page 21 that says,  
4 "Mr. Blue's representations of financial assurance  
5 on which the commission relied make GA responsible  
6 by any reasonable standard." That is an allegation,  
7 a theory of liability and a supporting factual  
8 allegation.

9           From our standpoint there are two  
10 compelling reasons, it seems to me, why the staff  
11 cannot be permitted to have it both ways. I  
12 understand why they would like to have it both ways.  
13 But first of all let me address the issue which I  
14 need only go so far as Rule of Practice 2.718, which  
15 gives the presiding officer the duty to conduct a  
16 fair and impartial hearing, empowers and so forth to  
17 do all kinds of things with respect to the  
18 proceeding to make sure that they're fair and  
19 efficient and so forth. It simply cannot be in the  
20 interest of justice or fairness or anything else to  
21 permit the staff to come and to file an order that  
22 makes these wild allegations all through an order.  
23 An order that is then published in the Federal  
24 Register on October 25, 1993; an order which has  
25 attended with it all the routine publicity that goes

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1 with the filing of such orders, allegations in there  
2 about the chairman of General Atomics, factual  
3 allegations throughout there about representations  
4 made by Mr. Blue. Representations of which have  
5 come to the attention of General Atomics  
6 competitors. It's come to the clear attention of  
7 the financial institutions upon which General  
8 Atomics absolutely depends to engage in day to day  
9 business. It's come to the attention of the world  
10 as far as I can tell, but certainly competitors,  
11 employees, potential customers and so forth.

12 That cannot be the standard of fairness  
13 in a proceeding before the licensing board to leave  
14 those kinds of wild, broad allegations in there, but  
15 to have counsel say in the quiet of a hearing room  
16 that yes, but we're not going to vigorously  
17 prosecute that theory, or we don't really intend to  
18 rely upon it.

19 As far as the world is concerned, and  
20 certainly the world that matters in the business  
21 world to General Atomics, these allegations are very  
22 real and until they're withdrawn or stricken from  
23 the record I will tell you first hand from first  
24 hand knowledge that financial institutions make  
25 business decisions based on these kinds of

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1 allegations. Therefore it seems to me for that  
2 reason alone these allegations either remain in the  
3 order and are the theory upon which -- one of the  
4 theories at least upon which the staff intends to  
5 proceed, or it's absolutely fundamental that they be  
6 stricken from the record entirely.

7 Now, in addition to just the fairness of  
8 the whole aspect we've got the issue of the  
9 efficiency of the proceeding. I'm not quite sure  
10 what counsel is suggesting. I've never heard of a  
11 situation where you can allege anything in the world  
12 you want to in the way of factual allegations in  
13 something that's akin to a pleading and then say,  
14 but we're not going to rely upon that as a theory of  
15 liability but it remains in the case but we can't do  
16 discovery on it.

17 I mean taking to its logical conclusion  
18 one could then in a personal injury slip and fall  
19 case allege that one of the defendants committed  
20 high treason or murder in broad daylight at noon on  
21 Main Street, and then proceed to say, but we don't  
22 intend to prosecute that theory; that's material to  
23 what we want the jury to understand, but we're not  
24 going to rely upon that theory.

25 Damage is done. It can't be that way.

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1 If it's a theory of liability our position is very  
2 clear. We accept it. If they say that's a theory  
3 of liability we're entitled to discovery on it; full  
4 fledged discovery and it's part of the  
5 jurisdictional issue. If it's not in the case and  
6 if it's not a theory of liability, and there's  
7 certainly compelling evidence that it's not, they've  
8 said so several times, then our view is there's only  
9 one remedy that's even possible, and that is that  
10 all of the allegations about reliance and statements  
11 by Blue have to be stricken from the record because  
12 they're simply not relevant at all to what we're now  
13 calling the de facto licensing or piercing the  
14 corporate veil theory. Those are a set of facts  
15 that have nothing to do with statements made by  
16 Blue; they go more to the relationship between the  
17 two companies, the interplay of corporate directors,  
18 all kinds of things that staff might think are  
19 relevant, but certainly comments by Mr. Blue aren't  
20 relevant at all.

21 So our position's very straight forward.  
22 If it's a theory upon which they rely we accept  
23 that. We insist upon full fledged discovery which  
24 will substantially prolong the dispute. If it's not  
25 then let's eliminate it; let's get on with discovery

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1 that's on the remaining theory and we'll cooperate  
2 and do all we can to expedite the process.

