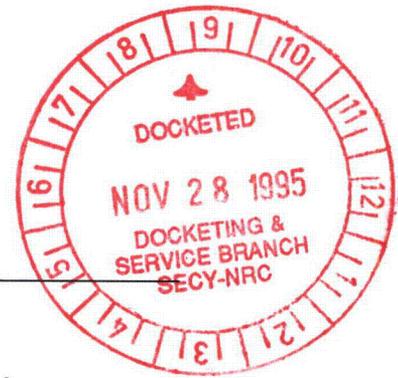


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD



In the Matter of

Docket No. 40-8027-EA

SEQUOYAH FUELS CORPORATION
and GENERAL ATOMICS
(Gore, Oklahoma Site
Decontamination and
Decommissioning Funding)

Source Material License
No. SUB-1010

ASLBP No. 94-684-01-EA

**MOTION FOR LEAVE TO FILE AMENDED PETITION FOR REVIEW
AND BRIEF**

COMES NOW the State of Oklahoma, by the Oklahoma Attorney General W.A. Drew Edmondson through Assistant Attorney General Jeannine Hale, and hereby requests leave to file an Amended Petition for Review of the Memorandum and Order (Approval of Settlement Agreement) dated October 26, 1995, requests leave to file a brief herein. As grounds therefore, Petitioner states as follows:

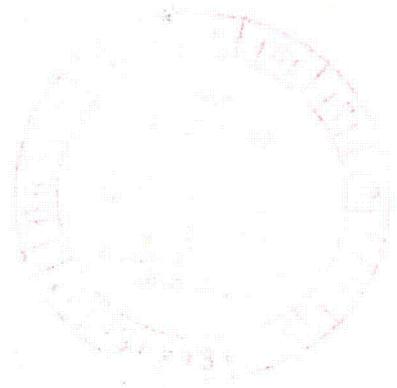
1. Petitioner timely filed a Petition for Review on November 13, 1995. Petitioner attaches hereto its Amended Petition for Review and Request for Leave to File Brief.
2. For good cause, as stated in the Petition for Review and in the Amended Petition for Review, which are hereby incorporated by reference, Petitioner had inadequate time to prepare said Petition. Petitioner was not served a copy of the order when it was issued by the Board, but instead received a copy from Native Americans for a Clean Environment on Thursday November 9, 1995.
3. Petitioner has diligently pursued this matter and no other party will be prejudiced by acceptance of the Petition and Amended Petition for Review.

WHEREFORE, Petitioner requests leave to file its Amended Petition for Review and a Brief herein.

SECY-041

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RESPECTFULLY SUBMITTED,

Jeannine Hale

JEANNINE HALE, OBA # 13627
ASSISTANT ATTORNEY GENERAL
STATE OF OKLAHOMA

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
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**AMENDED PETITION FOR REVIEW AND
REQUEST TO FILE BRIEF**

COMES NOW the State of Oklahoma, by the Oklahoma Attorney General W.A. Drew Edmondson through Assistant Attorney General Jeannine Hale, and hereby files its Amended Petition for Review of the Memorandum and Order (Approval of Settlement Agreement) dated October 26, 1995, and requests leave to file a brief herein. As grounds therefore, Petitioner states as follows:

1. The State of Oklahoma qualifies as an "interested state" which shall be allowed the opportunity to participate in this proceeding pursuant to regulations codified at 10 C.F.R. 2.715 (Participation by a person not a party). The State of Oklahoma may file a Petition for Review pursuant to 10 C.F.R. 2.786 (Review of decisions and actions of a presiding officer). The Commission may grant Petitioner leave to file a brief pursuant to 10 CFR §2.715(d).

2. By Order dated October 25, 1993, 58 Fed. Reg. 55087, the Nuclear Regulatory Commission (hereinafter "NRC" or the "Commission") required Sequoyah Fuels Corporation ("SFC") and their parent company, General Atomics (GA), to meet the financial assurance requirements of the Commission regulations at 10 CFR 40.36.

3. The Petitioner has not been a party to the proceedings related to the 1993 Order and therefore has not been served with copies of pleadings related thereto. The undersigned counsel for the State of Oklahoma first received a copy of the Memorandum and Order dated October 1995 from counsel for Native Americans For A Clean Environment (hereinafter "NACE") on Thursday, November 9, 1995.

4. The State of Oklahoma is the site of the licensed SFC facility which is the subject of this proceeding and thus the citizens of Oklahoma will be affected by any order issued regarding this facility, including the Memorandum and Order issued October 26, 1995.

5. In support of its Petition for Review and Motion for Leave to File Brief, Petitioner hereby adopts as its own and incorporates by reference the separate statement by Judge Bollwerk and the arguments set forth therein, contained in the Memorandum and Order issued October 26, 1995.

6. In the October 26, 1995 Memorandum and Order, the Atomic Safety and Licensing Board (hereinafter the "Board") has failed to give adequate consideration of the issues regarding how the settlement agreement will affect the Nuclear Regulatory Commission (hereinafter "NRC"), the public and the state's status with regard to claims for costs for decommissioning and other environmental clean up required at this site to protect the public and environment. The October 1995 Order approving the settlement agreement also sets a precedent which should be carefully considered by the Commission.

