

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

DOCKETED  
USNRC

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In the Matter of  
GENERAL ELECTRIC COMPANY  
(GETR Vallecitos)

}  
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}  
} Docket No. 50-70-OLR/70-754-SNMR  
} ASLBP No. 83-481-01-OLR

GENERAL ELECTRIC'S RESPONSE TO  
OCTOBER 21, 1982 MEMORANDUM AND ORDER

General Electric Company (GE) hereby files its Response to the Atomic Safety and Licensing Board's (the Board) October 21, 1982 Memorandum and Order. In what follows, GE will indicate its intentions with respect to the General Electric Test Reactor (GETR) and SNM-960 renewal applications and show that 1) the proceeding for GETR should be deferred, 2) the GETR and SNM-960 dockets should not be consolidated, and 3) the Board should refer the petition as it relates to SNM-960 to the Director, NMSS, for disposition.

I. BACKGROUND AND STATUS  
OF GETR RENEWAL

Following the Initial Decision (LBP-82-64, 16 NRC \_\_\_\_, August 16, 1982) in the General Electric Test Reactor (GETR) Show Cause proceedings, the Atomic Safety and

Licensing Appeal Board (the Appeal Board) issued an Order (Docket No. 50-70 SC, September 14, 1982) stating that:

- 1) it would undertake a sua sponte review of the initial decision;
- 2) it was uncertain when its review would be completed; and
- 3) in the interim, the Initial Decision shall not be treated as final agency action, pending further order of the Appeal Board.

Until completion of the Appeal Board review and a final decision as to seismic and geologic design bases and modifications as a result of the Show Cause proceedings, GE does not intend to engage in activities associated with the license renewal review.<sup>1/</sup> Upon receipt of a final decision, GE will evaluate that decision and undertake steps that are appropriate in light of the conditions set forth in the final decision. Inasmuch as GE would require approximately two years to complete the steps necessary for restart, and a similar period of time would be necessary to activate and complete the renewal licensing review process, GE believes that no constructive purpose would be served by initiation of hearing procedures at this time. Accordingly, GE

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<sup>1/</sup> GETR has remained in a cold shutdown condition since October 27, 1977 (Initial Decision, 16 NRC \_\_\_\_\_ (Slip Opinion at 3)). All GETR Fuel has been removed from the site.

respectfully requests that the Board defer the proceedings in regard to the GETR renewal license application pending completion of the Appeal Board's review and GE's evaluation of the decision.

## II. BACKGROUND AND STATUS OF SNM-960 LICENSE RENEWAL

An application for renewal of License No. SNM-960 was filed by GE on August 20, 1971. Since that time, the Nuclear Regulatory Commission (NRC) Office of Nuclear Material Safety and Safeguards (NMSS) has proceeded toward completion of the review of the renewal application, including matters related to seismic considerations.

In parallel with the NRC Office of Nuclear Reactor Regulation's (NRR) consideration of the General Electric Test Reactor (GETR) show cause order, the NMSS Staff conducted a review of seismic considerations for the activities under License No. SNM-960. On November 7, 1977, NMSS determined that activities under License No. SNM-960 could continue.<sup>2/</sup> Accordingly, no show cause order was issued in connection with SNM-960.

As the safety and environmental review for the SNM-960 renewal application proceeded, a request for action

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<sup>2/</sup> The activity related to the Cell 3 fission product processing required further evaluation. The activity was approved for resumption on February 26, 1981.

under 10 C.F.R. § 2.206 was filed by Friends of the Earth, et al. on December 14, 1978, seeking an order suspending activities under License No. SNM-960 and removal of all plutonium from the site. Upon review of that request and after a detailed evaluation, the Director, NMSS, determined that the action requested was not warranted and on June 29, 1979, denied the request.