3 JUDGE GLEASON: Well, it seems to  
4 me -- It appears to me, Mr. Duncan, that you're  
5 arguing against something that would seem on the  
6 surface to be very much in the interest of your  
7 client. As proceeding efforts in this case you  
8 filed a motion to dismiss on the basis of the lack  
9 of jurisdiction. And here we're providing perhaps  
10 an opportunity to focus on that issue so that if you  
11 succeeded on that issue you'd be out of the case.  
12 And yet you seem to be saying, well, but we've got  
13 to make sure this order is changed in some way.

14 MR. DUNCAN: Perhaps I didn't make my  
15 position clear, Judge.

16 In the letter I've tried to  
17 explain -- I'm now talking on the narrow issue of  
18 whether the quasi contract or reliance theory should  
19 be permitted to remain in the case; I'm addressing  
20 counsel's comments.

21 Now on the separate issue of should we  
22 expedite discovery, I'm for expediting discovery on  
23 the jurisdictional issue, so long as the board  
24 understands that our view is that the jurisdictional  
25 issue, the threshold of the jurisdictional issue is

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1 whether the statute even empowers the staff to file  
2 the order. It did. You've rule that you disagree  
3 with us on that. We still believe that the statute  
4 doesn't empower the staff to do it. That then takes  
5 us to what we believe to be a theory of liability,  
6 the de facto licensee theory.

7 We're anxious to resolve that too, but  
8 only so long as we can be certain of an early  
9 resolution. What General Atomics is not in favor of  
10 is to do discovery on the de facto licensee theory,  
11 to engage in evidentiary hearings or depositive  
12 motions on that theory, to have the licensing board  
13 rule that they have jurisdiction, then at that point  
14 if the board did rule they didn't have jurisdiction  
15 obviously we walk away. But if the board ruled that  
16 they did have at least jurisdiction there are other  
17 defenses which would require discovery, and the  
18 question we have is, would we be able to then, if  
19 the staff appealed it to the full commission, or if  
20 they agree now in advance that they will walk away  
21 if the board rules against them and not appeal then  
22 we accept that. But presuming that the staff would  
23 want to appeal an adverse ruling by this board on  
24 that issue against the staff, if they did the  
25 question in our mind is, are we entitled to an

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1 expedited appeal on that issue, or where do we start  
2 discovery on the other defenses that have been  
3 raised by General Atomics. We would not want to  
4 have that held in abeyance, put on the back burner  
5 while we then proceed to the other defenses for a  
6 full-fledged evidentiary hearing later on on the  
7 other defenses.

8 So if we can literally save time that's  
9 in our best interest, but if it's simply a way to  
10 adjudicate this narrow issue quickly and then put it  
11 on the back burner and not permit an appeal and go  
12 on to the remainder of the defenses which General  
13 Atomics has that would only prolong the dispute and  
14 not be efficient from our standpoint. That's why we  
15 ask for the two conditions, some kind of an  
16 agreement that we could have an expedited appeal on  
17 what the board calls the de facto licensee theory.

18 JUDGE GLEASON: Well, I don't think any  
19 of us are ever in a position to get a promise of an  
20 expedited appeal from the commission; they set their  
21 own calendar and schedule, and they handle these  
22 things as expeditiously as they can. And certainly  
23 we would not be anywhere near suggesting that  
24 assuming they did not prevail that the staff would  
25 forego their right to appeal such a decision.

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1           The thing that struck me is that here  
2           you had an opportunity to do what you've been  
3           wanting to do since you filed your motion to  
4           dismiss, and you've been given a chance to get at  
5           that issue and get it resolved as far as this board  
6           was concerned. Now the board didn't resolve that  
7           issue as a matter of fact, it just said it wasn't  
8           timely. It was the essence of the board's role that  
9           discovery was permitted to go ahead with  
10          jurisdictional questions as well as the other  
11          questions as to how much control actually GA did  
12          exert over the Sequoyah Fuels Corporation. So when  
13          you're presented that opportunity to get that issue  
14          resolves with a chance to perhaps prevail on that  
15          issue, which then if you did at least from that  
16          point on you'd be out of the case depending on the  
17          appeal process and other things. It's hard for me  
18          to see how you would pass up that opportunity.

19                   MR. DUNCAN: I'm not effectively  
20                   communicating obviously, Judge.

21                   Again, General Atomics views the  
22                   jurisdiction issue as not depended upon facts. The  
23                   Atomic Energy Act of 1954 either does or does not  
24                   give the commission this kind of jurisdiction, and  
25                   we say it doesn't. Now we haven't had a ruling from

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1 a court of law on that issue.

