

15165

DOCKETED
USNRC
LBP-94-17

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'94 JUN -9 A9:55

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

SERVED JUN - 9 1994

In the Matter of

SEQUOYAH FUELS CORPORATION
and GENERAL ATOMICS

(Gore, Oklahoma Site
Decontamination and
Decommissioning Funding)

Docket No. 40-8027-EA

Source Material License
No. SUB-1010

ASLBP No. 94-684-01-EA

June 8, 1994

MEMORANDUM

(Ruling on Motions for Summary Disposition or Dismissal,
Oral Argument, Staying Discovery and Leave to File Reply)

The General Atomics Corporation (GA), on February 17, 1994, filed a motion for summary disposition, or alternatively an order of dismissal, of all claims against it in a Nuclear Regulatory Commission (NRC) Order dated October 15, 1993. (Hereinafter October Order). That Order makes GA and Sequoyah Fuels Corporation (SFC), a subsidiary company and an NRC licensee, jointly and severally liable for providing financial assurance for the decommissioning of SFC's uranium processing facility near Gore, Oklahoma. GA requested oral argument on its motion and moved to stay discovery pending the Board's decision. Thereafter, GA submitted a motion for leave to reply to responses to its

9406150157 940608
PDR ADOCK 04008027
C PDR

D502

motion filed by the Staff and Native Americans for a Clean Environment (NACE).¹ On April 28, 1994, the Board denied GA's motions and request and stated a written memorandum detailing its reasons would follow.² This memorandum sets forth the basis for that ruling.

A. The Pleadings

As a foundation for disposing of the charges against it, GA propounds four allegations, namely, (a) that, as a matter of law, NRC lacks jurisdiction to compel it to guarantee the financial obligations of GA's subsidiary, an NRC licensee, for decommissioning; (b) that the NRC fails to allege a legally cognizable claim against GA and can prove no set of facts entitling it to impose non-civil penalty financial liability on GA; (c) that the NRC, due to prior actions, is estopped from seeking a guarantee of decommissioning costs from GA; and (d) that requiring GA to contest the October Order would deprive it of due process protection guaranteed by the U.S. Constitution, the Administrative Procedure Act, and NRC's rules of practice.³

¹ General Atomics' Motion For Leave to File a Reply to the Responses of the NRC Staff and NACE to the Motion for Summary Disposition (April 20, 1994) [hereinafter GA Reply Motion].

² Order (Denial of motions for summary disposition or order of dismissal and request for oral argument, motions to stay discovery and leave to file reply) (April 28, 1994).

³ Brief in Support of [GA's] Motion for Summary Disposition or for an Order of Dismissal (February 17, 1994)
(continued...)

In line with NRC's procedural requirements in 10 C.F.R. § 2.749(a), GA submitted a statement of material facts on which it contends there is no genuine issue to be heard. The Staff and NACE responses include statements of material facts on which, it is propounded by both, genuine issues exist to be litigated.⁴ A summary of the parties' respective positions finds basic disagreement on the role that GA has assumed with respect to SFC, the agency's licensee, and on NRC's regulatory authority to reach that role. The major issues raised by the motion for summary disposition or dismissal and responses to it are, first, whether GA can be considered a licensee of the NRC;⁵ second, whether NRC's October Order states a claim for

³(...continued)
at 3-4 [hereinafter GA Brief]. In support of its summary disposition motion, GA submitted copies of various letters, documents and memoranda from NRC and GA officials, transcripts of parts of a Board prehearing conference, NRC public meetings and affidavits from two GA corporate officers. See appendices to GA Annex "A" and Tabs A, B, C and affidavits to GA Brief.

⁴ See NRC Staff Answer to GA Motion for Summary Disposition (April 13, 1994) [hereinafter Staff Answer]; NACE Opposition to GA Motion for Summary Disposition (April 13, 1994) [hereinafter NACE Opposition].

⁵ GA Brief at 8-32; Staff Answer at 10-24; NACE Opposition at 12-23.

which relief may be granted;⁶ and, last, whether NRC's previous activities preclude it from holding GA liable for decommissioning costs.⁷

B. Summary Disposition Standards

Summary procedure provisions enable parties to pierce the allegations of pleadings to determine whether genuine issues are available for litigative resolution.⁸ Similar to its judicial counterpart, Rule 56 of the Federal Rules of Civil Procedure, the proponent of a motion for summary disposition carries the burden of demonstrating the absence of genuine issues of material fact to litigate.⁹ The Board's function, based on the filings and supporting material, is simply to determine whether genuine issues exist between the parties. It has no role here to decide or resolve such issues.¹⁰ The parties opposing such motions may not rest on mere allegations or denials, and facts not

⁶ GA Brief at 32-37; Staff Answer at 25-28; NACE Opposition at 23-35.