GE has submitted all information requested by NMSS for the SNM-960 renewal application, including the Environmental Information Report and descriptions of the site, of the activities to be conducted under the license, and of the nuclear safety program. GE understands that NMSS has completed its evaluation of GE's submittals (including the responses to all questions), and has preliminarily determined that an Environmental Statement would not be required for renewal of License No. SNM-960.<sup>3/</sup>

### III. THE PROCEEDINGS SHOULD NOT BE CONSOLIDATED

The September 15, 1977 Federal Register notice regarding renewal of Licenses TR-1 and SNM-960 stated that

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<sup>3/</sup> The scope of activities for which GE seeks renewal authority under License No. SNM-960 has been reduced during the course of the NRC review and the pendency of the renewal application. The activities for which renewal authority is sought are summarized in Appendix B.

"[e]ach of the above license renewal considerations is a separate proceeding; however, the proceedings may be subject to consolidation pursuant to Section 2.716 of 10 C.F.R. Part 2 of the Commission's Regulations," 42 Fed. Reg. 46427 (September 15, 1977). 10 C.F.R. § 2.716 provides, in pertinent part, that a Board may consolidate proceedings ". . . if it is found that [1] such action would be conducive to the proper dispatch of its business and the ends of justice and [2] will be conducted in accordance with the other provisions of this subpart." GE submits that, under the circumstances here, neither finding would obtain and consolidation therefore is not appropriate.

The circumstances attending the TR-1 and SNM-960 renewal applications are entirely different. The schedule for the GETR License No. TR-1 renewal review is subject to considerable uncertainty, whereas the NRC Staff's SNM-960 renewal review is nearly complete. The reviews are being conducted by separate organizations within the NRC Staff (NRR for TR-1 and NMSS for SNM-960), and the basic regulatory criteria (10 C.F.R. Part 50 for TR-1 and 10 C.F.R. Part 70 for SNM-960) are different. The activities under SNM 960 have independent utility relative to GETR operations; that is, the SNM-960 activities will be continued irrespective of the ultimate outcome of the GETR Show Cause and renewal proceedings. Moreover, the issues

presented by the contentions in the October 14, 1977  
Petition<sup>4/</sup> can be easily separated between GETR and SNM-  
960. See Appendix A.

GE's position as to the thirteen contentions  
raised by the Petition can be summarized as follows:

1. Contentions 1-6 and 9-11 apply exclusively to  
GETR, and not to SNM-960.
2. Contentions 7, 9, and 12 are legal  
conclusions for which no hearing of any kind  
would be required.
3. With respect to GETR, Contentions 1-6, 10,  
11, and 13 are lacking in specificity and  
basis, so that, in the absence of any  
additional showing by Petitioners, they do  
not raise issues which are appropriate for  
hearing.
4. With respect to SNM-960, the only portion of  
Contention 8 which remains potentially viable  
is lacking in specificity and basis so that,  
in the absence of any additional showing by  
Petitioners, it would not raise issues which  
are appropriate for a hearing in any form.

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4/ GE has previously responded to the Petition by its  
Answer dated December 16, 1977.

5. Any consideration of Contention 13 under either license must await issuance of the Staff's Environmental Assessment and a showing as to specificity and basis.

In light of the separate, distinct, and disparate schedules, regulatory regimes, and potential issues associated with TR-1 and SNM-960, GE submits that consolidation under 10 C.F.R. § 2.716 would not be conducive to the proper dispatch of the Commission's business and would not further the ends of justice.

Moreover, since hearings conducted in regard to SNM-960 should not be conducted in accordance with the formal hearing provisions of the Commission's Rules of Practice (10 C.F.R. Part 2, Subpart G), consolidation under 10 C.F.R. § 2.716 would be singularly inappropriate here.

The Commission has recently addressed the issue concerning the requirements for hearings in connection with materials licenses. Kerr-McGee Corp. (West Chicago Rare Earth Facility), CLI-82-2, 15 NRC 232 (1982); Kerr McGee Corp. (West Chicago Rare Earth Facility), CLI-82-21, 373 CCH Nuclear Regulation Reports ¶ 30,699 (September 13, 1982).