2 Then we get to the de facto licensee.  
3 If we could be certain that the case is over once  
4 that issue is resolved then it's in everyone's best  
5 interest to expedite matters, but we don't have that  
6 certainty. We'd like to think that it's almost  
7 certain once anyone sees the facts, the true nature  
8 of the relationship between the two companies, we  
9 win on that issue. But I've been in too many courts  
10 in too many parts of the country to know that cases  
11 always turn out the way I predict, and if it did  
12 not, I'm representing a company who does not have  
13 the resources to litigate forever in a day in a  
14 situation where it's been litigating already this  
15 much. We were looking to save money. We're not  
16 looking though to win a pirate victory on the de  
17 facto licensee theory and then have to go litigate  
18 and do discovery on a bunch of other issues which  
19 are defenses that we would raise before ultimate  
20 liability could ever be imposed upon General Atomics  
21 even if we lost the de facto licensee theory. And  
22 so we're looking for efficiencies here, some sort of  
23 a guarantee by the parties at least that they would  
24 interpose no objection to our request for an  
25 expedite review by the commission and so forth, then

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1 I can't be certain that we really would in the long  
2 run save money.

3 JUDGE GLEASON: Well, perhaps we ought  
4 to let your colleague down there go ahead with  
5 whatever --

6 MR. BOLLWERK: Can I ask Mr. Duncan one  
7 question?

8 JUDGE GLEASON: Go ahead, please.

9 MR. BOLLWERK: If the staff were to file  
10 a motion for summary disposition, putting forth  
11 whatever facts they think support their entitlement  
12 to summary disposition on the jurisdictional issue,  
13 what is your response going to be? Is your response  
14 going to be, that's fine; all those facts may be  
15 true, but you still under Section 161 cannot reach  
16 us, no matter how horrible the facts are as the  
17 staff puts them forth.

18 MR. DUNCAN: We'll respond. This board  
19 has already ruled on that issue.

20 MR. BOLLWERK: But the problem that was  
21 created before is, rather than taking the tact of  
22 saying, the staff can say whatever it wants; they  
23 can't reach us under however horrible a theory they  
24 can put out. That's not what you did. In a sense  
25 that we got tied up in this material issues of fact,

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1 and you didn't come in and say, there are no  
2 material issues of fact because they can say  
3 whatever they want about us in terms of control.  
4 They can't reach us because 161 doesn't permit it.  
5 That's not what you said though. You came up with a  
6 lot of other theories, but that isn't the way you  
7 framed it, and that's how we've gotten off on this  
8 side track.

9 MR. DUNCAN: That's certainly what we  
10 intended -- present in court. We thought the narrow  
11 issue in our motion for summary disposition was  
12 merely that, that irrespective of the fact 161 does  
13 not authorize the commission and staff to do what  
14 they've done. We thought we briefed that, argued  
15 it, and we thought that was the whole subject of the  
16 motion for summary disposition.

17 MR. BOLLWERK: That's my theory. Now  
18 maybe that isn't what the other two members of the  
19 board think. But as I saw the problem that  
20 developed here, maybe when the staff files their  
21 motion for summary disposition you should be  
22 renewing your motion for summary disposition or  
23 cross motion saying, fine staff, you say whatever  
24 you want; 161 does not reach us in any event.

25 MR. DUNCAN: So much of our brief was

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1 addressed to the legislative history as well as the  
2 congressional intent of the statute. There's just  
3 nothing that supports that Congress ever intended to  
4 give the staff this kind of authority and that's  
5 what we thought we briefed, so I apologize if we did  
6 not effectively communicate.

7 MR. HOM: If I could just, while the  
8 issue's fresh, respond to Judge Bollwerk's point.

9 One potential way -- If I think I'm  
10 hearing Mr. Duncan correctly, one potential way of  
11 perhaps resolving this jurisdictional issue if GA's  
12 position is truly that, no matter what set of facts  
13 you put forth the act does not allow the agency to  
14 reach them, is perhaps a set of pleadings that I  
15 know I was involved in in the Perry I Trust matter,  
16 where the parties got together and stipulated solely  
17 for the purposes of that filing certain facts to be  
18 true arguendo, and based on that agreed upon set of  
19 facts put forth their argument as to whether the  
20 statute still allowed the agency to impose this type  
21 of order against that company.