7. Petitioner's interests are not adequately represented by any other party to the proceeding, however, the issues raised by Petitioner are similar to those raised by NACE's Petition for

Review and therefore the granting of this Petition and Motion will not unduly complicate the proceedings. There appear to be no feasible means available to protect the interests of the State other than to request Commission review or commence litigation. No prejudice will result to the parties from granting additional time to explore these issues or from suspending a final determination on approval/disapproval of the proposed settlement agreement.

8. As previously stated by letter dated September 29, 1995 from the State of Oklahoma Department of Wildlife Conservation to Steven R. Hom, Office of General Counsel, U.S. Nuclear Regulatory Commission, cited at page 2 of the Memorandum and Order, and attached as Exhibit A hereto, the State of Oklahoma is concerned that the Settlement Agreement that is the subject of the Memorandum and Order of October 1995 does not adequately protect the public interest or the environment.

9. SFC is entering decommissioning without having provided financial assurance because such was not provided by SFC at the time of SFC's license renewal, in violation of 10 CFR 40.36. Approval of the proposed settlement agreement will allow SFC to forego compliance with financial assurance requirements and allow SFC to pay off other secured and unsecured debts which are deemed by SFC as "reasonable and necessary business expenses", without regard to funding current or future clean up efforts.

10. Two important legal effects of the Settlement Agreement include that it appears that the NRC agrees that decommissioning costs are not to be considered a priority debt or an expense necessary to preserve SFC's assets and that NRC is waiving the requirement that SFC provide security for the public's claim against SFC for decommissioning costs. These effects have not been adequately considered.

11. The Memorandum and Order approving the Settlement Agreement will operate to waive the public's right to a secured claim against the licensee for decommissioning costs, thus raising a substantial and important question of law, policy or discretion. Moreover, a necessary legal conclusion - that the approval of the agreement will not prejudice the legal status of claims for decommissioning costs - is contrary to established law since it is clear that a secured claim is more likely to be satisfied than an unsecured claim for costs.

12. If the SFC lacks sufficient assets to cover both existing secured and unsecured debts and the future costs of clean up, it is imperative to protect the public interest by requiring financial assurance to cover those costs. The Commission should grant this petition for review as in the public interest and allow all affected persons a full opportunity to review available information and documents and brief the issues.

13. According to estimates by the licensee, attached hereto as Exhibit B, the amount required to decommission the SFC Gore facility will exceed 87 million dollars. This estimate does not reflect costs required for environmental clean up of pollutants not within the scope of the NRC's jurisdiction.

14. Documents and information filed by the licensee with regard to financial assets and revenues, including but not limited to Exhibit B, are sufficient to cast doubt on whether the licensee is capable of funding and completing decommissioning.

15. The Settlement Agreement does not appear to be significantly different from the original SFC proposal for funding decommissioning, which original proposal was addressed by the previous order of the Commission dated October 25, 1993, and found to be deficient. The

October 25, 1993 Order evaluated financial and corporate information provided by SFC and found that there were "important shortcomings in the proposed arrangement from the standpoint of financial assurance that adequate funding will in fact be available to properly decommission the facility." 58 Fed Reg 55089.

The Commission further stated:

"Because of these shortcomings the SFC funding plan based on the ConverDyn arrangement does not fully satisfy the requirements of 10 CFR 40.36 and 40.42. No financial assurance mechanism, as required by 10 CFR 40.36, is in place, and the ConverDyn arrangement does not constitute the equivalent. ...If more costly decommissioning alternatives are required by NRC as a result of its decommission plan, the \$89 million in revenues from the ConverDyn arrangement and other sources are unlikely to be sufficient. ...Accordingly, to satisfy the Commission's requirements, the ConverDyn arrangement must be supplemented by funding assurances to protect against SFC revenue shortfalls, and to assure additional funding if more costly decommissioning alternatives are required. ... However, since the ConverDyn arrangement appears to be SFC's only source of income, SFC does not appear to be able to satisfy the Commission's financial assurance standards. Accordingly, supplemental financial assurance is required from SFC's parent corporation, GA". 58 Fed Reg 55089

16. The Commission previously found that additional financial assurance was required to comply with 40 CFR 40.36, yet the Settlement Agreement contains no such assurance.

17. The forms of financial assurance required by 40 CFR 40.36 are mandatory, and include:

"(e) Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) Prepayment.

...

(2) A surety method, insurance, or other guarantee method.

...

(3) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. ..."

18. The Order and Settlement Agreement do not address how any of these required forms of financial assurance will be provided to cover the minimum amount needed for decommissioning, \$89 million.

19. Since the requirements of 40 CFR 40.36(e) are mandatory, and no exceptions are provided for in the regulations, it is not clear pursuant to what authority, if any exists, the Board or Commission may properly waive such requirements.

20. The granting of a waiver or exception to compliance with the financial assurance regulations of 40 CFR 40.36 would set a precedent in interpretation of the language of the regulations and in enforcement policy, and this precedent should be carefully examined to determine if it is in the public interest. Full public participation in promulgation and amendment of the regulatory requirements of 40 CFR 40.36(e) should be allowed. There may be additional requirements under the federal Administrative Procedures Act which are applicable.

21. The obvious purpose of 40 CFR 40.36 requirements for financial assurance is to provide the public with a secured claim for the cost of decommissioning of the site. Without this financial assurance, if the decommissioning is not completed, the cost of cleanup will likely have the status of an unsecured claim against the licensee. Therefore, the agreement has the effect of giving up the public's right to having a secured claim against the debtor/licensee to insure that decommissioning is properly completed.

