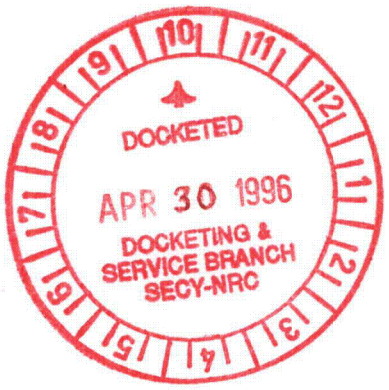

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

GENERAL ATOMICS' RESPONSE TO INTERVENORS' BRIEF ON APPEAL OF LBP-95-18 AND STATE OF OKLAHOMA'S AMICUS CURIAE BRIEF

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April 29, 1996

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INTRODUCTION

In accordance with (1) the February 27, 1996 Memorandum and Order (CLI-96-3) of the U.S. Nuclear Regulatory Commission ("Commission" or "NRC"), and (2) the March 25, 1996 Order of the Commission, General Atomics respectfully submits this brief in response to the Intervenor's Brief on Appeal of LBP-95-18 ("Intervenors' Brief") and the State of Oklahoma's Amicus Curiae Brief ("State's Brief").

In their effort to obstruct the Settlement Agreement between the NRC Staff and Sequoyah Fuels Corporation ("SFC"), Native Americans for a Clean Environment and the Cherokee Nation (collectively, the "Intervenors") and the State of Oklahoma (the "State") have offered briefs which are argumentative, but which present no substantive argument. And, contrary to the express provisions of the Commission's March 25, 1996 Order (which required that the State of Oklahoma's amicus curiae brief "be served in a manner to ensure receipt by . . . the other parties by close of business (Eastern time) April 12, 1996"), the State's Brief was not received by General Atomics until April 23, 1996, some 11 days late.[1]

For these reasons and those which are set forth below, General Atomics respectfully submits that the October 26, 1995 Memorandum

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[1] Even then, the copy was received by telecopy from another party to the proceeding, not from the State of Oklahoma. Contrary to the Certificate of Mailing which is attached to the State's Brief, General Atomics has never received a copy of the brief from the State of Oklahoma.

and Order of the Atomics Safety and Licensing Board ("Licensing Board") which approved the NRC Staff-SFC Settlement Agreement, must be affirmed.

STATEMENT OF FACTS

In their continuing efforts to prolong litigation and to prevent a peaceful settlement of a contested proceeding between the NRC Staff and SFC that has already taken well over two years, the Intervenors and the State are not content to rely upon argument. Rather, they incorrectly state as "facts," matters which have never been adjudicated, which are patently untrue, which are baseless and slanderous, or which are speculative by any standard. Indeed, the two briefs are replete with unsubstantiated and offensive assertions of purported "fact."

First, the Intervenors state that the Memorandum and Order of the Licensing Board which approved the NRC Staff-SFC Settlement Agreement "ignores the fact that SFC is controlled by other corporations having the capacity for and vested interest in using SFC for their own financial purposes rather than conserving SFC's funds [for the] cleanup of the SFC site" (emphasis added).[2] The Intervenors also assert that the Settlement Agreement is deficient because it "fails to ensure that GA will not improperly exercise its control over SFC to serve its own financial interests rather than ensure the conservation of funds for decommissioning"

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[2] Intervenor's Brief, p. 2.

(emphasis added).[3] The Intervenors further state that General Atomics "reneged on its [alleged] promise" to pay decommissioning costs that could not be met by SFC,[4] thereby implying a wrongful breach of some contractual provision. Similar assertions of "fact" are made elsewhere.[5]

Nowhere in their entire brief do the Intervenors offer any evidence of the purported "fact" that General Atomics "controls" SFC. General Atomics has never had any reason to hide the obvious fact that as a condition of the Commission's approval of the transfer of the SFC license in 1988, it agreed to accept certain audit responsibilities in connection with the SFC Facility which had previously been exercised by Kerr-McGee Corporation. The responsibilities were accepted in order to ensure the safety of the SFC Facility (e.g., by auditing safety-related activities involving health physics, radiation protection, etc. and by verifying SFC compliance with NRC license conditions, applicable federal and state regulations, etc.), not for the purpose of controlling the management of SFC. Since this proceeding was commenced, General Atomics has consistently and vigorously denied that it has exercised control of SFC. It has also consistently and vigorously denied that the Commission has jurisdiction over General Atomics to

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[3] Id., at p. 8.

[4] Id., at pp. 3-4.

