

RELATED CORRESPONDENCE

**DOCKETED
USNRC**

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

ATOMIC SAFETY AND LICENSING BOARD

'95 JUL 28 P3:50

In the Matter of)

SEQUOYAH FUELS CORPORATION)
and GENERAL ATOMICS)

(Gore, Oklahoma Site)
Decommissioning and Funding))

Docket No. 40-8027-EA

July 24, 1995

**OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH**

**GENERAL ATOMICS' ANSWERS TO THE FIRST SET OF INTERROGATORIES
OF NATIVE AMERICANS FOR A CLEAN ENVIRONMENT
AND CHEROKEE NATION**

In accordance with 10 C.F.R. § 2.740b, General Atomics hereby answers the First Set of Interrogatories of Native Americans for a Clean Environment and Cherokee Nation (collectively referred to as the "Intervenors"), as clarified in the memorandum of July 19, 1995 from counsel for the Intervenors, as follows:

GENERAL OBJECTIONS

On July 18, 1995, counsel for General Atomics conferred at length with counsel for the Intervenors in an effort to clarify or limit the scope of several of the Intervenors' First Set of Interrogatories. The effort was only partially successful. Consequently, General Atomics objects to the interrogatories on several grounds.

First, several of the interrogatories seek information that is unrelated to the only issue that will be adjudicated in the first stage of the proceeding. By its Memorandum and Order of June 30, 1995, the Atomic Safety and Licensing Board bifurcated the proceeding in order that the issue of whether the NRC has jurisdiction to subject General Atomics to decommissioning funding requirements for a site owned by SFC, can be "resolved entirely and separately." Counsel for the Intervenors has agreed in general principle that discovery has now been limited to the jurisdiction issue, but disagreement continues to exist with respect to the application of the limitation to specific interrogatories. General Atomics has thus provided answers below in accordance with its understanding that pursuant to the terms of 10 C.F.R. § 2.740(b)(1), discovery is limited to non-privileged matters that are relevant to the subject matter of the first stage of the proceeding, that would be admissible in the first stage, or which appear to be reasonably calculated to lead to the discovery of evidence that would be admissible.

16940

Second, General Atomics objects to all of the Intervenor's interrogatories which seek information relating to events that took place subsequent to the date of the NRC's order, i.e., October 15, 1993. The ultimate issue in this proceeding is whether the October 15, 1995 Order should be sustained. The scope of the evidentiary matters relating to the proceeding is thus limited to a determination of the sufficiency of the legal and factual predicates outlined in the order as of the time the order was issued.¹ Information relating to events that have taken place subsequent to the date of the NRC's order would have no probative value on that determination. For this reason, the NRC Staff has agreed to limit its own discovery requests to the date of the Order. The Intervenor has rejected any such agreement.

Third, General Atomics objects to all interrogatories of the Intervenor that seek information relating to matters which took place prior to November 1, 1988. On November 1, 1988, Sequoyah Holding Corporation (SHC), a subsidiary of General Atomics, purchased the stock of the Licensee, Sequoyah Fuels Corporation (SFC). Prior to that date, General Atomics had no ownership whatsoever of SFC or any company which was affiliated with it. For this reason, the NRC Staff has agreed to limit its own discovery requests to information regarding matters which took place subsequent to November 1, 1988. The Intervenor's interrogatories are thus unreasonably broad and unduly burdensome. To require General Atomics to answer those interrogatories would be to require the company to unnecessarily incur additional litigation expenses. Moreover, information about matters which took place prior to the date on which a subsidiary of General Atomics acquired ownership of SFC, would not be relevant to the subject matter of the first stage of the proceeding, or reasonably calculated to lead to discovery of evidence that would be admissible in that stage.

In addition to the objections set forth herein, General Atomics reserves the right to assert additional objections to any of the Intervenor's interrogatories in the future on the grounds that a particular interrogatory does not fall within the scope of any future stage of this proceeding, is not within the scope of the contentions asserted by the Intervenor, is not otherwise related to the subject matter of the proceeding, or because it is inappropriate for any other reason which may be properly asserted at a later date.

¹ Oncology Services Corp. (Order Suspending Byproduct Material License), LBP 94-2, 39 NRC 11, 26 & n. 11 (1994). See also, Advanced Medical Systems (One Factory Row, Geneva, Ohio), LBP-90-17, 31 NRC 540, 542-3, n. 5, 556-7 (1990).

Interrogatory 14

Identify each person who was consulted and/or who supplied information for the answers to these interrogatories and this request for production of documents, and specifically note for which interrogatories and which requests for production each such person was consulted and/or supplied information.