22. The issues raised by Petitioner are substantial in that this proceeding will have both an environmental and financial impact on the State's resources and the resources of affected citizens. If SFC fails to complete decommissioning, the Board's decision will ultimately have the effect of leaving the public: state, local communities, and private landowners, to bear the cost of efforts to pursue the SFC's parent company and other potentially responsible parties and/or to bear the cost of decommissioning. Furthermore, due to federal preemption, the state may be unable to obtain full remediation of the site on behalf of the public.

23. On or about August 2, 1995, a representative from the U.S. Environmental Protection Agency informed the State of Oklahoma Department of Environmental Quality that NRC staff had suggested that the state participate in discussing alternatives for clean up of the site, and acknowledged that this site would likely be low on the CERCLA priority list.

24. Michael F. Weber, Chief of the NRC's low-level waste and decommissioning projects branch, in a recent newspaper article is quoted as saying that, if SFC is unable to fund decommissioning, the options available include "superfund" and requiring the state of Oklahoma to fund the cleanup. See Exhibit C.

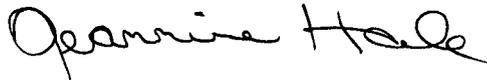
25. The Settlement Agreement is premature at this time since additional assurance is needed from the parent company, General Atomics, yet General Atomics has not agreed to provide such additional assurance and settlement negotiations with GA are pending. Until the issue of what responsibility will be assumed by GA, or may be legally imposed upon GA, is resolved, it is not possible to determine if the proposed Settlement Agreement serves the public interest.

26. For the reasons set forth herein, Petitioner believes that it is appropriate in the circumstances for the Commission to grant the Petitioner leave to file this Amended Petition for Review, review the Board's decision in the October 1995 Memorandum and Order, and permit Petitioner to file a brief pursuant to 10 CFR §2.715(d).

WHEREFORE, the State of Oklahoma petitions for review of the Memorandum and Order dated October 26, 1995. Petitioner further requests that the Commission establish a briefing schedule and allow Petitioner time to fully research and brief the issues raised herein. Petitioner further requests leave to file any documents necessary to support its arguments and

provide information necessary for a determination of public interest and legal requirements related to financial assurance in this matter.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script that reads "Jeannine Hale".

JEANNINE HALE, OBA # 13627
ASSISTANT ATTORNEY GENERAL
STATE OF OKLAHOMA



DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA

September 29, 1995

Steven R. Hom
Office of General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Sequoyah Fuels Corporation General Atomics
Docket No. 40-8027-EA

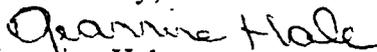
Dear Mr. Hom:

I am writing this letter on behalf of the Oklahoma Department of Wildlife Conservation (ODWC) to request that we be given additional time to consider the potential effect upon state interests of the proposed "settlement agreement" between NRC and Sequoyah Fuels. While the state is not a party to the agreement and therefore is not bound by it, any agreement limiting NRC's right to pursue decontamination and full environmental clean up at the site will affect the citizens of this state.

We feel strongly that nothing should be done to prejudice NRC's ability to seek full financial responsibility from appropriate parties. We have heard that Sequoyah Fuels may be filing bankruptcy or is otherwise having financial concerns. This should not be allowed to interfere with regulatory efforts to obtain an environmentally acceptable clean up. A preliminary review indicates that Paragraph 4 and other provisions of the agreement may allow resources to be diverted from Sequoyah Fuels in a preferential manner to creditors which are related to Sequoyah Fuels, such as General Atomic, and may impede efforts by NRC to prevent this.

We understand that litigation costs and attorney fees could deplete Sequoyah Fuels' resources if litigation is pursued unnecessarily. However, we would like the opportunity to receive and review additional information regarding Sequoyah Fuels' finances and pending litigation before finalizing our comments on the agreement.

Yours Truly,


Jeannine Hale
Assistant Attorney General
Environmental Protection

cc: Greg Duffy, Ok. Dept. Wildlife; Gary Sherrer, Sec. of Environment
H.A. Caves, Dept. Environmental Quality

Exhibit B

GMV



RE: 9521-N

February 17, 1995

**Certified Mail
Return Receipt Requested**

Mr. Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards
U.S. NUCLEAR REGULATORY COMMISSION
Mail Stop T 8-A-23
Washington, D.C. 20555

Subject: License No. SUB-1010; Docket No. 40-8027, Update of
Preliminary Plan for Completion of Decommissioning

Reference: Letter No. 94158-N from John H. Ellis to
Robert M. Bernero dated December 30, 1994

Dear Mr. Bernero:

By letter dated February 16, 1993, Sequoyah Fuels Corporation (SFC) provided to the Nuclear Regulatory Commission (NRC) its Preliminary Plan for Completion of Decommissioning (PPCD). This plan included a preliminary schedule (Figure 9-1), an estimate of direct costs of decommissioning activities (Table 10-1), and a projection of SFC's cash flow for the years 1993 through 2003 (Table 10-2).

SFC believes that it is appropriate, after two years of actual cost experience and after performing additional preliminary cost studies on some of the decommissioning activities, that the figures and tables identified above be updated.

Figure 9-1 has been revised to provide the present status of active tasks and to reflect changes in approach. Most notably, as explained in my letter of December 30, 1994, SFC proposes to dispose of the raffinate and calcium fluoride sludges in the on-site cell rather than to ship it off-site. Figure 9-1 also takes into account longer time periods experienced for review and approval of the various work plans.