[5] Id., at pp. 21-22.

determine the issue.[6]

It is undisputed that General Atomics is not a licensee of the Commission in connection with the SFC Facility. It is also undisputed that General Atomics has not even been charged with any form of wrongful conduct. There are no allegations in the NRC Staff's October 15, 1993 Order (the "October 15, 1993 Order") that General Atomics has violated any statute, Commission rule, or any other rule of law. Indeed, the NRC Staff expressly stated in an open hearing before the Licensing Board that General Atomics is not charged with any kind of improper conduct.[7] It is malicious, misleading and unfair, therefore, for the Intervenors and the State to assert or imply as "fact" that SFC is controlled by General Atomics, that there is a serious danger that General Atomics will

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[6] See, e.g., General Atomics' Motion for Summary Disposition or for an Order of Dismissal and Supporting Brief (February 17, 1994); General Atomics' Petition for Review of LBP-94-17 and/or Motion for Directed Certification (June 24, 1994).

[7] At a January 27, 1995 hearing before the Atomic Safety and Licensing Board, questions were asked by a member of the Board and answered by the NRC Staff Counsel as follows:

ADMINISTRATIVE JUDGE KLINE: At the moment, as the record stands before us though, the question of wrongdoing is not even hinted at in our record at present, is it?

MS. UTTAL: No.

ADMINISTRATIVE JUDGE KLINE: And in fact, the order that the Staff issued to the General Atomics was not premised on any allegation of wrongdoing, isn't that correct?

MS. UTTAL: That's correct.

Transcript, January 27, 1995 Hearing, p. 200.

cause a future "improper dissipation" of SFC's assets,[8] and that General Atomics has engaged in some unlawful conduct which requires it to be "secretive."[9]

The State makes an assertion of "fact" that is so demonstrably untrue as to cast doubt on every other statement in its brief. Conceding that SFC is the only licensee for the SFC Facility, the State nevertheless declares boldly that "The Board has previously found both SFC and GA jointly and severally liable for the decommissioning costs of the SFC site."[10] Since a hearing date has not even been scheduled, this assertion does not deserve or require a response.

Other misstatements also appear in the "Factual Background" of the Intervenors' Brief and in the State's Summary of Facts. Some of the misstatements have been previously pointed out to the Intervenors, but they continue to be made. At page 3 of their brief, the Intervenors state that "after finding significant radioactive and chemical contamination at the [SFC] site, the NRC issued a series of enforcement orders, and the plant was shut down for 5 months in late 1991 and early 1992." The State asserts that the SFC Facility was shut down in November 1992 because of a

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[8] Intervenors' Brief, pp. 2, 7, 21.

[9] State's Brief, p. 4.

[10] State's Brief, p. 12.

release of nitrogen dioxide.[11] The clear and apparently intended implications are that the Commission ordered the closing of the SFC Facility and that it did so because of significant radioactive and chemical contamination.

In fact, operations at the SFC Facility were shut down by the Company in September 1991 for regular annual maintenance. The NRC later modified the license of SFC requiring the plant to remain shut down until certain changes were made in health, safety and environmental procedures.[12] In April 1992, SFC received permission from the Commission to begin a phased restart of operations at its facility. Operations were, in fact, subsequently resumed. In November 1992, however, the Board of Directors of SFC concluded that uranium hexafluoride conversion operations were no longer profitable, that the Company could not continue to operate its facility economically, and that a new business arrangement was the alternative for providing for SFC's decommissioning and remediation costs. Operations were then ceased, but not as a result of the release of nitrogen dioxide in November, 1992.

General Atomics also rejects the Intervenors' and the State's statements of "fact" that the decision by the NRC to permit SFC to resume operations at its facility was "based in part on oral and written commitments by GA CEO J. Neal Blue to fulfill any

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[11] State's Brief, p. 4.

[12] Over the course of the next several months and at a cost in excess of $25 million, SFC took numerous actions to meet the requirements imposed by the NRC.

decommissioning funding requirements that could not be met by SFC," and that the "NRC ordered the restart in reasonable reliance on GA's promise to fulfill this commitment."[13] Even if the purported statements of General Atomics' CEO were relevant to any issue in this proceeding -- which General Atomics strongly denies -- the Intervenors have offered no evidence that the Commission reasonably relied on them. Moreover, since the concerns that caused the SFC Facility to remain shutdown had already been adequately resolved, the NRC had no choice but to permit the restart of operations.[14]

While the parties dispute the intent and meaning of the statements of General Atomics' CEO, it is undisputed that the statements were voluntary. Contrary to the suggestion of the Intervenors, it is also undisputed that the Staff does not intend to use the voluntary statements in an effort to prove a case against General Atomics on the basis of "some type of common law [sic] quasi-contractual, promissory estoppel, contract, detrimental reliance type theory."[15] At the January 19, 1994 Prehearing Conference, counsel for the NRC Staff (Mr. Hom) stated that: "The

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[13] Intervenors' Brief, pp. 3-4; State's Brief, p. 5.

