

With respect to SFC's Answer, NACE contends that it should be permitted to contest the adequacy of SFC's \$86 million cost estimate because "this issue was first put into contention by SFC itself." This assertion is unsound both factually and logically. SFC obviously is not contesting the adequacy of its own cost estimates. All that SFC did was to deny in its Answer any "implication" in the NRC order that the estimated amount might be insufficient. Such understandable caution on SFC's part cannot create a contested issue where none is otherwise present.

The actual requirements sought to be imposed by the Order are clear. The Order states that "GA shall provide financial assurance for decommissioning and decontamination in the amount of \$86 million." Order at VII. NACE's attempt to raise as a contention that the costs may exceed \$86 million would be relevant only to requiring financial assurance in an amount greater than \$86 million. This would constitute remedial action beyond that set forth in the Order, and is precluded from consideration in this proceeding. Bellotti v. NRC, 775 F.2d 1380 (D.C. Cir. 1983).

CONCLUSION

For the reasons set forth above, NACE's motion to file a reply should be denied. In any event, the Board should reject as a basis for any contention NACE's allegations regarding the

adequacy of SFC's estimates of decommissioning costs or the components thereof.

Respectfully submitted,



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March 4, 1994

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

SEQUOYAH FUELS CORPORATION)
and GENERAL ATOMICS)

(Sequoyah Facility))

Docket No. 40-8027-EA

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Response of Sequoyah Fuels Corporation to 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" were served upon the following persons by deposit in the United States mail, first class postage prepaid and properly addressed on the date shown below:

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

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