⁷ GA Brief at 37-43; Staff Answer at 28-30.

⁸ 6 James W. Moore, et al., Moore's Federal Practice, ¶ 56.02 (2d ed. 1994) [hereafter Moore's Federal Practice].

⁹ See Florida Power and Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4) LBP-90-4, 31 NRC 54, 67 (1990); also 6 Moore's Federal Practice, ¶ 56.15(3).

¹⁰ See Weiss v. Kay Jewelry Stores Inc., 470 F.2d 1259, 1261-62 (D.C. Cir. 1972).

controverted are deemed to be admitted.¹¹ Finally, since the burden of proof is on the proponent of the motion, the evidence submitted must be construed in favor of the party in opposition thereto, who receives the benefit of any favorable inferences that can be drawn.¹²

C. Rulings on Motions

1. Motion for Summary Disposition

a. Jurisdiction

A primary question raised by the pleadings centers on whether there is jurisdictional authority to include GA in the NRC Order. None of the parties contest the proposition that the NRC, like all other federal administrative agencies, is a statutory creature whose powers are controlled by legislative grants of authority. However, they part company over the applicability of Section 161 of the Atomic Energy Act of 1954, as amended, to provide a jurisdictional foundation for the NRC action in question here.¹³ The movant, with a comparison of the sectional

¹¹ Diaryland Power Cooperative (LaCrosse Boiling Water Reactor), LBP-82-58, 16 NRC 512, 520 (1982).

¹² 10A Charles A. Wright, et al., Federal Practice and Procedure § 2727 (2d ed. 1983).

¹³ In addition to Section 161, the NRC designates sections 62, 182, 186 of the Act as a basis for the October Order, as well as regulations found in 10 C.F.R. § 2.202 and 10 C.F.R. Part 40. (Order at 23). However, since Section 161 alone relates to the jurisdictional controversy raised by GA's summary disposition motion, it is unnecessary to review the other sections and regulations in this decision. See GA Brief at 8-9; Staff Answer at 19-20.

provisions being enacted at different times, asserts that the subsections of Section 161 applicable here (161b, 161i) are directed to the conduct of licensees and not intended to apply to non-licensed entities such as GA.¹⁴

According to GA, in order for the NRC to use that section as the basis for finding jurisdiction over GA, the NRC would have to contend that GA had "constructive 'possession and use' of nuclear fuel."¹⁵ GA says that this argument would require a construction of the words "possession and use" in a fashion that would make them apply to not only those who have actual, tangible "possession and use" of nuclear material, but to "all others who, in the subjective judgement of the NRC, stand in sufficiently close legal relationship with a licensee who does have actual physical possession and use of such material."¹⁶ Any such

¹⁴ See GA Brief at 9-13; NACE Opposition to GA Motion at 21, 22; Staff Answer at 16 n.11; and Commission's Statement of Consideration on Revisions to Procedures to Issue Orders; Deliberate Misconduct by Unlicensed Persons, 56 Fed. Reg. 40,667 (August 15, 1991). A Ninth Circuit case (Reynolds v. United States, 286 F.2d 433, 438 (9th Cir. 1960)) is also cited in support of GA's contention. Both NACE and the Staff argue that the Reynolds case is not applicable here and that the Commission's jurisdiction extends to non-licensees. In the Reynolds case, while the Court, in dicta, indicated that Section 161i applied only to licensees, its holding was that the statute was applicable to private industry and not to NRC's own activities. Regulations concerning such activities were held invalid. The Court did not have before it the issue as to whether NRC has any jurisdiction over unlicensed entities.

¹⁵ GA Brief at 11.

¹⁶ Id.

interpretation, GA asserts, would require a disregard and outright breach of settled rules of statutory construction.