[14] Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-85-9, 21 NRC 1118, 1124 (1985); Pan American Airways v. C.A.B., 684 F.2d 31 (D.C. Cir. 1982); Northwest Airlines v. C.A.B., 539 F.2d 846 (D.C. Cir. 1976); Airline Pilots Ass'n, International v. C.A.B., 458 F.2d 846 (D.C. Cir. 1972), cert. denied, 420 U.S. 972 (1975).

[15] Hearing before the Atomic Safety and Licensing Board, May 31, 1995, Transcript, pp. 251-252.

Staff at this time is not relying upon a contract or quasi-contract theory stemming from purported reliance by the Commission on statements of General Atomics."[16]

Even after this series of misstatements, the Intervenors glibly presume to state as "fact" their own speculation about the motives of the parties who were instrumental in the establishment of the business joint venture known as "ConverDyn." Citing no evidence whatsoever, the Intervenors state that "In lieu of guaranteeing decommissioning funding for the SFC site, GA helped to create a new business entity called 'ConverDyn' whose purpose was to carry out the remainder of SFC's contracts for processing uranium."[17]

Since General Atomics does not have and has never had any legal obligation to guarantee decommissioning funding for the SFC Facility, it hardly needed to create a new business entity "in lieu of" any such obligation. Moreover, General Atomics did not create ConverDyn. As the Intervenors themselves note,[18] ConverDyn is a joint venture of Allied-Signal Energy Services, General Atomics Energy Services, Inc., and General Atomics Energy Services Limited Partnership. The Intervenors' unwillingness to accept even the most rudimentary principles of corporate law cannot change what

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[16] Prehearing Conference, January 19, 1994, Transcript, pp. 106-107.

[17] Intervenors' Brief, p. 4.

[18] Id. at Footnote 3.

are, in reality, these "facts."

ARGUMENT

I. GENERAL ATOMICS HAS NO OBLIGATION FOR SFC'S DECOMMISSIONING RESERVE OR LETTER OF CREDIT, NEITHER OF WHICH IS AFFECTED BY THE SETTLEMENT AGREEMENT.

The Intervenors' first objection to the NRC Staff-SFC Settlement Agreement is based upon a misunderstanding of the accounting meaning and treatment of SFC's decommissioning reserve. It is also based on the type of hyperbole which the parties to this proceeding have come to expect from the Intervenors in connection with purported "commitments."

In their written objection to the Settlement Agreement when it was under consideration by the Board, the Intervenors mistakenly treated SFC's decommissioning reserve not for what it is (i.e., a balance sheet accounting mechanism which indicates that retained earnings have been appropriated by a company in accordance with legal or contractual requirements or as a result of authorization by its board of directors), but rather as a separate "source of decommissioning funding" which has been "set aside and protected from incursions by other business expenses."[19] SFC subsequently explained fully the nature and purpose of its decommissioning

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[19] Intervenors' Brief, p. 11; Native Americans for a Clean Environment's and Cherokee Nation's Reply to SFC's and NRC Staff's Replies to Intervenors' Response to Settlement Agreement (September 25, 1995), p. 9.

reserve,[20] but the Intervenors have simply ignored that explanation and continue to present argument based upon the erroneous assumption that the reserve has to at least be backed by cash or other assets.

The Intervenors have also refused to acknowledge the obvious facts that SFC is continuing to maintain the reserve account and that the NRC Staff-SFC Settlement Agreement imposes obligations upon SFC that are substantially broader than that company's obligation to maintain a decommissioning reserve. SFC has pledged in the Settlement Agreement to devote all of its net assets and net revenues to decommissioning. As the Licensing Board has pointed out,[21] [t]he premise underlying the terms of the Agreement is that the NRC will receive from SFC "all that the NRC would be entitled to receive in the absence of an agreement and a decision issued in NRC's favor." SFC can offer nothing more.

As part of their endless search for an additional "pocket" -- any pocket -- from which the decommissioning costs might be paid, the Intervenors next assert that General Atomics is somehow responsible for SFC's decommissioning reserve. Referring generally to an October 18, 1988 letter in which the then president of Sequoyah Holding Corporation ("SHC") described (1) an SFC policy of "accruing decommissioning and reclamation expense for specific

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[20] SFC's Reply to Intervenors' Renewed Opposition (September 29, 1995), pp. 5-6.