In the former decision, the Commission held that neither NRC regulations nor the Atomic Energy Act require a formal, trial-type hearing for all Commission licensing proceedings. In the case of materials licenses, the

Commission has the latitude to use informal procedures sufficient to fully advise it of the concerns of a party challenging the licensing action and to provide an adequate record for determining the validity of those concerns.

Kerr-McGee, supra at 15 NRC at 244-56.

Subsequently, in the second case, supra, Commission reiterated its holding that no statutory entitlement to a formal hearing exists with regard to materials licensing actions. In that case, finding no overriding public interest or due process concerns, the Commission found that only an informal hearing need be held with regard to an action relating to a materials license. Kerr McGee, supra at ¶ 30,699.01.

In this case, as with the Commission's Kerr-McGee decisions, there is no showing of public interest considerations or due process concerns which would warrant the grant of a discretionary hearing. Moreover, the issues advanced by Petitioners which could apply to SNM-960 involve matters of law or policy (Contention 12), or have insufficient basis and particularity (Contentions 8 and 13). In the circumstances here, there is no basis for the conduct of a formal hearing on this materials license. See Kerr-McGee, supra at 255; 263-269. Thus, GE submits that consolidation is not appropriate since the SNM-960 proceedings need not be



conducted in accordance with 10 C.F.R. Part 2, Subpart G.  
See 10 C.F.R. § 2.716.

In summary, GE submits that neither test of 10 C.F.R. § 2.716 would be satisfied in this case. The differences between TR-1 and SNM-960 as to review schedules, regulatory regimes, issues, and applicable hearing procedures are such that consolidation would not be conducive to the proper dispatch of the Commission's business and the ends of justice.

#### IV. CONCLUSIONS

On the basis of the foregoing GE respectfully requests that the Board proceed to consider and act upon Petitioners' pending requests as follows:

1. Determine that consolidation of the dockets is not appropriate under 10 C.F.R. § 2.716.
2. Defer further proceedings on the TR-1 renewal application until such time as the Appeal Board's sua sponte review is completed.
3. With respect to those "factual" contentions relating to SNM-960

(Contentions 8 and 13), <sup>5/</sup> refer the  
Petition to the Director, NMSS for  
disposition. <sup>6/</sup>

4. After the Appeal Board's sua sponte  
review is complete, in regard to  
those contentions which apply or  
could apply to GETR, the Board  
should then:
  - a. Dismiss contentions 7, 9, and  
12 as raising matters of law  
for which no hearing is  
required.
  - b. Order Petitioners to amend  
their petition to provide the  
requisite specificity and  
basis as to contentions 1-6,  
10 and 11.

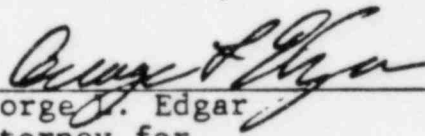
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5/ Contentions 7 and 12 are legal arguments which can also  
be disposed of by the Director, NMSS.

6/ If the Board should determine that such referral is not  
appropriate, it should order Petitioners to amend the  
petition to provide the requisite specificity and basis  
in regard to contention 8 and contention 13 (the latter  
after the Staff's Environmental Assessment is com-  
pleted). Following responses by GE and the NRC staff  
twenty-one days after service of the amendment, the  
Board should rule on the contentions and order such  
further activities as are necessary to bring the  
SNR 360 proceeding to conclusion.

- c. Order Petitioners to amend their petition to provide the requisite specificity and basis for contention 13 at such time as the Staff's Environmental Assessment is complete.

Respectfully submitted,

  
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Dated: November 5, 1982

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## APPENDIX A

Appendix A presents contentions contained in the October 14, 1977 Petition and the position of GE regarding the applicability and admissibility of each contention.