If the information or opinions of anyone who was consulted in connection with your response to this discovery request differs from your written answers to this discovery request, please describe in detail the differing information or opinions, and indicate why such differing information or opinions are not your official position as expressed in your written answers to this discovery request.

Answer to Interrogatory 14

General Atomics objects to Interrogatory 14 to the extent that it seeks information regarding "each person who was consulted" for the answers to the Intervenor's First Set of Interrogatories. This is an unreasonably broad and ambiguous request. The terms "consult" and "consultation" are not defined and they imply discussions with professional advisors, e.g., attorneys. Any such discussions are protected by the attorney-client privilege and/or the work product rule. To the extent that the Intervenor merely seek information regarding the persons who participated in the preparation of the answers to these interrogatories, which is the understanding of General Atomics, that information is as follows;

1. James R. Edwards, Esq.
Vice President, General Counsel and Secretary
General Atomics
3550 General Atomics Court
San Diego, California 92121-1194
Telephone No.: (619)455-3299
2. Mrs. Brenda Dawson
Assistant Secretary and Coordinator of Legal
Services
General Atomics
3550 General Atomics Court
San Diego, California 92121-1194
Telephone No.: (619)455-2135
3. Ms. Linda Eady
Legal Assistant
General Atomics
3550 General Atomics Court
San Diego, California 92121-1194

Interrogatory 15

Identify each person whom GA expects to call as a witness, including any expert witness, at the hearing in this proceeding.

Answer to Interrogatory 15

General Atomics has not yet determined what persons it intends to call as witnesses for testimony in the event that an evidentiary hearing becomes necessary for the first stage of this proceeding.

Interrogatory 16

Describe the subject matter on which each of the witnesses is expected to testify at the hearing in this proceeding.

Answer to Interrogatory 16

General Atomics has not yet determined what persons it intends to call as witnesses for testimony in the event that an evidentiary hearing becomes necessary for the first stage of this proceeding.

Interrogatory 17

Describe the substance of the facts and opinions to which each witness is expected to testify and a summary of the grounds for each opinion, including the documents and all pertinent pages or parts thereof which each witness will rely upon or will otherwise use for his or her testimony at the hearing in this proceeding.

Answer to Interrogatory 17

General Atomics has not yet determined what persons it intends to call as witnesses for testimony in the event that an evidentiary hearing becomes necessary for the first stage of this proceeding.

Interrogatory 18

Identify each and every document to which you refer or which you have identified in your answers to these interrogatories, as well as each and every document which you consulted in preparing your answers to these interrogatories.

Answer to Interrogatory 18

General Atomics objects to Interrogatory 18 on the ground

that it is vague, unduly burdensome, and seeks information which is protected by law. It is not clear how employees of General Atomics could "consult" a document (Webster's New Collegiate Dictionary, 1979, defines "consult" as "to ask the advice or opinion of"). The process by which counsel for General Atomics will decide which witnesses to call for testimony in this proceeding (the subject of the previous interrogatories), will necessarily involve the mental impressions, conclusions, opinions, or legal theories of counsel for General Atomics. Those matters are protected against disclosure by law. Federal Rule of Civil Procedure 26(b)(3). In the event that an evidentiary hearing becomes necessary for the first stage of the proceeding, General Atomics will, of course, identify its witnesses after decisions have been made on what witnesses to call.

Interrogatory 19

Describe all inquiries made by GA, prior to its 1988 purchase of SFC, regarding the nature and extent of chemical and radioactive contamination of the SFC facility and site.

Answer to Interrogatory 19

General Atomics objects to Interrogatory 19 on the ground that it seeks information which is clearly outside the scope not only of the issue identified by the Licensing Board's Memorandum Order of June 30, 1995, but also of the contentions of the Intervenor.

Interrogatory 20

Describe all information that GA had or acquired, prior to its purchase of the SFC facility, regarding the nature and extent of radioactive and chemical contamination of the SFC facility and site.

Answer to Interrogatory 20

General Atomics objects to Interrogatory 20 on the ground that it seeks information that is clearly outside the scope of the jurisdiction issue which is to be resolved in the first stage of the proceeding.

Interrogatory 21

When and for what purpose was Sequoyah Fuels Corporation, Marketing Division (hereinafter "SFC-MD") established?

Answer to Interrogatory 21

General Atomics objects to Interrogatory 21 to the extent

that it apparently seeks information about a marketing division of SFC that was established prior to the date on which a subsidiary of General Atomics purchased SFC. General Atomics further objects to Interrogatory 21 on the ground that it seeks information that is outside the scope of the issue to be adjudicated in the first stage of the proceeding. General Atomics is generally unaware of any corporate entity by the name of "Sequoyah Fuels Corporation, Marketing Division" or "SFC-MD."

Interrogatory 22

Describe the corporate and management relationships between GA and SFC-MD.