To underpin this assertion, GA cites the 1990 amendment to Section 161b which gave the NRC jurisdiction over certain nuclear devices and equipment. GA contends that since Congress had chosen to use the words "possession and use" in the original version of that provision and the words "control" and "ownership" in the amended version, attaching the NRC's interpretation to the words "possession and use" would be redundant. The word "possession" would already bring with it the concepts of "control" and "ownership." According to GA, black-letter statutory construction principles adopted by the Supreme Court require that effect be given to "every word Congress used"¹⁷ and a presumption that "Congress acts intentionally and purposely [sic] in the disparate inclusion or exclusion" of words in the same statute.¹⁸ Therefore, legal control by one corporate entity over another which possesses regulated material cannot be equated with "possession" of the material under Section 161b.¹⁹

¹⁷ GA Brief at 12, citing Reiter v. Sonotone Corp., 442 U.S. 330, 339 (1979).

¹⁸ GA Brief at 12, citing Russello v. United States, 464 U.S. 16, 23 (1983).

¹⁹ We do not find it necessary to set out NACE's rebuttal of the GA statutory interpretation argument more than to say it met GA's assertions seriatim. The rebuttal contests GA's contention that it was not a possessor or user
(continued...)

GA's arguments concerning the congressional intent behind the words "possession and use" and "control and ownership" are challenged by the Commission's own interpretation of the ambit of its authority under Section 161.²⁰ Both the Staff and NACE point to Commission statements that its statutory authority to issue orders is not limited to licensees but covers any person (including corporations) engaging in activities or conduct affecting activities within the Commission's subject matter jurisdiction.²¹ In light of these statements concerning the range of its authority over non-licensees, the Staff argues against any necessity for interpreting the agencies' authority under Section 161.²² But, whether the Commission intended to assert its authority over unlicensed persons not charged with deliberate misconduct, as is apparently the case here, is unclear.²³ In any event, it appears to the

¹⁹(...continued)
of nuclear materials within the meaning of Section 161b.
See NACE Answer at 12-26.

²⁰ See discussion, infra, concerning the Commission's Statement of Consideration on Revisions to Procedures to Issue Orders; Deliberate Misconduct by Unlicensed Persons, 56 Fed. Reg. at 40,666.

²¹ Id.

²² See Staff Answer at 19.

²³ The parties also argue herein on whether an Appeal Board decision in Safety Light Corporation (Bloomsbury Site Decontamination) ALAB-931, 31 NRC 350 (1990), provides guidance on the question of NRC's regulatory authority over a parent of a licensee subsidiary for decommissioning costs.

(continued...)

Board that the breadth of the Commission's jurisdiction in the case before us cannot be resolved without an evaluation of the factual situation which gave rise to its assertion. The jurisdictional issue is clearly predicated on GA's involvement in SFC's affairs. This proceeding is a significant one, being one of first impression, and with the jurisdictional issue here being intertwined with the factual circumstances involved, a resolution of the jurisdictional matter must await the development of the litigative factual issues before us. The jurisdictional issue here could only be resolved by a motion for summary disposition if no factual issues remain in controversy.²⁴

b. Issues of Material Fact

In terms of the motion before us, we must inquire whether there are genuine issues of material fact concerning GA's involvement in the affairs of SFC that should be heard in this proceeding.²⁵ As set out in the October Order, NRC

²³(...continued)

See GA Brief at 30-32; Staff Answer at 23-24; NACE Opposition at 20, 29. This case deals with Section 184 of the Atomic Energy Act concerning license transfers and has no applicability to the case at bar where no license transfer is in question.

²⁴ Rosales v. U.S. 824 F.2d 799, 803 (9th Cir. 1987). In view of our ruling on the jurisdiction issue, we find it unnecessary to review here GA's other contentions on congressional intent concerning the Atomic Energy and Energy Reorganization Acts.

²⁵ No party has raised an objection that the Commission lacks subject matter jurisdiction in the case at hand. See Staff Response at 16 n.10.

bases its claim for holding GA responsible for additional financial assurance of decommissioning financing on a determination that GA has been in substantial control of its subsidiary's (SFC) business and made representations of financial assurances to the Commission on which the NRC relied.²⁶ The Staff Answer lists five genuine issues of fact which it considers material to whether the NRC has jurisdiction over GA for the purposes of the Order.²⁷ As one theory of the case, the opposing parties contend GA exercised enough control over the day-to-day activities of SFC to permit a disregard of the corporate form which separates a parent from a subsidiary (a.k.a. piercing the corporate veil). Under this premise, GA and SFC may be considered one and the same.²⁸ If GA is considered to be a de facto licensee, and a parent whose conduct and activities are within the NRC's subject matter jurisdiction, the Commission may exercise its jurisdiction regardless of whether it could regulate non-licensees under Section 161b. Staff and NACE exhibits evidence the assignment of GA personnel to SFC management positions and GA's involvement

²⁶ See October Order at 21.