Table 10-1 has been revised to show actual expenses to date and to present revised cost estimates for many of the activities in the original submittal. Increased cost estimates for site characterization and on-site cell construction and closure account for most of the \$5.3 million increase in the estimated direct costs of decommissioning activities.

9502240304 950217
PDR ADOCK 04008027
C PDR

HIGHWAY 117 & I-40

PO BOX 610, GORE, OKLAHOMA 74435

(918) 489-5511

FAX: (918) 489-2291

205602115

NHC

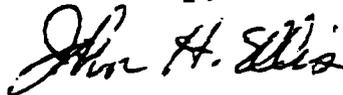
Robert M. Bernero
February 17, 1995
Page Two

Table 10-2 reflects the changes in schedule and cost presented in Figure 9-1 and Table 10-1, including changes in project scopes and administrative costs. It also provides the latest estimates of fees that SFC will receive from ConverDyn through the end of the decommissioning project, now estimated to take until the year 2005. Overall, Table 10-2 shows a projected decrease in revenues of about \$0.5 million and a decrease in total expenses of \$2.2 million.

As in the case of the PPCD, the attached Table 10-2 contains limited summary information concerning SFC's arrangements with ConverDyn. Detailed information concerning the projection of SFC revenues from ConverDyn is proprietary commercial and financial information, the public disclosure of which would jeopardize the competitive position of ConverDyn. Accordingly, detailed information related to ConverDyn will be submitted separately to the NRC with a request that it be withheld from public disclosure pursuant to 10 CFR 2.790(a) (4) and 9.17(a) (4).

Please let me know if you require any additional information or if the NRC would like to meet on any of these subjects at your convenience.

Sincerely,



John H. Ellis
President, SFC

cc: L. J. Callan, NRC Region IV Administrator
George Bearpaw, Cherokee Nation
Lance Hughes, NACE
Mike Hebert, Project Manager, EPA

Attachments: (3)

Table 10-1 (Revision 1)

ESTIMATED DIRECT COSTS OF ACTIVITIES RELATED TO DECOMMISSIONING
(in Millions)

<u>Activity</u>	<u>Revised Cost Estimate</u>	<u>Actual Spent 93-94</u>	<u>Estimated Remaining Cost</u>
Disposition of Raffinate Sludge	3.7	1.9	1.8
Disposition of Calcium Fluoride Sludge	1.3	0.0	1.3
Disposition of Fertilizer	1.6	1.4	0.2
Shipment of Yellowcake	1.3	1.3	0
Site Characterization	1.6	0.2	1.4
Develop Decommissioning Plan	0.5	0.0	0.5
Remediate Fertilizer Ponds	0.4	0.0	0.4
Remediate Sludge Ponds	1.3	0.0	1.3
Remediate Clarifiers	0.2	0.0	0.2
Remediate Emergency Basin, North Ditch, Sanitary Lagoon	0.5	0.0	0.5
On-site Cell Construction	2.5	0.0	2.5
On-site Cell Closure	2.9	0.0	2.9
Excavate and Dispose of Contaminated Soils	2.0	0.0	2.0
Deconstruct Buildings and Equipment and Disposition	<u>4.7</u>	<u>0.0</u>	<u>4.7</u>
Total	24.5	4.8	19.7

Note: In view of the more detailed current cost estimates, no separate contingency line item has been included.

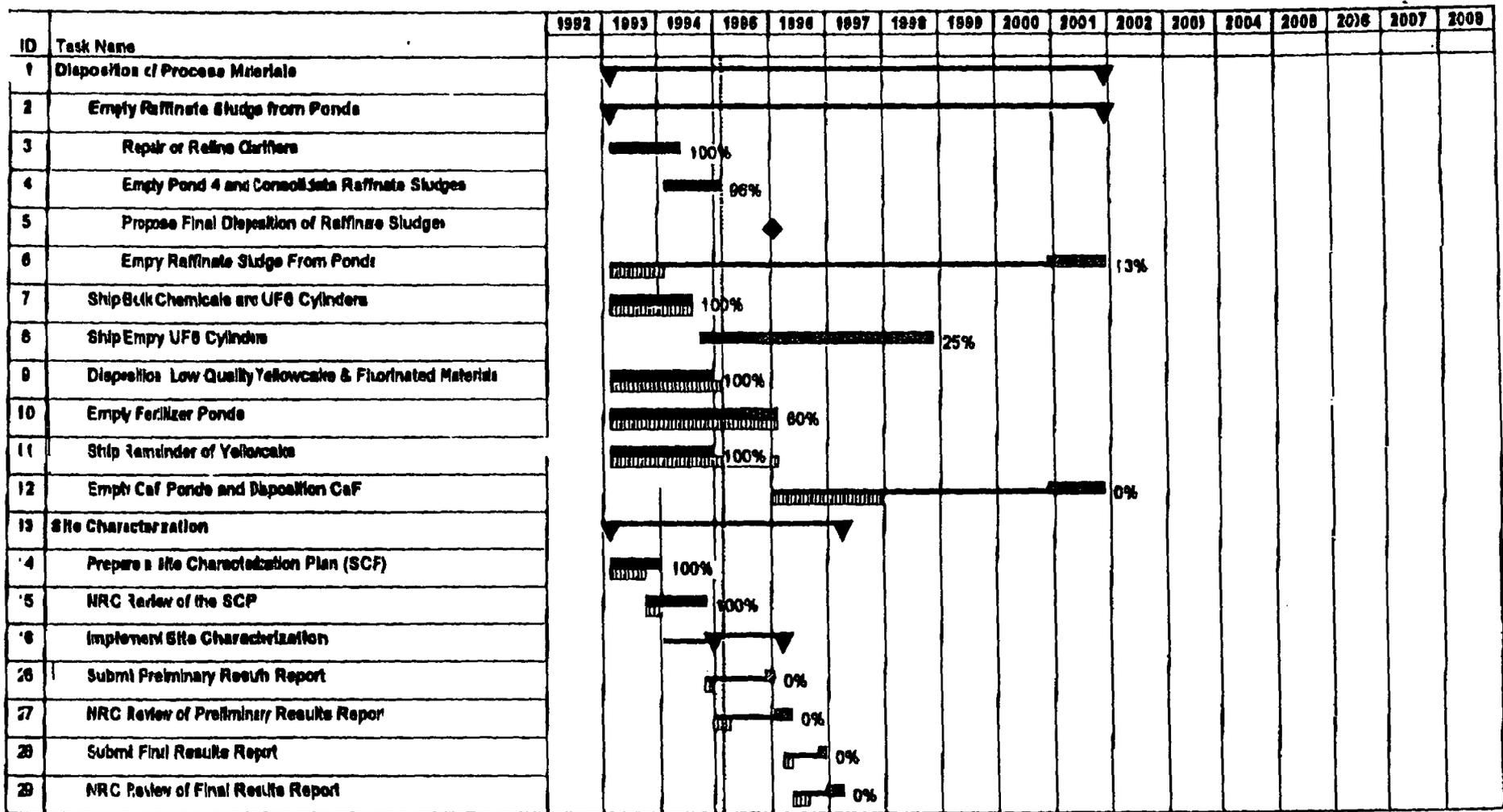
SEQUOYAH FUELS CORPORATION
ESTIMATED CASH FLOW
(000'S OF DOLLARS)