Answer to Interrogatory 22

General Atomics objects to Interrogatory 22 on the ground that it seeks information that is outside the scope of the issue to be adjudicated in the first stage of the proceeding. General Atomics further objects to Interrogatory 22 on the ground that the request for information relating to "corporate and management relationships" is unreasonably vague. Without waiving these objections, General Atomics states that it has never had any direct corporate relationship with any marketing division of SFC except to the extent that SFC is a wholly-owned subsidiary of Sequoyah Fuels International Corporation (SFIC), that SFIC is a wholly-owned subsidiary of Sequoyah Holding Corporation (SHC), and that SHC is a wholly-owned subsidiary of General Atomics.

Interrogatory 23

What role, if any, did GA play in the creation or operation of SFC-MD?

Answer to Interrogatory 23

For its answer to Interrogatory 23, General Atomics refers the Intervenor to its answers to Interrogatories 21 and 22.

Interrogatory 24

When and for what purpose was Sequoyah Fuels Corporation, Georges Fork Ranch (hereinafter "SFC-GFR") established?

Answer to Interrogatory 24

By Memorandum dated July 19, 1995, this interrogatory was withdrawn by counsel for the Intervenor.

Interrogatory 25

Describe the corporate and management relationships between GA and SFC-GFR.

Answer to Interrogatory 25

By Memorandum dated July 19, 1995, this interrogatory was withdrawn by counsel for the Intervenors.

Interrogatory 26

What role, if any, did GA play in the creation or operation of SFC-GFR?

Answer to Interrogatory 26

By Memorandum dated July 19, 1995, this interrogatory was withdrawn by counsel for the Intervenors.

Interrogatory 27

Identify each person who was employed as director, officer, manager, branch manager, or supervisor of SFC-MD after November 1, 1988.

Answer to Interrogatory 27

General Atomics objects to Interrogatory 27 on the ground that it seeks information which is unrelated to the first stage of this proceeding. Without waiving this objection, General Atomics refers the Intervenors to its previous answers to Interrogatories 21 and 22.

Interrogatory 28

Identify each person who was employed as director, officer, manager, branch manager, or supervisor of SFC-GFR after November 1, 1988.

Answer to Interrogatory 28

By Memorandum dated July 19, 1995, this interrogatory was withdrawn by counsel for the Intervenors.

Interrogatory 29

Identify each person or corporate agent who was a shareholder of SFC-MD after November 1, 1988, and state the number of shares owned by each shareholder.

Answer to Interrogatory 29

General Atomics objects to Interrogatory 29 on the ground that it seeks information which is unrelated to the matter to be adjudicated in the first stage of the proceeding. Without waiving this objection, General Atomics states that it has no information regarding any shareholders of a marketing division of SFC. General Atomics also refers the Intervenor to its answers to Interrogatories 21 and 22.

Interrogatory 30

Identify each person or corporate agent who was a shareholder of SFC-GFR after November 1, 1988, and state the number of shares owned by each shareholder.

Answer to Interrogatory 30

By Memorandum dated July 19, 1995, this interrogatory was withdrawn by counsel for the Intervenor.

Interrogatory 31

Describe the corporate and management relationships between GA, General Atomics Energy Services ("GAES"), General Atomics Energy Services Limited Partnership ("GAESLP"), General Atomics Technologies Corporation ("GATC"), Tenaya Corporation, SFIC, SHC, and SFC.

Answer to Interrogatory 31

General Atomics understands that by her Memorandum of July 19, 1995, counsel for the Intervenor has substituted the phrase "legal corporate relationships" for the phrase "corporate and management relationships" which appears in Interrogatory 31. In response to the new interrogatory, General Atomics answers that Sequoyah Fuels Corporation (SFC) the Licensee of the NRC, is a Delaware corporation and a wholly-owned subsidiary of Sequoyah Fuels International Corporation (SFIC). SFIC is a wholly-owned subsidiary of Sequoyah Holding Corporation (SHC). SHC is a wholly-owned subsidiary of General Atomics. General Atomics is thus a third-tier parent company of SFC. General Atomics continues to object to Interrogatory 31 to the extent that it seeks information regarding the relationship between private corporate entities which are not parties to this proceeding and which do not fall within the corporate structure or relationship between General Atomics and SFC. General Atomics further objects to Interrogatory 31 on the ground that it seeks information which is not related to the issue which is the now the subject of the first stage of the proceeding.

Interrogatory 32

Please identify all corporate standards, criteria, and procedures prepared or approved by GA, which relate to the protection of health, safety, and the environment at the SFC plant. For each of these standards, criteria, and procedures, explain how and when it was developed, how and when it was or is applied, and in what ways it is superior or subordinate to any other standards, criteria or procedures for the SFC facility.