²⁷ Staff Answer at 8. It should be noted that NACE's argument on "piercing the corporate veil" (NACE Opposition at 26-33) and numbers 1, 2 and 3 in its statement of material facts mirror the Staff's assertions.

²⁸ Staff Answer at 14-17, 26-27; NACE Opposition at 26-33.

in its subsidiaries affairs.²⁹ The Staff also submits evidence tending to demonstrate GA's intention to provide financial assurance for decommissioning in the event that SFC fails to do so.³⁰ In summary, the disputed material facts submitted by the Staff and NACE, as well as factual issues numbers 4 and 5 claimed by GA as not being at issue, relate generally to the nature of GA's relationship to the NRC as evidenced by GA's conduct and activities, the inadequacy of SFC funding for decommissioning and the obligation of GA and SFC to provide financial assurance. GA's motion, brief and supporting evidence on the other hand, although not contesting directly the activities related above, deny the existence of any licensee status, financial obligation or NRC jurisdiction over the Corporation resulting therefrom and claim a prejudgment of this case by NRC's Chairman and possibly other Commissioners.

From the foregoing, it is clear that the central issues in this proceeding concern the role that GA performed in connection with its subsidiary's (SFC) licensed activities and whether that role constitutes GA as a de facto licensee or one whose conduct has affected activities within the Commission's subject matter jurisdiction.

²⁹ See NACE Opposition, Attachments 2, 4; Staff Answer, Exhibits 1, 2, 3.

³⁰ See Staff Answer, Exhibit 4.

c. Ruling

According to the evidence submitted by the Staff and NACE, GA has made itself liable for assuring the financing of SFC's decommissioning responsibilities. Our review of the pleadings presenting the motion for summary disposition and responses thereto leaves no alternative except to conclude that the Staff and NACE have provided sufficient evidence to support a number of material facts in dispute and the movant has not carried its burden of proving that no genuine issues of material facts exist to be litigated. There is no question that NRC has subject matter jurisdiction over the decommissioning of licensed facilities and the public's protection against dangers to health, life or property from the operation of licensed nuclear facilities. And there is no question that GA, albeit a third-tier owner of SFC, has been involved in its subsidiary's activities. What the degree of that participation has been, and its significance for NRC's regulatory authority in this case, cannot be determined absent further developments in this proceeding. On the basis of the foregoing, a motion for summary disposition or order to dismiss cannot be granted herein.³¹

³¹ In light of our ruling here, the Board saw no reason for delaying discovery procedures and accordingly denied GA's motion to delay discovery. GA's request for oral argument on its motions was denied as the movant failed to provide any bases for the request. Also, the Board denied GA's motion for leave to reply to Staff and NACE responses
(continued...)

d. Alternate Motion

GA has filed an alternate motion for an order of dismissal of NRC's claims, alleging a legally cognizable claim has not been stated and facts cannot be proved to entitle the agency to impose a financial liability on the corporation. The foundation for this motion -- a lack of jurisdiction -- is substantially the same as that put forth for its summary disposition request: NRC has no authority to extend its control over non-licensees under a "de facto corporation" doctrine or a "piercing of a corporate veil" theory; but even possessing such authority, NRC has not stated a proper claim against GA.³² In GA's view, the limited liability of corporations cannot be dispensed with by arbitrary assertions of regulatory power and such assertions cannot be sustained without pleading some form of

³¹(...continued)

to GA's motion for summary disposition or order of dismissal. In its request, GA neither delineated the numerous new issues it alleges the parties raised nor the legal theories allegedly advanced to support the claim of NRC's jurisdiction. See GA Reply Motion. The agency's rules of procedure do not provide for replies to responses for disposing of matters on pleadings, and in the absence of some compelling reason to justify our exercise of the Board's discretion to authorize such a reply, no such reply should be granted. If the Board granted a reply here, fairness requires providing opposing parties a similar opportunity to respond bringing in its wake an unnecessary prolongation of the case. Such an opportunity to reply is particularly unnecessary where a party will have ample opportunity to present additional arguments on a subject during the course of a hearing. See [NACE] Opposition to [GA] Motion For Leave to File a Reply (April 25, 1994), at 3.