Table 10 - 2
Revision 1
2/15/95

	1993 ACTUAL	1994 ACTUAL	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	TOTAL
INCOME:														
UFI CONVERSION REVENUE	1,280	84	50	24	27	18	17	7	4	6	2			8,58
DUF4 RECONVERSION REVENUE	(1,367)													6,56
DISPOSITION OF INVENTORY	1,004	189	202	2,000										4,42
RANCH REVENUE	294	295	342	200	200	200	200	200	200	200	200	200	200	2,80
CONVERSION FEES	1,384	8,099	1,433	1,444	7,810	5,631	6,470	7,143	13,839	4,736	2,801	2,831	200	68,82
TOTAL REVENUES	21,569	8,566	2,030	3,668	7,842	5,849	6,687	7,350	13,749	4,841	3,003	3,031	2,665	89,171
ACTIVITIES RELATED TO DECOMMISSIONING														
CLEAN-UP														
SAFARI BUDGE	683	273							1,382	461				3,74
FERTILIZER PONDS	622	790	148											1,50
CAF PONDS									970	323				1,29
MIPLAKA/UFANILUM PRODUCTS	346	901												1,20
DECOMMISSIONING														
DECOMMISSIONING PLAN					500									50
SITE CHARACTERIZATION		187	422	500	500									1,50
CONSTRUCT CELL								750	1,000	750				2,50
RECONSTRUCT BUILDINGS									1,763	2,350	587			4,70
REMEDIATION ELEMENTS								200	1,200	1,000				2,40
DISPOSE OF SOILS									250	1,000		750		2,00
CLOSURE OF CELL											1,450	1,450		2,90
GEN & ADMN:														
PERSONNEL	1,817	3,878	2,578	1,800	1,800	1,800	1,800	1,800	2,800	2,800	1,800	1,800	1,800	38,071
NRC FC FEE	(181)	208	205	268	265	265	265	265	265	265	265	265	265	4,84
TAXEL, INSUR & OTHER	(884)	2,785	897	500	500	500	500	500	500	500	500	500	500	78,218
DUF4 OPERATING	1,773													1,773
PLANT CLEAN-OUT	1,308	(176)												1,132
TRANSITION COST	288													288
INTEREST (INCL EXP)	890	782	223	533	305	20	0	(111)	(264)	(398)	(282)	(171)	(197)	117
FRANCH COST	108	108	89	79	29	29	29	29	29	29	29	29	29	692
TOTAL COSTS	21,991	11,079	4,580	3,427	3,899	2,823	2,594	1,433	9,895	9,082	5,129	3,673	2,457	84,012
CASH FROM														
(NCR) DISCRN RECEIVABLES	602	(8,493)	(7,530)	241	3,846	3,228	4,090	1,817	3,846	(4,141)	(2,086)	(842)	488	6,178
(NCR) DEPRN PAYABLES	2289	343	80	(40)	(206)	83	8	(79)	(551)	848	71	0	14	2,538
PROJECTED NET CASH FLOW BEFORE DEBT REPAYMENT	6334	(4,255)	(2,000)	401	3,840	419	2,785	-638	3,297	(3,585)	(2,028)	(842)	422	8,699

As of 2/9/94 Sequoyah Fuels debt consisted of \$2.4 million to General Atomics (not including \$1.25 million provided by General Atomics as collateral for two letters of credit held by Sequoyah Fuels) and \$11.6 million on a note to Kerr-McGee Corporation. The note to Kerr-McGee is collateralized and its terms are presently the subject of ongoing negotiations. Payments of principal and interest to Kerr-McGee have been suspended.