22 And I think I agree with Judge Bollwerk,  
23 that is not what happened the first go around last  
24 year, but perhaps there would be some way that the  
25 parties could arrive at an agreement as to a

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1 stipulated set of facts clearly from the staff's  
2 standpoint, it would be something of the nature of  
3 along these theories that we presented in our  
4 pleading last year, that assume arguendo there is a  
5 great degree of control beyond that which a normal  
6 parent exercises through its voting rights and  
7 stock, or GA exercises day to day control over SFC  
8 over this period of time. Notwithstanding those  
9 facts does the agency have jurisdiction over this  
10 company, and that might be an economical way to  
11 reach the jurisdictional issue, if I understand  
12 again Mr. Duncan to be stating the position that it  
13 doesn't matter what set of facts exist. And that  
14 would certainly save us the time of having to go  
15 through this process of establishing exactly what  
16 officer is doing what in what company over the next  
17 several months.

18 JUDGE GLEASON: I think that's directed  
19 to you, Mr. Duncan.

20 MR. DUNCAN: That's not a very realistic  
21 proposition. We take the view and we're asking the  
22 9th Circuit Court of Appeals to simply read the  
23 statute; read the statute and tell us whether  
24 Congress ever intended to give the staff this kind  
25 of authority. I don't think we have to stipulate to

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1 any facts. I'm saying it's not fact dependent, but  
2 I'm certainly not prepared to stipulate to a bunch  
3 of facts which we believe not to be true even for  
4 purposes of argument. We're not going to stipulate  
5 the facts that simply are not true, even to get a  
6 quick adjudication of a legal issue. We believe  
7 that you don't have to get there for the 9th Circuit  
8 to interpret the statute and say what did Congress  
9 intend. They certainly didn't intend to permit the  
10 staff to impose this kind of liability on a company.

11 JUDGE GLEASON: Excuse me, if I'm  
12 misstating here, but isn't that -- You're talking  
13 about the case that you lost in the district court  
14 out there; you've appealed to the circuit court?

15 MR. DUNCAN: That's correct, Your Honor.

16 JUDGE GLEASON: Isn't the fundamental  
17 point of that case is you hadn't exhausted your  
18 administrative remedies?

19 MR. DUNCAN: No. The primary ruling of  
20 the district court was that it lacked jurisdiction  
21 to even here the matter. Part of that ruling was  
22 based on a finality argument, but the primary thrust  
23 of the opinion was that under 28 U.S. Code,  
24 Section 1631, the Court of Appeals has exclusive  
25 jurisdiction and that court could not even

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1 entertain --

2 JUDGE GLEASON: I stand corrected.

3 MR. DUNCAN: So the question is whether  
4 the matter should be originally before the Court of  
5 Appeals or originally before the district court.

6 JUDGE GLEASON: Right. I stand  
7 corrected. As you say it it comes to memory again.  
8 But you may be facing that in the circuit Court of  
9 Appeals, but that's a different level.

10 Why don't you proceed, Mr. Axelrad.  
11 Maybe you could throw some light for us here.

12 MR. AXELRAD: Well, I don't have much to  
13 add to what Mr. Duncan has said. I must admit that  
14 I share his lack of complete understanding as to  
15 what position has been expressed by the NRC staff.  
16 They appear to be saying that they did not in fact  
17 to rely on their statements, and that is not a  
18 theory under which they're proceeding. In those  
19 circumstances it would seem it should be done by the  
20 order of the board to rule a reliance on those  
21 statements and not the fact the theory under which  
22 NRC is proceeding.

23 Beyond that, after having said they'  
24 relying they do appear to indicate at that  
25 statements made by Mr. Blue are part of this case,

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1 that somehow irrelevant circumstances associated  
2 with the statements should not be a factual matter  
3 that would be subject to discovery and to litigation  
4 in this proceeding. That again seems to me  
5 circumstances under which the statements are made,  
6 how the statements were used by the staff or the  
7 commission would be part of the matters that can be  
8 discovered.

9 JUDGE GLEASON: Mr. Hom, do you have any  
10 response?

11 MR. HOM: Yes. Again we view the  
12 statements made versus the listener's reaction  
13 thereto as two separate, distinct matters. The  
14 statements made by Mr. Blue to the staff have  
15 independent legal significance alone. What the  
16 staff or the commission did in response has separate  
17 significance in some other proceeding perhaps but  
18 not here.

19 JUDGE GLEASON: Not in this proceeding.

20 MR. HOM: Not in this proceeding.

21 The language in the order certainly does  
22 have the phrase, "upon which the commission relied"  
23 almost everywhere where there is a statement about  
24 the representation by General Atomics. However that  
25 is set out separately again by commas or whatever.

