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agree on all disputed issues. Thus, GA and SFC objected to some of Intervenor's interrogatories when they filed their answers on July 24, 1995. Because GA's and SFC's objections were not well-founded, on July 28, 1995, Intervenor's filed a Motion to Compel, in which they also requested the Board to expedite its consideration of the motion so that Intervenor's would have an opportunity to review GA's and SFC's answers in time to file a second round of discovery before the Board's August 28, 1995, deadline for new discovery requests.

On the afternoon that Intervenor's filed their Motion to Compel, counsel for GA contacted counsel for Intervenor's and proposed that, in order to accommodate counsel for GA's vacation schedule, the parties follow an alternative schedule by which Intervenor's would withdraw their pending Motion to Compel, GA would file its answer to Intervenor's document request (which is due on August 9) several days early on August 4, and Intervenor's would file a new Motion to Compel on August 14 that addressed GA's answers to both the interrogatories and document production requests.

GA's proposal initially appeared acceptable to Intervenor's because, although it would delay the resolution of the disputed discovery issues, it would also expedite GA's production of documents by several days, thus allowing Intervenor's more time to review GA's document production before the deadline for filing new discovery expired. However, in the course of discussing the proposal, counsel for GA stated that although there were some document requests to which GA had no objection, GA would not be producing any documents on August 4, but only stating its objections to some of Intervenor's document requests. Counsel for GA also stated that GA had no intention of producing any documents when it responded to Intervenor's document production request on August 9, but rather intended to wait until any Motion

to Compel that might be filed by Intervenors was resolved before even producing documents for which it had no objection. GA also refused to allow Intervenors to examine the documents that it had already produced for the NRC staff, on the ground that the documents were still mixed in with non-SFC-related files that GA did not want Intervenors to see, and GA had not yet copied the documents that the NRC staff had marked and requested. Thus, Intervenors rejected GA's proposal because its only effect appeared to be delay of both the resolution of the discovery disputes and the production of information in response to Intervenors' discovery requests.

### III. ARGUMENT

#### A. The Board Should Reject GA's Proposed Schedule.

GA asserts that the "efficient and prompt resolution" of the parties' discovery dispute would be "best served" by postponing GA's and SFC's responses to Intervenors' Motion to Compel (which are now due on August 7) until seven days after Intervenors file their Motion to Compel regarding document production. GA's Motion at 4. Since GA's and SFC's answers to Intervenors' document production requests are due on August 9, this would postpone GA's and SFC's responses to Intervenors' Motion to Compel until sometime after August 16.

Contrary to GA's argument, this proposal would not "expedite" the resolution of the parties' discovery dispute, but would rather delay it and impede the general progress of discovery. Intervenors' document production requests generally run parallel to their interrogatories. Thus, GA's and SFC's three major objections to the scope of Intervenors' first round of interrogatories, which are addressed in Intervenors' Motion to Compel, will undoubtedly be made in identical form in response to

Intervenors' document production request.<sup>2</sup> No conceivable purpose would be served by postponing the resolution of these issues, other than to delay the progress of discovery. Instead, the most efficient course would be to resolve the parties' dispute regarding these issues as promptly as possible in order to ensure that all relevant documents will be produced within a reasonable time before the close of discovery on September 15.

GA complains that failure to consolidate the motions to compel on interrogatories and document production would result in "piecemeal" litigation. GA's Motion on 4. However, in requiring that interrogatories must be answered two weeks before document production requests, the NRC's regulations already contemplate that discovery disputes regarding interrogatories and document production requests will be separately addressed. Thus, the burden of filing "two separate sets of motions papers" is expected, and, in any event, is negligible. Finally, there is no need for the Board to consolidate for the purpose of issuing just one decision, as the Board may simply reference its decision on the first Motion to Compel when it addresses the second Motion to Compel. GA's argument that a consolidated proceeding "can deal with the interrelationship between interrogatory answers and the document production issues" (GA's Motion at 4) is specious. Intervenors are entitled to a ruling from the Board on each of their interrogatories and document production requests. The question of whether "specific issues could be resolved by a supplemental interrogatory answer but not a document production, or by the production of documents but not by an interrogatory answer," might be relevant to a settlement between the parties,

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<sup>2</sup>These objections concern whether Intervenors can inquire into the circumstances of GA's purchase of SFC, the relationship between GA and SFC after the issuance of the NRC's October 1993 enforcement order, or GA's implementation of its health and safety-related responsibilities under SFC's license.

but not to the Board's role in addressing this discovery dispute.

**B. The Board Should Expedite Consideration of Intervenors' Motion to Compel.**

GA argues that consideration of Intervenors' Motion to Compel should not be expedited because "any time problems are of Intervenors' own making." GA's motion at 4. In particular, GA criticizes Intervenors for waiting a year after they were admitted as intervenors to file discovery in this case. However, Intervenors filed their discovery request well before the deadline for completing discovery, and any timing problems have been created by GA's unreasonable and dilatory objections to Intervenors' discovery. Moreover, in clear violation of the regulations, GA apparently intends to further delay the progress of discovery by refusing to produce documents for which no objection has been made on the day they are due under the regulations, August 9.

Intervenors also note that the entire discovery process has been delayed by more than a year by the dispute between GA, SFC, and the NRC staff regarding the terms of the protective agreement that will govern discovery of confidential documents, to the point that GA has yet to sort or copy the documents that it has produced for the staff. Thus, when Intervenors attempted to compromise with GA on its proposed schedule by reviewing the documents that GA had produced for the staff instead of insisting on Intervenors' own document production by August 4, GA claimed it was unprepared even to allow that because it had not yet copied any documents for the staff. It is extremely doubtful that GA would have been more forthcoming if Intervenors had filed their discovery any earlier. Thus, GA's argument that Intervenors should be penalized for the timing of their discovery is disingenuous. Intervenors have shown good cause for expediting consideration of their motion.

**IV. CONCLUSION**

In conclusion, Intervenors request that the Board:

A. deny GA's request to consolidate consideration of motions to compel answers to Intervenors' interrogatories and document production requests;

B. order GA and SFC to comply with the regulations and produce documents to which they do not object on the date they are due, August 9, 1995;

C. expedite consideration of Intervenors' Motion to Compel.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 3, 1995, copies of the foregoing INTERVENORS' OPPOSITION TO GENERAL ATOMICS' MOTION FOR AN ORDER SCHEDULING BRIEFING OF INTERVENORS' MOTION TO COMPEL were served by FAX and/or first-class mail or as indicated below on the following:

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