### 1. Petitioners' Contentions 1-6.

#### A. Contentions

1) The petitioners contend that the Applicant has operated a nuclear reactor, the GETR, in violation of Commission Regulations, that the Applicant: (a) "Shall investigate all seismic and geologic factors that may affect the design and operation" of the nuclear reactor (10 CFR 100, Appendix A, II).

(b) "Shall include. . . a description of site evaluation factors identified in Part 100 of this chapter (10 CFR 50.34 (a)(1)).

Particularly, the Applicant has not included in any documents submitted to the Commission on behalf of its Application for License Renewal, sufficient or adequate analysis, description, or investigation of the Verona and Las Positas Faults. Also the Applicant has not included an investigation or description of the effects to the facility of ground motion and surface faulting on either the Las Positas or Verona Fault. (See Facts 9 and 14).

Petitioners contend that the Las Positas and Verona Faults are capable faults, as defined by the Commission, and thus threaten damage to the Vallecitos facilities. Petitioners further contend that their health and safety and the public health and safety and the environment are endangered by the potential damages to the facilities caused by future seismic activities on these faults.

2) Petitioners contend that the Vallecitos facility could experience an earthquake of MM IX or larger since such earthquakes have historically occurred on the Calaveras Fault in 1861 and 1897, in contrast to the intensity estimates of the Bylerly and Everndon (1955) seismic analysis which was used by the Applicant for the original design basis.

3) Petitioners contend that the Applicant has erred in the use of the value M6.5 as the maximum credible

earthquake on the Calaveras Fault. (Consider Petitioners' Facts numbers 9 through 16). Furthermore, petitioners contend that the Applicant's argument to lower peak ground acceleration from 0.64g. to 0.56g is specious, without merit, and not in accord with unbiased sound engineering principles.

4) Petitioners further allege that any probabilistic or time-valued analysis of the "seismicity" of the reactor site or the application of any probabilistically-derived values of acceleration to building response spectra in the determination of the effects of the Safe Shutdown Earthquake to any structure system and component as described in 10 CFR 100 Appendix A, VI.(a)(i), (iii) is not permitted by the Commission's Regulations.

5) Petitioners further contend that according to instructions in Commission Regulations 10 CFR 100 [Appendix A] V.(a)(1) (i), Applicant should be required to use a value in the range M7.3 to M8.2 as the Safe Shutdown Earthquake. Using attenuation curves (6), petitioners contend that the peak ground acceleration of the Safe Shutdown Earthquake at the GETR building foundation can be conservatively described at 0.85g.

6) Petitioners contend that if the facility were to experience an earthquake in the range of M7.3 to M8.2, the consequences to the GETR could include inelastic deformation of bearing soil beneath the reactor building, gross tilt of the reactor building, structural damages, simultaneous failure of the reactor primary cooling system and the reactor scram system, and a nuclear excursion causing loads far beyond the limits of containment systems. Such a maximum credible accident for the GETR would release dangerous quantities of radioactive isotopes that could require evacuation of large numbers of people from the San Francisco Bay Area.

B. GE's Position Regarding Contentions 1-6

This set of contentions is expressly directed toward "a nuclear reactor, the GETR", and relies upon 10 C.F.R. Part 100 for regulatory standards. If 10 C.F.R. Part

100 has any relevance in either proceeding, \*/ it is only to nuclear reactors and not to activities under SNM-960 and 10 C.F.R. Part 70. See 10 C.F.R. § 100.1. Thus, as stated, these contentions are neither necessary nor applicable to the SNM-960 renewal application. As to GETR, these contentions merely raise the matters already disposed of in the Show Cause proceedings, and absent some additional showing by Petitioners, there is no apparent reason why they must be reheard.

