

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

_____)	
In the Matter Of)	
Sequoyah Fuels Corporation)	Docket No. 40-8027EA
and General Atomics)	Source Materials
(Gore, Oklahoma Site Decontamination)	License No. SUB-1010
and Decommissioning Funding))	
_____)	

**NATIVE AMERICANS FOR A CLEAN ENVIRONMENT'S REPLY
TO SEQUOYAH FUELS CORPORATION'S, GENERAL ATOMICS',
AND NRC STAFF'S RESPONSES TO
NACE'S SUPPLEMENTAL PETITION TO INTERVENE**

Native Americans for a Clean Environment ("NACE") hereby replies to Sequoyah Fuels Corporation's ("SFC's"), General Atomics' ("GA's") and the Nuclear Regulatory Commission ("NRC" of "Commission") Staff's responses to NACE's Supplemental Petition to Intervene. While none of the parties object to Contention 1, all three challenge the admissibility of Contention 2.

In Contention 2, NACE asserts that guaranteed decommissioning funding by GA is required by NRC regulations, and is necessary for protection of public health and safety. The basis for the contention discusses SFC's failure to comply with NRC's regulatory requirements for decommissioning funding; and explains why guaranteed funding by GA is necessary to protect public health and safety.

(1) Both the NRC Staff and GA claim that Contention 2 is not supported by its basis. First, GA argues that NACE has failed to cite any regulation which would hold a non-licensed

parent corporation liable for decommissioning funding. General Atomics' Answer to NACE's Supplemental Petition to Intervene at 2 (February 18, 1994). However, neither § 40.36 nor § 40.42(c)(2)(iii)(D) state that decommissioning funding assurances must come only from the licensee. Moreover, as discussed extensively in NACE's Contention 1, the NRC has broad jurisdiction to require GA to comply with these requirements.

GA also claims that NACE fails to state "any facts" to raise a genuine issue as to whether guaranteed decommissioning financing by GA is necessary for adequate protection of public health and safety. To the contrary, Contention 2's basis provides a detailed discussion of the reasons why SFC's current plans for decommissioning funding are inadequate to provide for safe decommissioning, and thus must be supplemented by a guarantee from GA.

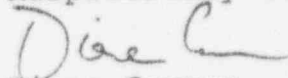
Finally, the NRC Staff argues that Contention 2's basis does not "appear" to support the contention because it addresses only SFC's obligations and not GA's obligations, which are the subject of the contention proper. NRC Staff Response to NACE's Supplemental Petition to Intervene at 6 (February 23, 1994). The NRC Staff misunderstands the contention. One of the key purposes of this contention and its basis is to demonstrate that compliance with the October 15th Order is necessary because none of the NRC's decommissioning funding requirements have been satisfied by SFC or any party to date; and that therefore the Commission currently lacks adequate assurance that the SFC site

can and will be safely decommissioned. Consistent with this purpose, the basis provides extensive factual information regarding the deficiencies in SFC's current decommissioning financing plan, which raises a genuine issue of material fact in response to SFC's and GA's arguments that SFC has in fact satisfied the requirements of 40.42(c)(2)(iii)(D) and that therefore no further decommissioning funding requirements are needed from any quarter in order to satisfy the purpose of the regulation. See SFC's Answer and Request for Hearing at 9, 12; GA's Answer and Request for Hearing at 7. Contrary to the NRC's argument, the basis for Contention 2 is highly relevant to the contention itself, because if SFC and GA prevail on their argument that SFC has already complied with § 40.42(c)(2)(iii)(D) by providing an adequate plan for decommissioning funding, in all likelihood this will free GA from any obligation to provide guaranteed decommissioning funding.

(2) SFC argues that NACE should not be permitted to contest the adequacy of SFC's \$86 million cost estimate for decommissioning of the site. SFC's Answer to NACE's Supplemental Petition to Intervene at 2 (February 18, 1994). However, this issue was first put into contention by SFC itself, when it challenged the NRC's observation that "uncertainties" regarding SFC's projected decommissioning costs raise questions about the adequacy of SFC's and ConverDyn's expected \$89 million revenues to cover those costs. See NACE's Supplemental Petition to Intervene at 13-14.

Thus, NACE legitimately raised the adequacy of SFC's \$86 million estimate in defense of the October 15 Order.

Respectfully submitted,



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March 2, 1994

CERTIFICATE OF SERVICE

I certify that on February 8, 1994, copies of the foregoing NATIVE AMERICANS FOR A CLEAN ENVIRONMENT'S MOTION FOR LEAVE TO REPLY TO SEQUOYAH FUELS CORPORATION'S GENERAL ATOMICS' AND NRC STAFF'S RESPONSES TO NACE'S SUPPLEMENTAL PETITION TO INTERVENE and NACE'S REPLY TO SEQUOYAH FUELS CORPORATION'S GENERAL ATOMICS' AND NRC STAFF'S RESPONSES TO NACE'S SUPPLEMENTAL PETITION TO INTERVENE were served by FAX and/or first-class mail or as indicated below on the following:

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