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1 I didn't draft the order; I don't know exactly what  
2 was intended specifically by a comma placed in what  
3 position, but I think what we're trying to do and  
4 what we've been trying to do is make it clear from  
5 the beginning, however somebody used this word or  
6 that phrase ignore essentially that second phrase to  
7 the extent that factually we depend upon the fact of  
8 reliance by someone or some entity to make this case  
9 work.

10 Putting it a different way, I can  
11 understand perhaps a different way of reading the  
12 order if the order read, "control plus the statement  
13 by Mr. Blue, plus the commission's reliance on the  
14 statement make GA responsible for this  
15 decommissioning funding. The order doesn't say  
16 that. It says control, clearly control.

17 JUDGE GLEASON: It's the latter two,  
18 yes.

19 MR. HOM: Control set out all the time  
20 as a distinct important element. The statements  
21 were the commitments by GA comma, upon which the  
22 commission relied.

23 In essence, the statements are the  
24 material component. If there is a second  
25 component -- as I said earlier and I want to

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1 reemphasize, the statements by Mr. Blue can be an  
2 indicia of control, a factual indicia of control,  
3 relating to control by GA over SFC. The commitment  
4 also to the staff has independent legal significance  
5 that goes beyond also serving as a factual element  
6 of control.

7 JUDGE GLEASON: So let me try to in a  
8 different way summarize what at least I hear you  
9 saying, and it may have been that's exactly what you  
10 read in those long excerpts for the record.

11 Your case is based on one or all of  
12 three theories. First, that there is de facto  
13 control by GA over SFC.

14 Secondly, there is a representation made  
15 by Mr. Blue and the nature of that representation  
16 made GA liable. That's your second theory.

17 MR. HOM: Well, I would put a slightly  
18 different slant to it. I would say the first theory  
19 is, they have such a degree of control. And number  
20 two would be, a degree of control; that degree of  
21 control coupled with the commitment as essentially a  
22 second theory.

23 JUDGE GLEASON: So there are only two  
24 theories rather than three?

25 MR. HOM: Well, again, I'll stand by the

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1 April 13, '94 document where we set out essentially  
2 slight variations on claims, so called theories of  
3 the case, and they're worded a little differently.  
4 There's a slight difference in I believe the degree  
5 of engagement in activities that at least at this  
6 point we don't know exactly the extent of the  
7 engagement of activities.

8 JUDGE GLEASON: So in the second one at  
9 least you're saying that Mr. Blue's statement gave  
10 further indication of a de facto control and to that  
11 extent that statement is relevant and material. And  
12 in the third one you're talking about the statement  
13 itself may give rise to liability.

14 Is that a fair summary?

15 MR. HOM: The statement coupled with  
16 control. I think that we would not proffer a theory  
17 that merely because a person comes in and makes a  
18 statement and has no other relationship to a  
19 licensee, therefore we would impose liability on the  
20 speaker of that statement.

21 It would be coupled with the other  
22 factual circumstances of control over the licensee.

23 JUDGE GLEASON: I think you basically  
24 then have two theories rather than three, despite  
25 what the wording is. That's what it sounds like to

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1 me.

2 MR. HOM: It's essentially two theories.  
3 The second of the first two going so far as to say  
4 de facto licensee.

5 MR. DUNCAN: Can I respond, Judge?

6 JUDGE BOLLWERK: Can I just make -- One  
7 other question?

8 So I take it, what you're saying is that  
9 we can look at Mr. Blue's statement and that either  
10 will or won't find as a matter of law that that is  
11 sufficient to be material. And what you're giving  
12 up in regard to that is, if we find that it's not  
13 material that you're not then going to come running  
14 in with affidavits from the commissioner saying, oh,  
15 yes, it was because we say it is.

16 MR. HOM: That's exactly right.

17 JUDGE BOLLWERK: So that's why you're  
18 abandoning any attempt later or at any time to bring  
19 in actual factual statements by commissioners  
20 saying, yes, this is material.

21 MR. HOM: That's absolutely true, Your  
22 Honor. In fact the benefit as we see it is that we  
23 essentially have been on the record for over a year  
24 and a half as saying this is not a factual element  
25 of the case. In essence we could not bring forth as

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1 you would say facts as to reliance, facts as to the  
2 staff's reliance, into this case. We've already  
3 made the statement a year and a half ago this is not  
4 a material fact-based issue. And we essentially  
5 are, as I see it, barred, whether the board issues  
6 an order or otherwise by equities, what have you; we  
7 don't intend to bring in factual evidence of  
8 reliance. We essentially are stating really for the  
9 fourth time we are not going to make the case on a  
10 factual issue of reliance, therefore it's a clean  
11 break for all the parties in this case as far as I  
12 can see, and in terms of discovery it makes  
13 discovery -- at least we can exclude that aspect  
14 from the discovery process for both parties.