9-1
PRELIMINARY PLAN FOR DECOMMISSIONING
 Revision 1



Project: PPCD
 Date: 2/17/95

1993 PPCD Schedule

Slippage from PPCD Schedule

1995 Revision, Critical

Critical Progress

1995 Revision, Noncritical



Noncritical Progress

Milestone, 1993 PPCD

Milestone, 1995 Revision

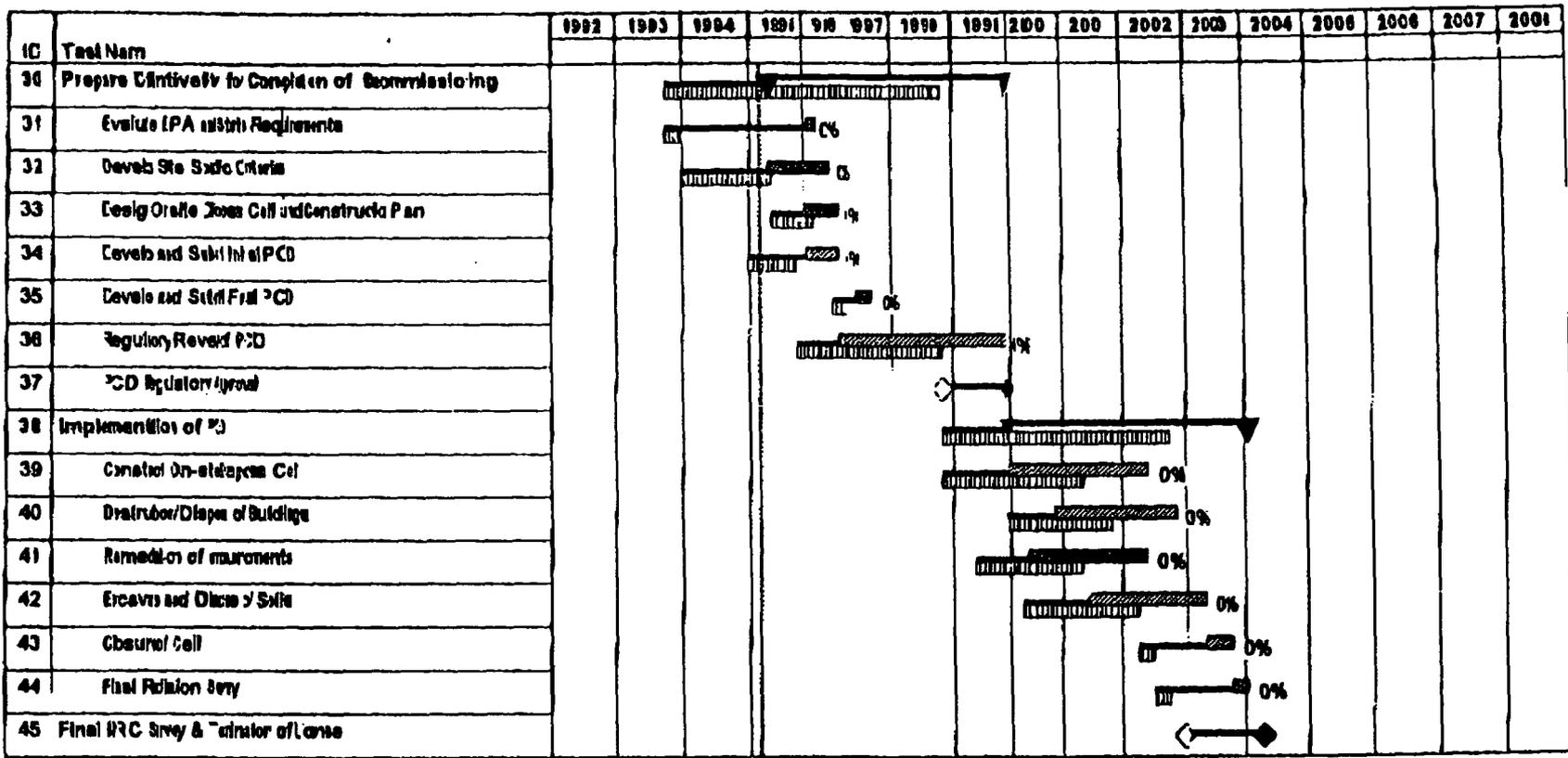
Summary



REL 001-413-3338 R000-CT4-T00-751

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PRELIMINARY PLAN FOR DECOMMISSIONING
Revision



