

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter Of)

Sequoyah Fuels Corporation)
and General Atomics)
Gore, Oklahoma Site Decontamination)
and Decommissioning Funding)

OFFICE OF SECRETARY
DOCKETING & SERVICE
Docket No. 40-8027EA
Source Materials
License No. SUB-1010
January 30, 1996

**NATIVE AMERICANS FOR A CLEAN ENVIRONMENT'S
COMMENTS ON STATUS REPORT AND
OPPOSITION TO MOTION FOR MODIFICATION OF SCHEDULE**

Introduction

Intervenor Native Americans for a Clean Environment ("NACE") hereby comment on General Atomics' ("GA's") and the Nuclear Regulatory Commission's ("NRC's" or "Commission's") joint status report on their settlement negotiations.¹ NACE also opposes the staff's motion for an additional two-week stay of discovery pending settlement negotiations.

Comments on Status Report

Because the Board has stayed discovery through March 8, regardless of the quality of GA's and the staff's status report on settlement negotiations, there is little purpose to be served by commenting on the Status Report. However, NACE notes for the record that, although GA and the NRC staff present schedules for settlement negotiations and indicate that high-level members of each organization are involved, they provide very little substantive information to indicate whether progress is actually being

¹ NRC Staff's and General Atomics' Joint Status Report Regarding Settlement Negotiations and Motion for Modification of Schedule (January 22, 1996) (hereinafter "Status Report and Motion").

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made. They state only that one "fundamental" issue has been resolved, and that four "major issues" are still under consideration. Motion at 4. These statements give no indication of the substantive nature of the outstanding issues, or the degree to which they are amenable to resolution. Thus, it is impossible to determine whether GA and the staff are in fact making significant progress on these issues.

Opposition to Extension of Stay

The NRC staff requests the Board to extend the stay of discovery by another two weeks, on the grounds that (a) the blizzard that shut down the government during the week of January 8 delayed settlement negotiations by a week, and further delays were caused by the staff's "other unrelated schedules, appointments, and responsibilities;" and (b) the staff has had to divert personnel from the decommissioning funding case to the MLA-3 license amendment proceeding regarding proposed management changes at SFC. Motion at 5-6.

NACE opposes the requested extension. While the blizzard may have cost the NRC about a week's time, the stay granted by the Board was extremely generous. As of January 22, seven weeks remained in which that loss might be made up. At best, it is premature for the staff to ask for an additional stay now, when almost two months remain available for negotiations.

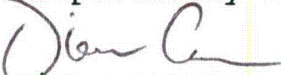
Moreover, there is no justification for delaying this proceeding while the staff completes the MLA-3 safety review. The

MLA-3 license amendment application, which was first filed in May of 1994, revised in November of 1994, and revised and superseded by a new application on March 3, 1995, has now been pending for almost two years. During that time, SFC has made substantial staffing and management changes without NRC licensing approval.² Despite these changes, the staff has unconscionably delayed its safety review, allowing ten months to pass since SFC's most recent revision to the application.³ Only with prodding from the Licensing Board in the MLA-3 case has the staff recently committed to attempt to produce a safety report by mid-February. The fact that the staff is finally embarking on its long-overdue review does not support delaying the schedule for these settlement negotiations.

Conclusion

For the foregoing reasons, the NRC staff's motion for a modification of the settlement schedule should be denied.

Respectfully submitted,



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January 30, 1996

² See Inspection Report 94-01 (May 27, 1994), Inspection Report 95-01 (April 7, 1995).

³ See Native Americans for a Clean Environment's and Cherokee Nation's Brief in Opposition to Sequoyah Fuels Corporation's License Amendment Application at 3-4 (November 17, 1995), in Docket No. 40-8027, MLA-3.

CERTIFICATE OF SERVICE

I certify that on January 30, 1996, copies of the foregoing
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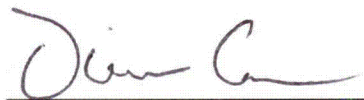
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