15 JUDGE GLEASON: Mr. Axelrad, do you want  
16 to --

17 I want to get to Ms. Curran here, so  
18 I'll give you one final thing.

19 MR. DUNCAN: Judge, could I approach the  
20 bench and give you copies of the order?

21 JUDGE GLEASON: Yes. I think we all  
22 have it, but that's fine.

23 MR. DUNCAN: I apologize to the court in  
24 advance, and I'll give counsel --

25 JUDGE GLEASON: Ms. Curran, we'll get to

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1 you in a minute.

2 MR. DUNCAN: If counsel doesn't have a  
3 copy I've got copies.

4 MR. HOM: I have a copy.

5 MR. DUNCAN: I'm referring specifically  
6 to page 21 as simply by way of example. And I will  
7 explain the yellow markings in a moment, but if I  
8 could focus the board's attention to the first full  
9 paragraph that starts out, after review of the  
10 responses. I just pulled this one out at random as  
11 I was sitting here.

12 But if you notice in the middle of the  
13 paragraph it talks about Mr. Blue's representations  
14 of financial assurance on which the commission  
15 relied make GA responsible.

16 Before we get too far down this line,  
17 and apologize in advance to the board if I'm getting  
18 a little testy, but what I hear counsel saying today  
19 is that, we don't have a theory of liability we can  
20 identify. I can't tell you what the standard is; I  
21 can't tell you what the elements of proof are. I  
22 can't tell you whether it's a breach of contract, or  
23 it's a violation of a federal act, or what the  
24 standard of proof is, or the defenses that might be  
25 raised to this, but we want these allegations in

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1 this pleading. And by the way it's some kind of an  
2 objective standard, and despite us saying that the  
3 reliance upon Mr. Blue's representations makes  
4 General Atomics responsible we don't really mean  
5 that, and we're going to try to show some kind of  
6 standard of liability, they're material, but we're  
7 not going to explain what they're material to.

8 This is absolutely outrageous. If this  
9 pleading, and it is the closest thing we have to a  
10 pleading in this proceeding, is to be taken at face  
11 value for a year and a half we've been defending  
12 this thing on the basis of what it says. Namely,  
13 statements by Blue upon which the commission relied.  
14 And if counsel thinks by merely coming in here and  
15 suggesting that they will stipulate that that's not  
16 a theory and that that will somehow persuade us that  
17 we're not going to attempt to take the depositions  
18 of everybody on the staff and the commissioners  
19 themselves as to who relied upon what, I can  
20 guarantee the board that's not going to deter us.  
21 And more than that I think it's outrageous that we  
22 are expected to defend ourselves on a theory of  
23 liability that staff counsel after a year and a half  
24 still can't even identify.

25 What is the theory? What's the standard

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1 of proof? What are the offenses? What are the  
2 elements of proof? We can't be expected to come to  
3 this court and say, we won't do discovery on things  
4 relating to representations and we will have to  
5 defend ourselves on a theory of liability that can't  
6 be identified but it relates vaguely to de facto  
7 control and it's material but we can't tell you why.

8 I mean I've never been a court room  
9 anywhere that would permit this kind of pleading. I  
10 think we're entitled to specific pleading, and we  
11 will raise specific defenses and we'll conduct  
12 discovery and get on with it. And if it's not in  
13 the case then I can't imagine that it would be fair  
14 under any conceivable theory to permit broad  
15 allegations of misrepresentations by a chairman of a  
16 company that's trying to compete in the marketplace  
17 to remain in there in the case that the staff can  
18 find some label to tag onto it later.

19 JUDGE GLEASON: Well, Mr. Duncan -- and  
20 I don't want to continue this dialogue between  
21 ourselves, because I'd much rather have the parties  
22 argue with each other at this stage.

23 If I understand Mr. Hom right he's not  
24 talking about this representation other than the  
25 representation in and of itself; the statements of

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1 Mr. Blue in and of themselves combined with his  
2 other indicia of de facto control.

3 What if the board just struck the phrase  
4 on which the commission relied?

5 MR. DUNCAN: The point I'm making,  
6 Judge, is how could the statements of Blue possibly  
7 be material?

8 JUDGE GLEASON: I don't have any idea at  
9 this point. I'm not making a judgment on that.  
10 That's up to Mr. Hom to present his case, and  
11 present it. If he's going to file a summary  
12 disposition motion to buttress that argument at that  
13 time. But he's already indicated to you that  
14 probably that that phrasing could have been a little  
15 bit different in terms of --

16 MR. DUNCAN: So aren't we entitled under  
17 any standard of fairness to an amended order like an  
18 amended complaint that sets forth with clarity what  
19 they're alleging and what they're not alleging so we  
20 can move for summary disposition? We can't defend  
21 against a document that's got everything in the  
22 world written in it.