³² GA Brief at 32-37.

fraud, illegality or improper conduct.³³ Here, according to GA, the October Order does not contain such averments and NRC has acknowledged its claim is not based on "deliberate misconduct on the part of GA."³⁴

Commission rules of practice make no provision for motions for orders of dismissal for failing to state a legal claim. However, the Federal Rules of Civil Procedure do in Rule 12(b)(6), and, as the Staff points out, we occasionally look to federal cases interpreting that rule for guidance. In the consideration of such dismissal motions, which are not generally viewed favorably by the courts, all factual allegations of the complaint are to be considered true and to be read in a light most favorable to the non-moving party.³⁵ As indicated herein, supra, the October Order rests GA's responsibility for providing decommissioning financial assurance on the grounds that GA has had direct involvement and control of SFC activities, and has committed itself to provide such assurance, which commitment was relied upon by the NRC.³⁶ In a leading case, Conley v. Gibson, 355 U.S. 41 (1957), the Court stated that all the rules require is a short statement of a claim to give the

³³ Id.

³⁴ Id.

³⁵ 5A Charles A. Wright and Arthur R. Miller, Federal Practice and Procedure, § 1357 (2nd ed. 1990).

³⁶ October Order at 19.

litigant in question a fair notice of what the claim is and the grounds on which it rests. It seems evident that such a requirement has been met by the agency here. And, in light of claims to the contrary by GA, we must state there is no impediment to the NRC (and GA also) to develop additional facts and theories as a result of the discovery process. As the Court pointed out in the case above, such procedures are established to disclose more precisely the basis of both claims and defenses and to define more narrowly disputed facts and issues. Id. at 85.³⁷

2. Other Issues

GA raises several collateral matters requiring resolution. First, the principle of estoppel is urged to prevent NRC from now attempting to hold GA financially liable because the Staff failed to require such a financial guarantee in 1988 at the time GA purchased SFC. Also, GA asserts, in 1992, NRC's own statements reflect that a legal obligation for decommissioning financial assurance had not been consummated.³⁸ The Staff, however, argues that in the absence of misconduct, which is not alleged in the circumstances of this activity here, estoppel will not succeed against the government.³⁹

³⁷ See October Order at 12-15.

³⁸ GA Brief at 37-43.

³⁹ Staff Answer at 28-30.

We conclude that this issue cannot be raised successfully based on NRC's failure to pursue funding commitments. A basic allegation of the October Order is that GA's Chairman promised financial assistance for decommissioning and NRC relied upon it. That assurance, on its face, tends to negate any NRC actions inconsistent with an intention to hold GA financially accountable for decommissioning expenditures.

Next, there is an allegation of a failure of due process if GA is required to contest the October Order. The movant claims NRC's Commissioners cannot be called to testify under its rules even though they have knowledge of material facts in the proceeding. In addition, GA contends that possibly the full Commission and certainly its Chairman has previously adjudged the facts giving rise to the Order.⁴⁰

These allegations have no validity in this proceeding. Assuming the truth of the GA charges -- that Commissioners had prior knowledge of the material facts of this case and made some prejudgments based on those facts -- such considerations have no place before this tribunal. The October Order is an agency directive of the Nuclear Regulatory Commission and not its individual Commissioners.

⁴⁰ See GA Motion at 44-57. These charges are supported by exhibits containing excerpts from a Commission public meeting participated in by GA and SFC officials and a follow-on press conference conducted by the Commission's Chairman.

It has also been indicated that members of NRC's Staff will be made available to provide testimony on the Order that the Commission issued.⁴¹ Any averments of prejudice against Commission members must be reserved to a time, if and when, this Board's decision is before the Commission. The movant has made no showing that this Board is not capable of fairly judging the matters in controversy here.⁴² Under the circumstances presently existing in this proceeding, nothing in the authorities cited by GA call into question any due process protections provided by the Constitution or the Administrative Procedure Act.