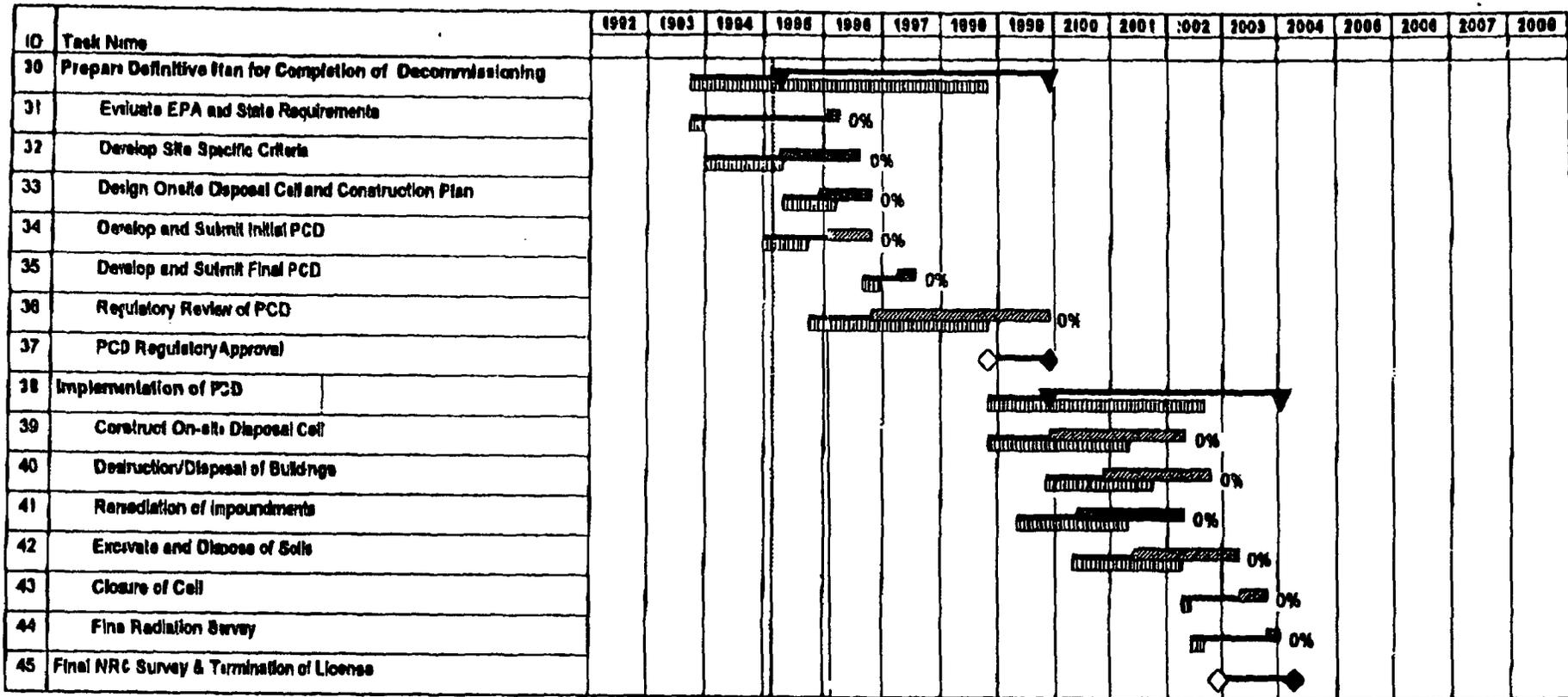
Project: PCD
Date: 2/17/95

TEL: 501-415-3398

NK/L/NMSS/LUM

11/13/95 MON 11:50 [TX/RX NO 7413]

9-1
PRELIMINARY PLAN FOR DECOMMISSIONING
 Revision 1



11/13/95 MON 11:50 [TX/RX NO 7413]

Project: PPCD
 Date: 2/17/95

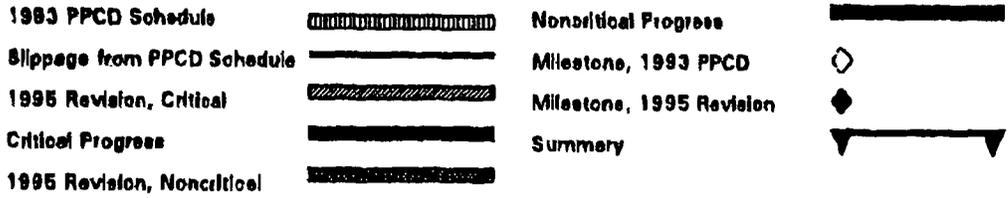


Exhibit
C

NEWS

**Injured cowboy
miraculous recovery**
Page 5



SPORTS

**NSU basketball
Drop home openers**
Page 11



FEATURES

**Oklahoma history
Native American awareness**
Page 6

Tahlequah Daily

35¢

RISES

Wednesday, November 15, 1995

14-Page Edition

NACE blasts Sequoyah Fuels settlement

By **MICHAEL PACEWICZ**
Press Staff Writer

GORE—A settlement reached between the U.S. Nuclear Regulatory Commission and Sequoyah Fuels has drawn fire from an area environmental group and the Cherokee Nation.
Native Americans for a Clean En-

vironment and the tribe have filed an appeal with NRC commissioners on the settlement, which provides funds for the decommissioning of the Sequoyah Fuels plant.
In 1993 the NRC ordered Sequoyah Fuels and its parent company, General Atomics of San Diego, to provide \$86 million to begin ridding the site of

radioactive contamination. The settlement, reached last month and approved by two of three judges on the NRC's licensing board, limits liability to Sequoyah Fuels.
NACE and the tribe argue in their appeal that the agreement fails to protect the public health and offers no guarantee that Sequoyah Fuels will

pay for decommissioning the plant, which has been closed since 1993.
"By resolving only SFC's and not GA's liability for decommissioning funding, the settlement undermines the NCR's regulatory authority over decommissioning funding, and seriously risks allowing the responsible parties to abandon the Gore site without pro-

viding adequate resources for cleanup, the appeal states.
October's settlement commit Sequoyah Fuels' net assets and net revenues to the cleanup. Net assets and net revenues are defined in the agreement as being subject to the "rights of senior lien-holders," and also subject
See NACE, page 3

CHIEFEYE!!! NACE INDIANS ID:

Wednesday, November 15, 1995...Page 3

NACE

Continued from page 1

to the company's obligations to ConverDyn, a Denver company which is fulfilling Sequoyah Fuels' contracts.