23 JUDGE GLEASON: You wouldn't want to  
24 move for a motion for summary disposition unless you  
25 have an agreement of stipulated facts between you,

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1 or unless discovery is over with, because this board  
2 is not going to be very attuned to handling any such  
3 motion like that before either one of those two  
4 things occurs.

5 MR. DUNCAN: But the alternative is to  
6 require us to go through discovery, what would cause  
7 a jurisdictional issue, expensive discovery, when we  
8 can't even be certain what the theory of liability  
9 is which the company has to defend against? That  
10 can't be proper.

11 JUDGE GLEASON: I would agree with you  
12 that can't be proper, but whether you would have to  
13 do it on that basis is something that I think is  
14 arguable.

15 I'd like to get Ms. Curran's comments in  
16 at this point.

17 MS. CURRAN: Well we think the language  
18 in the order should stay as it is. In our view the  
19 question raised by Mr. Blue's representations, did  
20 GA essentially offer itself as a surrogate for  
21 Sequoyah Fuels and I think that raises  
22 jurisdictional issues. Did GA submit itself to the  
23 jurisdiction of the commission in order for Sequoyah  
24 Fuels to receive permission to continue operating.  
25 And for us it seems clear that this is part of the

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1 jurisdictional case.

2 It seems to me Mr. Hom is saying here  
3 that there's not a separate legal theory of quasi  
4 contract here on which the NRC would go forward say  
5 if they lost the jurisdictional issue.

6 I'm also puzzled as to what is the  
7 enormous expense, etc., that's going to be incurred  
8 here. We don't see that the state of mind of the  
9 commissioner's is at all relevant. It's question of  
10 what commitments were made to the NRC in exchange  
11 for permission to go forward with operation, and it  
12 seems to me it's a reasonable person standard as to  
13 whether those commitments could be relied upon or  
14 were relied upon. I frankly don't see that the  
15 state of mind of anyone at the NRC is relevant in  
16 this case.

17 And it also raises a question for me as  
18 to why we need to bifurcate this case at all,  
19 because if the question is, if the enormous  
20 expenditure that's going to be carried out here is  
21 for discovery against the NRC I think the board  
22 could declare right now that's irrelevant and that  
23 issue would be over.

24 JUDGE GLEASON: Are you withdrawing your  
25 support of bifurcation?

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1 MS. CURRAN: Well as I sit here now I  
2 question whether it's an efficient way to go.

3 JUDGE GLEASON: I see.

4 JUDGE BOLLWERK: Judge, this raised with  
5 me a question before, and maybe this is the time to  
6 say this in light of what Ms. Curran said. What's  
7 left of this case after the jurisdictional issue is  
8 decided? We sort of heard vaguely that there's  
9 other things out there. Can anybody give us  
10 anything concrete that has to be decided?

11 MR. DUNCAN: Sure, I'll let Mr. Axelrad  
12 speak to it right now.

13 JUDGE BOLLWERK: Well go ahead,  
14 Mr. Axelrad.

15 MR. AXELRAD: Well what's left in the  
16 case is whether or not there was any basis for  
17 issuing the order at all; whether Sequoyah was in  
18 violation or failed to comply with any pertinent  
19 regulation, and whether there was any basis for the  
20 NRC to order either Sequoyah or GA, even if GA's a  
21 surrogate, to do anything. And there are a number  
22 of sub-issues on that broad issue.

23 JUDGE GLEASON: The adequacy of the  
24 financial assurance is certainly an issue in this  
25 case, and that would be left, assuming that

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1 jurisdiction question is out. That is the other  
2 issue that we'd be proceeding on.

3 MR. AXELRAD: And there were a number of  
4 sub-issues under that. The staff has alleged that  
5 Sequoyah was in violation of Section 36E, and we  
6 contest that. The staff has alleged that we were  
7 not in compliance with Section 4042; we contest  
8 that. You've indicated that even if we weren't in  
9 compliance with some of those sections we would be  
10 entitled to an exemption and that would have be one  
11 of the matters to be discussed.