GA also charges a failure in due process protection in NRC's attempt to hold it financially responsible without first creating clear standards by which non-licensees could "gauge and control" their conduct.⁴³ There is no due process requirement we are aware of that necessitates a regulatory agency detailing in advance the variety of conduct that a regulatory agency is authorized to assure or prohibit. NRC's decommissioning responsibilities and its mandate to protect the public health and safety from nuclear hazards have certainly been known to GA since it purchased SFC in 1988. The Agency's authority for the issuance of

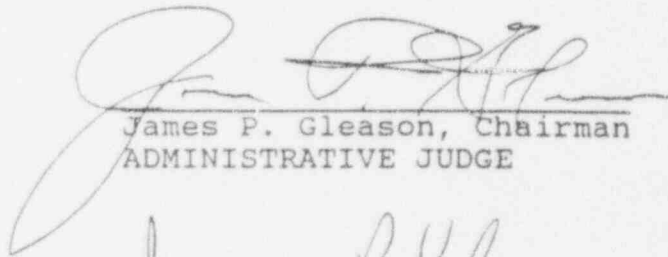
⁴¹ Staff Answer at 33 n.20.

⁴² See Nuclear Engineering Company, Inc. (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site), CLI-80-1, 11 NRC 1, 4-5 (1980).

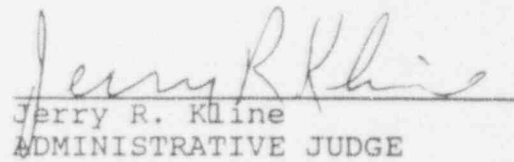
⁴³ GA Brief at 28-30.

orders under Section 161 has also been in existence since that time. The corporation here has had ample opportunity to be advised of the claims against it and time to prepare for challenges to its interests. Due process requires no more, and, accordingly, we can determine no violation of its protection in the circumstances alleged herein.

The Atomic Safety and
Licensing Board



James P. Gleason, Chairman
ADMINISTRATIVE JUDGE



Jerry R. Kline
ADMINISTRATIVE JUDGE

Bethesda, Maryland

June 8, 1994

Separate Statement by Bollwerk, J.

I do not join the majority in denying General Atomics' (GA) February 17, 1994 motion for summary disposition because I believe that a Board ruling on the motion should be made only after affording GA an opportunity to file a reply to the April 13, 1994 responses of the NRC staff and intervenor Native Americans for a Clean Environment (NACE) to GA's motion. The Board majority is correct that under NRC rules of practice whether to permit a reply is a matter within the discretion of the Board. Even affording no weight to the fact that the staff (as the originator of the enforcement order at issue here) does not oppose GA's request to file a reply, I can think of few better instances to exercise that discretion than here. The issues GA raises in its summary disposition motion involve fundamental questions about the jurisdictional basis for this proceeding. Moreover, GA's stake in this proceeding is substantial given that failure of its challenge to the staff's enforcement order would leave it jointly and severally liable (along with its subsidiary Sequoyah Fuels Corporation) for some eighty-six million dollars in cleanup costs for the Gore, Oklahoma facility. As a consequence, I would have afforded GA the small additional time necessary

to reply to the staff and NACE responses to its summary disposition motion.*

* The majority's decision also suggests that allowing GA to file a reply to the Staff and NACE responses to its motion would create the need to permit a further "surreply" by the Staff and NACE. See Slip op. at 12 n.31. I fail to see how this is the case. Replies are a well-established part of the legal pleading process, see, e.g., U.S.D.D.C. R. 108(d); surreplies are not.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

SEQUOYAH FUELS CORPORATION
GENERAL ATOMICS
(Gore, Oklahoma, Site Decontamina-
tion and Decommissioning Funding)

Docket No.(s) 40-8027-EA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM (LBP-94-17)--6/8 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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

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

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

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

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

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

Maurice Axelrad, Esq.
John E. Matthews, Esq.
Newman, Bouknight & Edgar, P.C.
1615 L Street, N.W.
Washington, DC 20036

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

Docket No.(s)40-8027-EA
LB MEMORANDUM (LBP-94-17)--6/8

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

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

Betty Robertson
HCR 68 Box 360
Vian, OK 74962

Dated at Rockville, Md. this
9 day of June 1994

John R. Driscoll
General Atomics Corporation
3550 General Atomics Court
San Diego, CA 92121

Lance Hughes, Director
Native Americans For A Clean
Environment
P.O. Box 1671
Tahlequah, OK 74465

Kris Carter
Office of the Secretary of the Commission