[21] Memorandum and Order (Approval of Settlement Agreement) October 26, 1995, p. 9.

waste disposal projects and decommissioning activities," and (2) SFC's intent to continue the policy after the ownership of SFC was transferred from Kerr-McGee to SHC, the Intervenors leap to the totally unjustified conclusion that the SFC-expressed intention was somehow legally binding not only upon SFC's parent company, Sequoyah Fuels International Corporation ("SFIC"), but also upon SFIC's parent company, SHC, and also upon SHC's parent company, General Atomics -- the third-tier parent company of SFC.[22]

It is important to remember that SFIC, SHC, and General Atomics are not licensees of the Commission. The license issued by the NRC to SFC places no obligations on any of the three companies other than the above-described audit responsibilities which had been performed by SFC's previous owner and which were agreed to by General Atomics. SFIC and SHC are not even parties to the proceeding below.[23] And, at least one of the Intervenors has admitted that it is "precluded from advocating any measures beyond the scope" of the NRC Staff's October 15, 1993 Order.[24]

In order for SFIC and SHC, much less General Atomics to be

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[22] A description of the history of the corporate relationship of these companies appears in General Atomics' Answer to the NRC Staff's First Set of Interrogatories (June 29, 1994), p. 2. It is repeated in the Intervenors' Brief, pp. 2-3, Footnote 1.

[23] The State incorrectly states that Kerr-McGee "sold SFC in 1988 to General Atomics." State's Brief, p. 3. In fact, SFC was purchased by SHC.

[24] Native Americans for a Clean Environment's Reply to Sequoyah Fuels Corporation's Answer in Opposition to NACE's Motion to Intervene" (December 30, 1993), p. 9.

held liable for the obligations of their subsidiary company, a fundamental doctrine of law would have to be overcome. It has long been accepted as one of the first principles of American law that those who own shares in corporations, whether such shareholders are individuals or are themselves corporations, normally are not liable for the debts or other obligations of their corporations, especially where fraud or other wrongful conduct is not present.[25] Consequently, neither the Licensing Board nor the Commission has jurisdiction over any of the three companies. Neither the Licensing Board nor the Commission have legal authority to order any of the companies to "make up [any] shortfall" in SFC's decommissioning costs, even if it had been intended that the decommissioning reserve would be backed by cash.

The Intervenors no doubt find the corporate doctrine of limited liability for shareholders to be inconvenient to their clear desire to spread liability for the decommissioning of the SFC Facility as broadly as possible, irrespective of the law. Nothing in the history of the Atomic Energy Act, however, indicates that Congress intended to alter so substantially a basic tenant of corporate law. Since Congress is quite capable of creating statutes that hold shareholders liable for the acts of valid

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[25] See, e.g., the Revised Model Business Corporation Act, § 6.22(b), which states that "Unless otherwise provided in the articles of incorporation a shareholder of a corporation is not personally liable for the acts or debts of the corporation except that he may become personally liable by reason of his own acts or conduct." See also, Joslyn Manufacturing Company v. T.L. James & Co., Inc., 893 F.2d 80 (5th Cir. 1990), cert. denied, 111 S.Ct. 1017 (1991).

corporations,[26] the Intervenors' attempt to have SFIC, SHC and General Atomics held liable for SFC's decommissioning reserve, must be categorically rejected.

In the same manner, the Commission must reject the Intervenors' argument that the NRC Staff-SFC Settlement Agreement should be modified to commit to decommissioning, the principal and interest earned on the cash collateral account which was required by the bank that issued a letter of credit in favor of SFC. This matter is totally outside the scope of the October 15, 1993 Order. The argument is also with merit. As the Settlement Agreement clearly states, General Atomics voluntarily deposited $750,000.00 in a cash collateral account "held by GA at a financial institution so that SFC could obtain a letter of credit . . . for purposes of compliance with 10 CFR § 40.36 . . . ."[27] While SFC obviously benefitted from the establishment of the account, the money in the account was not loaned to SFC by General Atomics and neither the principal nor the interest earned have ever been the property of SFC.

This issue is not new. The same argument was made by the Intervenors to the Licensing Board. Assuming honest confusion on the part of the Intervenors, SFC patiently explained the terms of

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[26] Id.

