

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges:

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Thomas D. Murphy
Alternate Board Member

SERVED AUG - 8 1995

In the Matter of

SEQUOYAH FUELS CORPORATION
and GENERAL ATOMICS

(Gore, Oklahoma Site
Decontamination and
Decommissioning Funding)

Docket No. 40-8027-EA

Source Material License
No. SUB-1010

ASLBP No. 94-684-01-EA

August 8, 1995

ORDER

(Establishing Schedule for Response to
Intervenors' Motion to Compel)

Upon consideration of (1) the August 1, 1995 motion of General Atomics (GA) for an order scheduling briefing of the July 28, 1995 motion of intervenors Native Americans for a Clean Environment (NACE) and the Cherokee Nation to compel GA and Sequoyah Fuels Corporation (SFC) answers to intervenors' first set of interrogatories, and (2) the intervenors' August 3, 1995 opposition to GA's motion, it is

ORDERED, that party responses to intervenors' July 28, 1995 motion to compel shall be filed on or before Friday, August 11, 1995, and it is

FURTHER ORDERED, that party responses to any intervenor motion to compel relative to intervenors' July 10, 1995

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request for production of documents shall be filed within seven days of the date on which the motion to compel is filed and served.

For any filing covered by this order, in addition to regular service by mail, a party shall provide a copy of that filing to the Office of the Secretary, the Board, and counsel for the other parties by facsimile transmission or other means that will ensure its receipt by 4:30 p.m. EST on the day of filing.

Further, regarding intervenors' July 28, 1995 motion to compel as it relates to Interrogatories 19 and 20, it appears from the intervenors' motion that they are seeking discovery relative to a theory or theories of agency regulatory jurisdiction that are not being pursued by the NRC staff. Compare Intervenors' Motion to Compel [GA] and [SFC] to Answer Intervenors' First Set of Interrogatories (July 28, 1995) at 8-9 (information sought to establish conduct that was fraudulent, illegal, or otherwise improper so as to constitute grounds for piercing the corporate veil) with LBP-95-12, 41 NRC 475, 481 (slip op. at 6) (1995) (staff is not pursuing jurisdictional theories based on "wrongdoing" or "quasi-contractual/detrimental reliance"). If GA and SFC agree that this is what the intervenors are doing, the Board requests that their response to intervenors' motion to compel SFC and GA address whether, pursuant to their Contention 1, intervenors can pursue

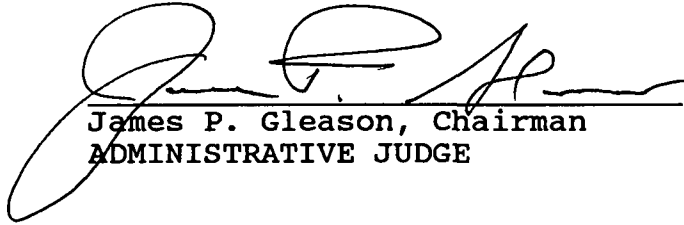
jurisdictional theories other than those being relied upon by the staff. Compare Boston Edison Co. (Pilgrim Nuclear Power Station), CLI-82-16, 16 NRC 44, 45-46 (1982) (in a license-modification enforcement order, the scope of the proceeding limited to "whether the facts as stated in the order are true and whether the remedy selected is supported by those facts"), aff'd sub nom. Bellotti v. NRC, 725 F.2d 1380 (D.C. Cir. 1983). The Board also would appreciate receiving the views of the staff on this issue.

Finally, the Board notes that, absent some other agreement between the relevant parties or a Board directive, it expects any documents of a party other than the staff that are (1) subject to production under a discovery request, and (2) not the subject of an objection will be

produced in accordance with the terms of 10 C.F.R.

§ 2.741(d),

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*



James P. Gleason, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 8, 1995

* Copies of this order are being sent this date to counsel for GA, SFC, and intervenors NACE and the Cherokee Nation by facsimile transmission and to staff counsel by E-mail transmission through the agency's wide area network system.

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tion and Decommissioning Funding)

Docket No.(s) 40-8027-EA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (ESTABLISHING SCHED) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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LB ORDER (ESTABLISHING SCHED)

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Dated at Rockville, Md. this
8 day of August 1995


Office of the Secretary of the Commission