Answer to Interrogatory 32

General Atomics objects to Interrogatory 32 on the grounds that it is unduly broad and burdensome and that the information which it seeks, is outside the scope of the subject of the first stage of the proceeding as the scope was determined by the ASLB's Memorandum and Order of June 30, 1995.

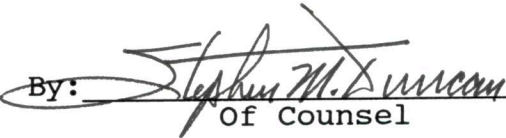
Interrogatory 33

Please identify all directors, officers, and supervisors of SFC, GA, GAES, GAESLP, GATC, Tenaya Corporation, SFIC, or SHC, who were affiliated in any way with SFC or Kerr-McGee Corporation prior to November 1, 1988. For these individuals, please provide the name, address, telephone number, position, title, and dates of service in the respective positions with SFC or Kerr-McGee. In addition, please provide the name, address, telephone number, position, title, and dates of service in their respective positions, of any individuals who remained affiliated in any way with Kerr-McGee after November 1, 1988.

Answer to Interrogatory 33

By Memorandum dated July 19, 1995, this interrogatory has been withdrawn by counsel for the Intervenors.

WITH RESPECT TO THE OBJECTIONS
STATED HEREIN

By:  _____
Of Counsel

Stephen M. Duncan
Bradfute W. Davenport, Jr.
Mays & Valentine
110 South Union Street
Alexandria, Virginia 22314

ATTORNEYS FOR GENERAL ATOMICS

July 24, 1995

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

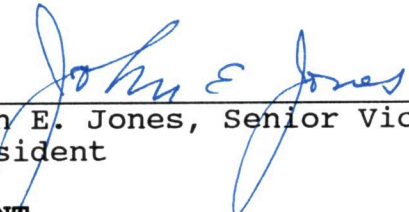
Before Administrative Judges:

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

In the Matter of)
)
SEQUOYAH FUELS CORPORATION) Docket No. 40-8027-EA
and GENERAL ATOMICS)
)
(Sequoyah Facility in)
Gore, Oklahoma))

AFFIDAVIT OF JOHN E. JONES

JOHN E. JONES, being duly sworn, hereby deposes, says and affirms that he is Senior Vice President of General Atomics, that he has read and is familiar with the contents of "General Atomics' Answers to First Set of Interrogatories of Native Americans for a Clean Environment and Cherokee Nation," and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

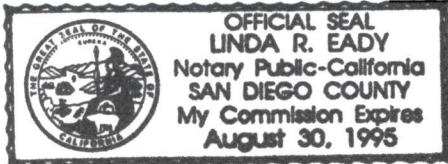


John E. Jones, Senior Vice
President

ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public in and for the State of California on this 21st day of July, 1995.





Notary Public

SEAL

My commission expires:

August 30, 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USMRC

ATOMIC SAFETY AND LICENSING BOARD

'95 JUL 28 P3:50

Before Administrative Judges:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
SEQUOYAH FUELS CORPORATION)	Docket No. 40-8027-EA
and GENERAL ATOMICS)	
)	
(Sequoyah Facility in)	
Gore, Oklahoma))	July 24, 1995

CERTIFICATE OF SERVICE

I hereby certify that the foregoing General Atomics's Answer to the First Set of Interrogatories of Native Americans for a Clean Environment and Cherokee Nation was served on July 24, 1995, upon the following persons by deposit in the United States mail, first class postage prepaid and properly addressed:

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Docketing & Service Branch
(Original and two copies)

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge James P. Gleason, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge G. Paul Bollwerk, III
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge Jerry R. Kline
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge Thomas D. Murphy
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Steven R. Hom, Esq.
Susan L. Uttal, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Diane Curran, Esq.
c/o IEER
6935 Laurel Avenue, Suite 204
Takoma Park, Maryland 20912

Mr. Lance Hughes, Director
Native Americans for a Clean Environment
P.O. Box 1671
Tahlequah, Oklahoma 74465


John H. Ellis, President
Sequoyah Fuels Corporation
P.O. Box 610
Gore, Oklahoma 74435

Maurice Axelrad, Esq.
Morgan, Lewis & Bockius
1800 M Street, N.W.
Washington, D.C. 20036

Mr. John R. Driscoll
General Atomics
3550 General Atomics Court
San Diego, California 92121-1194

James Wilcoxon, Esq.
P.O. Box 357
Muskogee, Oklahoma 74402-0357

Dated this July 24, 1995.


Stephen M. Duncan

Mays & Valentine
110 South Union Street
Alexandria, Virginia 22314
(703) 519-8000

Counsel for General Atomics