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BRIEF

May 24, 1996

Shirley A. Jackson, Chairman  
Kenneth C. Rogers, Commissioner  
Greta Dicus, Commissioner  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Chairman and Commissioners:

Sequoyah Fuels Corporation (SFC) wishes to bring to the attention of the Nuclear Regulatory Commission its objections to an outrageous footnote in "Intervenors' Reply Brief on Appeal of LBP-95-18." The note contains a scandalous attack on the character and integrity of SFC management. The scandalous nature of Intervenors' allegations would justify striking them from the pleading. See Talbot v. Robert Matthews Distrib. Co., 961 F.2d 654, 664-65 (7th Cir. 1992). However, SFC does not wish to burden the Commission with a motion to strike, but only to assure that the Commission is not misled by Intervenors' false charges.

At page 6 (footnote 6) of their Reply Brief Intervenors allege that "[t]he SFC site ranks among the most severely and wantonly contaminated nuclear sites in the country," that SFC's management of the facility has been "recklessly unsafe and environmentally damaging . . . for 20 years" and that SFC is not "capable of managing its affairs safely." Intervenors also charge the NRC with "lack of vigilance" over this same period. These charges are false and unfairly besmirch reputations in a pleading to which the other parties have no right to respond. Moreover, the extent of contamination and the degree of NRC oversight are not addressed in the record because they are not material to the issues currently before the Commission.

SFC takes seriously its commitment to clean up the SFC site, as demonstrated by its significant progress in accomplishing that goal, progress which began well before SFC decided to shut down the facility. SFC recognizes that site decontamination is a very significant undertaking but feels compelled to point out that the site is not "among the most severely and wantonly contaminated nuclear sites in the country." Other sites are being safely decommissioned with an order of magnitude more contamination than is present at the SFC site, both in terms of volume of contaminated soil and the total amount of radioactive material.

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In fact, some of the uranium mill tailings sites now being decommissioned have 10 to 20 times the volume of contaminated material that is expected to be generated in decommissioning the SFC site. Moreover, the SFC site clearly does not constitute a significant threat to public health and safety. This fact has been recognized by public statements and actions of representatives of the Environmental Protection Agency and the NRC.

Intervenors' purported reason for attacking the character of SFC management, and the effectiveness of the NRC, is to persuade the Commission that it should disregard SFC's commitment not to repay its debt to Kerr-McGee until it has accomplished decommissioning to the satisfaction of the NRC. However, no conclusion could reasonably be drawn about whether SFC will honor its commitment or the NRC will fulfill its responsibilities, based on the relative safety of past SFC operations or the level of contamination at the site.

The irrelevance of Intervenors' hyperbole is further highlighted by their phrase "for 20 years." As the Commission and Intervenors know very well, current SFC management and ownership have less than four years involvement with actively operating the SFC facility. Thus, even if there were any truth to Intervenors' innuendo concerning the level of contamination at the SFC site, there is no basis for attributing the contamination to current SFC management, let alone providing a basis for judging the good faith of SFC's representations to the Commission.

In short, footnote 6 of Intervenors' Reply Brief falsely and gratuitously maligns both SFC management and the NRC. In considering the issues currently before it, the Commission should not allow Intervenors' hyperbole to sway it from fair consideration of the arguments of the parties on their merits.

Respectfully Submitted,

  
Alvin H. Gutterman

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of	)	Docket No. 40-8027-EA
	)	
SEQUOYAH FUELS CORPORATION	)	Source Material License
and GENERAL ATOMICS	)	No. SUB-1010
	)	
(Gore, Oklahoma Site)	)	
Decontamination and	)	
Decommissioning Funding)	)	May 24, 1996

CERTIFICATE OF SERVICE

I hereby certify that copies of the letter to the Nuclear Regulatory Commission's Chairman and Commissioners from Alvin H. Gutterman, dated May 24, 1996, were served upon the following persons by deposit in the United States mail, first class postage prepaid and properly addressed, on the date shown above:

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Dated this 24th day of May, 1996



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