## 2. Petitioners' Contention 7

### A. Contention

7) Because of the significant contamination of property that could result from a maximum credible accident at Vallecitos, the petitioners contend that the Commission should not grant a license renewal before the Applicant makes provisions for adequate insurance coverage in the event of an accident. The Price-Anderson Act was ruled unconstitutional on March 31, 1977 by the U.S. Federal District Court in North Carolina. In a strong opinion delivered March 31, 1977, Judge James B. MacMillan ruled that the provisions of the Price-Anderson Act that limits the liability of nuclear power plants and their operation, violated the due process and equal protection provisions of the Fifth Amendment. The Judge held that provisions of the Price-Anderson Act limiting liability to \$560,000,000 are unenforceable in so far as they apply to nuclear accidents inside the United States. Thus, the petitioners contend that the Applicant could be held liable for full liability in case of an accident at the Vallecitos Nuclear Center.

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\*/ See Initial Decision at 101, 187-188.

B. GE's Position Regarding Contention 7

The contention raises a legal argument which was conclusively rejected by the Supreme Court in Duke Power Co. v. Carolina Environmental Study Group, Inc., 438 U.S. 59 (1977).

3. Petitioners' Contention 8

A. Contention

8) The Applicant has submitted an Environment Information Report which the petitioners contend is inadequate and insufficient in its analysis of the environmental effects of serious accidents at Vallecitos in regards to the Special Nuclear Materials Licensed Operations. In Particular, the petitioners challenge the maximum accident analysis for incidents in Buildings 102 and 102A which contain the Radioactive Materials Lab and the Plutonium Fuels Lab.

The RML contains eleven hot cells, of which four contain especially high levels of radiation. Each of these four can handle up to one million curies of gamma radiation at a time. Each hot cell is connected to HEPA filter systems and the Applicant's EIF says that an accident in one of these hot cells would release fifteen curies of Iodine-131 gas, although each hot cell can contain up to 3000 curies of Iodine-131, because this analysis assumes that the charcoal filter system would not be damaged and would filter out the most of the dangerous iodine gases. The petitioners contend that theirs and the publics' health and safety could be seriously affected by a release of 3000 curies of Radioactive Iodine gas from one hot cell, or by a release of 12,000 curies of that gas if all four high level hot cells were damaged at the same time in a serious earthquake that also damaged the filter systems in RML and in Building 102A.

The PFL contains twenty to twenty-five plutonium glove boxes and fume hoods that could be damaged in an earthquake. The Applicant's EIR says that if a fire occurred in one glove box in PFL, and the fire burned two of three HEPA filters, then the Applicant would assume that only 0.5% of the five kilograms of plutonium in that glove box would reach that one last filter and that that one

filter would stop 99.9% of the plutonium aerosol particles. In such an accident, the EIR estimates that a person remaining near the plant boundary for one hour would receive a lung dose of 310 rems. But the petitioners contend that the Applicant and the Commission should analyze what the real maximum credible accident would be and what the lung doses would be if an earthquake damaged all of the twenty-five plutonium glove boxes at the same time and all of the filters were damaged so that all of the plutonium was exposed to air and possible fires which would create enormous quantities of plutonium aerosol particles that would be released into the environment.

Note: See Attachment A for Building 102 and 102A Schematics of Filter Systems.

B. GE's Position Responding to Contention 8

The contention addresses activities under SNM-960 and has no relation to GETR. In addition, since most plutonium activities under SNM-960 have been terminated and the possession limit has been substantially reduced (from 150Kg to 500g), the second sentence in the first paragraph and the third paragraph of the contention no longer reflect activities permitted under the license. Consequently, these contentions could no longer raise disputed issues of material fact for which any form of hearing might be required. The balance of the contention (first sentence and second paragraph) is specifically directed to the hot cells in Building 102 and the RML. Although the contention alleges that releases could occur as a result of damage to the hot cells and filtration systems, it does not include any allegations as to why that result would obtain and does not allege that any particular portion of GE's analyses of



accidents is inadequate. Thus, 1) this contention is applicable only to SNM-960 and not to GETR at all; 2) insofar as the allegations in the second sentence of the first paragraph and in the third paragraph are concerned, the contention raises no disputed issues of material fact; and 3) even assuming that formal hearings were required, the contention fails to provide the requisite particularity and basis for admissibility as a contention.