The Kerr-McGee Corp., which sold the plant to General Atomics in 1988, holds a \$10.6 million lien on the property.

In addition, the agreement sets no dollar amount for Sequoyah Fuels' contribution to the cleanup, nor does it provide information regarding the size of the company's debts or how much money would remain for decommissioning.

Opponents of the settlement, who include the Attorney General of Oklahoma and the U.S. Army Corps of Engineers, claim the agreement leaves the door open for creditors to deplete Sequoyah Fuels' reserves, leaving little or no money remaining for cleanup. They also fear the settlement inadequately protects two funds created solely to help pay for decommissioning of the facility.

One of the funds totals \$750,000 and was reserved by a letter of credit issued to the company and the other is a "decommissioning reserve" established when General Atomics purchased the plant.

Lance Hughes, director of NACE, contends assets and revenues have been shifted away from Sequoyah Fuels in an effort to reduce the company's cleanup costs.

"We have a pretty good idea where the money is being diverted, and if the Nuclear Regulatory Commission doesn't have an interest in securing the money for clean up, then we will see if Congress or the Department of Justice has an interest," said Hughes.

Michael F. Weber, chief of the NRC's low-level waste and decommissioning projects branch, agreed that funding the cleanup is of primary importance to the commission, but appears satisfied with the settlement.

"What they [Sequoyah Fuels] came forward with in the settlement agreement was, 'We promise to give you whatever revenues we have to pay for decommissioning, and you, the NRC, can't ask for more, because we don't have anything more,'" said Weber.

He said according to the current

cost schedule, Sequoyah Fuels expects to have a slight surplus of funds throughout the decommissioning process, and that the NRC is conducting settlement discussions with General Atomics.

Nevertheless, worries persist that taxpayers may eventually have to pick up the tab.

"Ultimately, if the resources aren't there, then we have to look at other options, such as SuperFund [the government's massive toxic waste cleanup fund]," said Weber.

He said in such a case, Sequoyah Fuels might end up taking a back seat to other sites considered to be of higher priority. Other options could include requiring the state of Oklahoma to fund the cleanup, said Weber.

NACE's Hughes finds any plan unacceptable which does not require Sequoyah Fuels to pay the entire cost of the decommissioning.

"We are very serious that those who created the extensive contamination must be responsible for cleaning it up so the costs do not fall on the shoulders of the taxpayers," he said.

The Sequoyah Fuels plant lies approximately one and a half miles from the confluence of the Arkansas and Illinois rivers.

The Cherokee Nation, which owns the land and mineral rights to the Arkansas River bed and banks, has concerns about their possible contamination.

Tribal attorney Jim Wilcoxon said no comprehensive studies on the plant's effect on the Arkansas River have been conducted.

"We don't know to what extent the Arkansas bed and banks may be contaminated," he said. "But we're really more concerned about the tribal members that live nearby."

Reports of increased cancer rates in communities near Sequoyah Fuels have circulated for years, but as yet no scientific studies confirm such claims.

Wilcoxon believes the NRC has

been premature in settling with the company without full knowledge of the extent of the contamination.

"This cleanup appears to be so large that I don't think at this time that it's appropriate to discuss a settlement," he said.

The Sequoyah Fuels plant opened in 1970, converting uranium oxide into uranium hexafluoride for use in nuclear reactor fuel. In 1987, the plant began a second process, converting depleted uranium hexafluoride to uranium tetrafluoride, a material used in armor-piercing bullets.

Initially an economic windfall for Sequoyah County, the plant brought 300 jobs and a \$15 million payroll to the area, but problems began to surface after several years of operation.

The company disposed of waste in trenches and storage ponds on the site, and spilled radioactive material into the ground, contaminating soil and groundwater.

According to company records, contamination in the soil reaches 15 feet deep and as much as 50 feet deep in the groundwater.

In 1986 a storage cylinder containing radioactive material ruptured at the plant. The resulting explosion killed one person and injured 30 others. The plant shut down for seven months in 1990 when groundwater tests revealed uranium contamination of up to 35,000 times the level accepted by the government.

In 1992 Sequoyah Fuels announced plans to cease uranium processing work.

The company is currently putting together a site characterization report to identify contaminated areas on the 80-acre site and to measure contamination levels.

The report is due at the Environmental Protection Agency in December and at the NRC in January. Sequoyah Fuels is hoping to submit a decommissioning plan to the NRC by this time next year.

CERTIFICATE OF MAILING OR DELIVERY

I certify that I mailed a true and correct copy of the forgoing Motion for Leave to file Amended Petition for Review and Brief, and Amended Petition for Review and Request to file Brief, first class mail, postage prepaid, the 27th day of November, 1995, addressed to the following:

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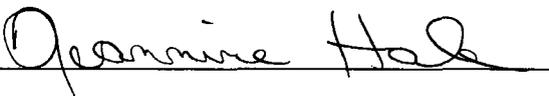
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A handwritten signature in cursive script, reading "Jeannine Hall", is written over a horizontal line.