12 We have alleged that the staff has acted  
13 discriminatorily against Sequoyah, unlike the way it  
14 has acted in other cases. That would be a matter to  
15 be discovered. And there are many issues that would  
16 have to be litigated for the respect of Sequoyah's  
17 responsibility.

18 JUDGE GLEASON: All those, Mr. Axelrad,  
19 do relate to the central issue of the adequacy of  
20 the financial assurances.

21 MR. AXELRAD: Yes, Judge Gleason.

22 JUDGE GLEASON: Well, Mr. Hom, do you  
23 have any concluding remarks here?

24 MR. HOM: Anything to add?

25 JUDGE GLEASON: Yes.

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1 MR. HOM: Nothing further, Your Honor.

2 JUDGE GLEASON: Mr. Duncan?

3 MR. DUNCAN: Yes, sir. I would formally  
4 move the board to take the copies of the order of  
5 which I've given to each member, and I'll be glad to  
6 make copies available to counsel.

7 The highlighted passages in that order  
8 is the specific language which I believe must be  
9 struck in view of comments of counsel for the staff  
10 today that that's no longer the theory of the case.  
11 And so I formally move that the language which is  
12 highlighted in these orders be formally struck from  
13 the order and that an amended, or the alternative,  
14 that an amended order be issued that eliminates the  
15 language that's been highlighted.

16 JUDGE GLEASON: Well, we'll consider  
17 that as a motion that you've made and of course the  
18 staff and the other, Ms. Tucker, will have a chance  
19 to respond it.

20 So, if you'll excuse for a minute we're  
21 going in the other room to talk about this.

22 Anybody else have anything to say?

23 MR. HOM: Your Honor, just one comment  
24 on the last statement by Mr. Duncan.

25 I believe that -- I'm not sure exactly

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1 what language he wants struck from the order but I  
2 believe that the focus for today was discovery and I  
3 would assume that by the issuance of a discovery  
4 order by the board it seems to me that that would  
5 take care of the concerns that we seem to have here,  
6 rather than making any changes to the order that has  
7 already been issued by the deputy director.

8 JUDGE GLEASON: Okay.

9 JUDGE BOLLWERK: Can you also give me  
10 the cite or even the volume for the Vepco case that  
11 you talked about, that you mentioned?

12 MR. HOM: It's CLI-76-22 4NRC, 480,  
13 1976, affirmed by the Fourth Circuit, 571 F2nd,  
14 1289. Really the discussion of that case I was  
15 referring to in the matter of Randall Orem, CLI-93-  
16 14 37NRC, 423, 1993.

17 JUDGE BOLLWERK: Thank you.

18 JUDGE GLEASON: If you'll excuse us for  
19 a few minutes we'll take a ten minute break.

20 (Off the record) [2:33]

21 (On the record) 2:43]

22 JUDGE GLEASON: Thank you for you  
23 patience, and waiting on us while we put our heads  
24 together.

25 I have not had a chance, Mr. Duncan, to

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1 read this oral motion of yours very intensively. My  
2 colleagues tell me it's fairly extensive. And what  
3 I would prefer you to do is to file that as a  
4 written motion.

5 MR. DUNCAN: All right, sir.

6 JUDGE GLEASON: However, I would like  
7 that done in a very short time period. If you would  
8 file that as rapidly as you can, no later than the  
9 6th of June. And I'd like a very short turnaround  
10 response from both you Ms. Curran and Mr. Hom, the  
11 staff. If you could a response by the following  
12 Monday, we'd appreciate it. In other words that  
13 would be the 12th. They would file by the 6th and  
14 you would respond by the 12th.

15 That will give us time also to read that  
16 and see your responses and to look at the cases that  
17 Mr. Hom cited here, and then our current intention  
18 is to issue an order with our decision with respect  
19 to this matter of bifurcating the issues in the  
20 case, and any other thing that we find in connection  
21 with the order itself, that we may want to have the  
22 discovery restricted too. So we'll be doing that in  
23 the very near future. So as quickly as you get  
24 those motions, materials, motions to us and  
25 responses it will help us.

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1                   We have to start making some progress in  
2 this case. It has just been too far gone, and the  
3 board is intent on expediting on proceeding if it  
4 can.

5                   So thank you all very much for your  
6 contributions today in showing up and we'll be in  
7 contact with you shortly.

8                   (Off the record)

[2:44]

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C E R T I F I C A T E

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: PRE-HEARING CONFERENCE  
SEQUOYHA FUELS CORP. & GENERAL ATOMICS

Docket Number: 40-8027-EA SUB 1010

Place of Proceeding: ROCKVILLE, MARYLAND

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



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JEFFREY LINS

Official Reporter

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