4. Petitioner's Contention 9

A. Contention

9) Citing seismic and geologic evidence from facts and contentions stated above, petitioners contend that modification of the reactor building and components in accordance with documents submitted by the Applicant (e.g. EDAC-117.02 to EDAC-117.06, EDAC-117.09, NEDO-12624), does not meet the obligations imposed upon the Applicant by the Commission requiring:

(a) That the utilization of Atomic Energy be consistent with the health and safety of the public (42 U.S.C. 2013 d);

(b) That licenses issued for the production of atomic energy be issued solely to those who are equipped to observe and agree to observe safety standards and to minimize danger to life or property (42 U.S.C. 2133 b 2);

(c) That technical information and data are to be made available to the Commission by the licensee to protect the health and safety of the public and that the Commission is to use such information to protect the health and safety of the public (42 U.S.C. 2133 b 3);

(d) That the Commission must apply the standards and restrictions governing the design, location and operation of facilities in order to protect health and to minimize danger to life or property (41 U.S.C. 2201 i 3);

(e) That when the Applicant has failed to submit any statement of fact required under 42 U.S.C. 2232 (a), or when the Applicant has failed to operate a facility in accordance with the Regulations of the Commission, that the operating licenses may be revoked.

B. GE's Position Regarding Contention 9

These allegations state conclusions of law for which no hearing is required. In addition, aside from the citation to the purpose of the Atomic Energy Act (42 U.S.C. § 2013 d)), the portions of the Atomic Energy Act relied upon in the contention are applicable only to nuclear reactors.<sup>\*/</sup> Thus, this contention 1) is applicable only to GETR; and 2) raises no issues which are suitable for hearing.

5. Petitioners' Contention 10

10) Petitioners further contend that the Applicant is in violation of Section 186 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2236), and that the existing license must be revoked and penalties assessed, pursuant to 10 C.F.R. 50.40, for material omissions made by the Applicant in connection with the original license

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<sup>\*/</sup> 42 U.S.C. § 2133 is Section 103 of the Atomic Energy Act under which commercial reactor licenses are issued. 42 U.S.C. § 2201 i. is the provision establishing the Commission's rulemaking authority. 42 U.S.C. § 2201 i 3) deals with "standards and restrictions governing design, location and operation of facilities." The Commission does not license SNM facilities, but rather licenses possession and use of SNM under Section 53 of the Atomic Energy Act. 42 U.S.C. § 2071. The portion of 42 U.S.C. § 2232 a) relied upon relates to licenses for production and utilization facilities which, in this case, could only include GETR and not SNM-960 activities.

application and for materially false statements and material omissions in subsequent studies and reports respecting seismic and geologic conditions at the site. The facts and further contentions respecting such materially false statements and omissions will be more fully developed at the hearing requested herein, and petitioners request leave to amend this petition to assert such facts and contentions more fully at that time.

#### GE Position

This contention relies upon 10 C.F.R. § 50.40 which is applicable to licenses for nuclear reactors, but not to SNM licenses. Moreover, the contention is lacking in particularity or basis. The contention must have the requisite particularity and basis at the pleading stage, and it cannot be admitted subject to fleshing out through discovery. See Duke Power Company (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC \_\_\_\_\_, (Slip Opinion at 11.) Thus, this contention: 1) is inapplicable to SNM-960, and 2) inadmissible for want of particularity and basis.

#### 6. Petitioners' Contention 11

##### A. Contention

11) Petitioners contend that the Applicant has operated a nuclear reactor, GETR, in violation of:

(a) 10 CFR 50.34 a (a), that Applicant shall "identify . . . means to be employed for keeping levels of radioactive material in effluent to unrestricted areas as low as is reasonably achievable. . . in relation to benefits to public health and safety.";

(b) 10 CFR 50 Appendix A, Criterion 14, that "The reactor coolant pressure boundary shall be designed, fabricated, erected, and tested to have an extremely low

probability of abnormal leakage. . ." during normal conditions of operating;

(c) 10 CFR 50.34 a (c) (1);

(d) 10 CFR 50.36 a (1).

Particularly, the Applicant has operated the GETR with abnormal leakages in valves, pipes or other components of the reactor coolant pressure boundary, which leakages have resulted in the release of tritiated water into Vallecitos Creek, causing the tritium concentration to exceed the maximum permissible concentration to unrestricted areas ( $3 \times 10^{-3}$  uCi/ml, 10 CFR 20.106).

B. GE's Position Regarding Contention 11

By its terms, this contention applies only to GETR, and to 10 C.F.R. Part 50 licences. The applicable effluent limit has never been exceeded during GETR operation. More importantly, the contention does not allege why the leakages are excessive, or allege that any particular portion of GE's design or analysis is inadequate. Thus, this contention is 1) inapplicable to SNM-960, and 2) inadmissible as lacking in particularity and basis.

7. Petitioners' Contention 12

A. Contention

12) Petitioners further contend that the Commission should award them attorneys' fees and costs in a sum to be determined according to appropriate factual showing made at or in connection with the hearing requested herein.

B. GE's Position Regarding Contention 12

As a matter of law, Petitioners cannot be awarded attorneys' fees. See Nuclear Regulatory Commission (Financial Assistance to Participants in Commission Proceedings), CLI-76-23, 4 NRC 494 (1976). The Equal Access to Justice Act, even if generally applicable in NRC proceedings, does not alter that decision in this instance since the Act does not apply to proceedings for the granting or renewal of a license. 5 U.S.C. § 509(1)(1)(c). In addition, this contention asserts a legal conclusion for which no hearing could be required.

8. Petitioners' Contention 13

A. Contention

13) Petitioners further contend that in view of the substantial modifications to the GETR and [p]lans suggested by the Applicant in documents submitted to support license renewal application, and the fact that the subject licenses were issued prior to the effective date of the National Environmental Policy Act of 1969 (Public Law 91-190, 42 U.S.C. 4321 et seq.), any licenses issued by the Commission to permit continued operations of the Vallecitos facility constitutes a major federal action significantly affecting the quality of the human environment, and requires preparation of an Environmental Impact Statement pursuant to Sec. 102. (2)(c) of the National Environmental Policy Act of 1969. In support thereof, petitioners invite the Commission's attention to the following requirements of the law:

(a) The Council on Environmental Quality (CEQ) Guidelines on the Preparation of Environmental Impact Statements (EIS) 40 CFR 1500.5 (a) (2) (applicable to "continuing projects or program activities. . . involving a federal lease, permit, license, certificate or other entitlement for use.")

(b) Section 1500.13 provides that "agencies have an obligation to reassess ongoing projects. . . in order to avoid or minimize adverse environmental effects. . . even though they arise from projects initiated prior to the enactment of the 'National Environmental Policy Act' on January 1, 1970. . . .It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or program."

B. GE's Position Regarding Contention 13

Although this contention makes allegations as to each license, it would not be appropriate for consolidation. NMSS has conducted its environmental review for SNM-960 independent of GETR. The GETR environmental review schedule is uncertain and must await completion of the Appeal Board's sua sponte review and the NRR review for GETR. Moreover, until the NMSS issues its Environmental Assessment for SNM-960, and NRR its assessment for GETR, it is impossible to determine whether this contention is appropriate for hearing in either docket. As it now stands, it represents a legal argument and conclusion, and does not allege inadequacies in the Staff's analyses with sufficient particularity and basis.

## APPENDIX B

This Appendix summarizes the activities for which renewal authority is sought under License No. SNM-960.

### A. Product Processing Operations

1. Development Shop. Fabrication, assembly, modification, cleaning, and repair of unirradiated encapsulated (including encapsulation) experimental assemblies. Assembly, modification, cleaning, and repair (but not fabrication) of unirradiated fuel elements for use in site reactors.
  
2. Separations Activities. Facilities in which activities are conducted pursuant to a license issued under Parts 30 and 70 of Title 10, Code of Federal Regulations, or equivalent regulations of an Agreement State, for the receipt, possession, use, and transfer of irradiated special nuclear material, which authorizes the use of the irradiated material on a batch basis for the separation of selected fission products and limits the process batch to not more than that authorized by 10 C.F.R. § 50.2(a)(3)(iii).

B. Laboratory Operations

1. Chemical. Analysis of the chemical and isotopic composition, concentration and behavior of special nuclear materials by wet chemistry and physical measurement techniques.
2. Metallurgical. Physical analysis and testing of physical and metallurgical properties of special nuclear materials.
3. Physics and Health Physics. Measurements of radiation and its effects on instruments and on the structure and composition of materials.
4. Hot Laboratories. Post-irradiation examination, testing, and analysis of fuel elements and materials in shielded enclosures by remote manipulative techniques; research and development and/or pilot plant activities involving recovery and recycling of waste or nonspecification material.
5. Research and Development. Including but not limited to the above.

C. General Services Operations

1. Equipment Maintenance and Engineering. Design, fabrication, and testing of equipment containing



special nuclear materials and maintenance of such equipment.

2. Storage. Storage of irradiated fuel materials other than wastes in shielded containers and locations. Storage of unirradiated special nuclear materials in designated general purpose storage areas.
3. Transportation and Transfer. Inspection of packaging and preparation for shipment and/or transfer of special nuclear materials.
4. Decontamination. Decontamination of equipment and facilities.

D. Waste Treatment

1. Liquids. Concentration of the radioactive constituents of liquid wastes by evaporation, chemical treatment, sedimentation, filtration, and ion exchange, agglomeration and packaging of concentrates and discharge of decontaminated effluents.
2. Solids. Packaging and storage of wastes contaminated with or containing nonreclaimable special nuclear materials, excluding direct burial in soil.

E. Off-Site Activities

Nonnuclear, nondestructive, modification, demonstration and testing of materials and devices containing unirradiated uranium and plutonium provided that:

1. Such materials and devices shall be under the supervision of General Electric at all times, and
2. Plutonium shall be fully enclosed at all times in containment devices of adequate integrity to prevent escape.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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GENERAL ELECTRIC COMPANY  
(GETR Vallecitos)

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) Docket No. 50-70-OLR/70-754-SNMR  
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) ASLBP No. 83-481-01-OLR

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the above-captioned proceeding. In accordance with § 2.713(b), 10 C.F.R. Part 2, the following information is provided:

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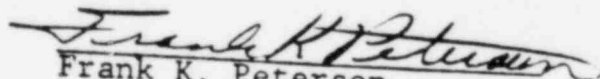
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Dated: November 5, 1982

NUCLEAR REGULATORY COMMISSION

In the Matter of )  
GENERAL ELECTRIC COMPANY ) Docket No. 50-70-OLR/70-754-SNMR  
(GETR Vallecitos) ) ASLBP No. 83-481-01 OLR

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served as of this date by personal delivery or first class mail, postage prepaid, to the following:

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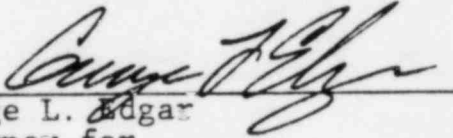
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Docketing & Service Section  
Office of the Secretary  
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Washington, D. C. 20555

Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
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DATED: November 23, 1982