[27] NRC Staff-SFC Settlement Agreement, paragraph 4b. The State asserts that General Atomics has an "obligation" to "guarantee" a $750,000.00 line of credit for SFC. State's Brief, p. 5. The assertion is totally false.

the letter of credit and its relationship to the cash collateral account.[28] Obviously, the Intervenors do not presently suffer from honest confusion about the letter of credit, the cash collateral account, or their possible relationship to the NRC Staff-SFC Settlement Agreement. Any obligation to General Atomics which SFC incurred when General Atomics posted the $750,000.00 in the cash collateral account is clearly unaffected by the terms of the Settlement Agreement. The NRC is neither impacted by nor involved in the resolution of any such obligation. In continuing their challenge to the Settlement Agreement on this ground, therefore, the Intervenors -- in the words of the Licensing Board -- "do not present arguments of substance."[29]

II. GENERAL ATOMICS HAS NEITHER THE INTENT NOR THE INCENTIVE TO REQUIRE SFC TO PAY THE DEBT TO KERR-MCGEE.

In arguing that the NRC Staff-SFC Settlement Agreement fails to protect SFC resources from "improper claims," the Intervenors advance another argument that is totally without merit and which was found by the Licensing Board to be immaterial to the Settlement Agreement. The argument is once again characterized by the kind of hysterical rhetoric that prevents it from being treated seriously.

General Atomics does not deny that a 1988 loan by Kerr-McGee

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[28] SFC's Reply to Intervenors' Renewed Opposition (September 29, 1995), pp. 6-8.

[29] Memorandum and Order (Approval of Settlement Agreement), October 26, 1995, p. 5.

Corporation to SFC, SHC and SFIC was secured by a lien on SFC's real property. It is sheer absurdity, however, for the Intervenors to object to the Settlement Agreement on the ground that "GA has an obvious incentive to discharge its other subsidiaries' debt to Kerr-McGee by having SFC pay for it."[30] This argument incorrectly assumes facts which have not been determined and which could not be determined without a full adjudication, namely, that General Atomics has the authority, or at least the capability and intent to exercise the capability, to plunder the resources of its third-tier subsidiary. The argument also assumes incorrectly that General Atomics has a strong incentive to engage in such plunder. SFC has already explained the frivolous nature of the argument:

> "It should be noted that the Kerr-McGee note is the obligation of SFC, Sequoyah Fuels International Corporation and Sequoyah Holding Corporation, and not GA. Kerr-McGee has no claim on GA for the $10.6 million due pursuant to the note. Therefore, GA does not have any incentive to engage in the Machiavellian scheme hypothesized by Intervenors."[31]

While it is not a factor that is necessary to a rejection of the argument, it is a fact that Kerr-McGee has confirmed its intention to defer taking legal action to enforce its rights against SFC, SFIC and SHC "until the completion of the decommissioning of the SFC facilities in Gore, Oklahoma."[32]

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30 Intervenors' Brief, p. 17.

31 SFC's Reply to Intervenors' Renewed Opposition, pp. 2-3.

32 Id., at Attachment 1.

III. THE CORPORATE RELATIONSHIP BETWEEN SFC AND ITS THIRD-TIER CORPORATE PARENT IS NOT RELEVANT TO THE QUESTION OF WHETHER SFC CAN GIVE MORE THAN ITS NET ASSETS AND NET REVENUES TO THE DECOMMISSIONING.

The desire of the Intervenors and the State to avoid settlement and to continue the litigation is nowhere more apparent than in their respective arguments that the NRC Staff-SFC Settlement Agreement is defective because the "corporate and financial relationship" between SFC and General Atomics has not been "fully investigated through discovery or adjudication,"[33] and that the NRC Staff-SFC Settlement Agreement is "premature" because there has been no full adjudication of the SFC-General Atomics relationship or the scope of the NRC's jurisdiction.[34] Those issues are the central subject of the first phase of the bifurcated proceeding below.

General Atomics believes, of course, and continues to assert that the Commission lacks statutory authority to hold it liable for SFC's decommissioning costs. Although the Licensing Board denied General Atomics' Motion for Summary Disposition on the issue, no court of law has addressed the question. And, even the Licensing Board is of the view that the question of the Commission's jurisdiction over General Atomics depends upon the full adjudication of "a number of material facts" concerning the degree

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[33] Intervenors' Brief, p. 21.

[34] State's Brief, pp. 11-12.

of General Atomics' involvement in the affairs of SFC.[35]

The NRC Staff-SFC Settlement Agreement is expressly premised on the acknowledgement of both the Staff and SFC that "it is in the public interest to avoid the dissipation of their manpower and financial resources in litigation, particularly since it is in the public interest that SFC's resources be devoted to completion of decommissioning of the Sequoyah Facility."[36] A Commission requirement to litigate the question of the corporate and financial relationship between SFC and General Atomics, all as part of the adjudication of the Commission's jurisdiction over General Atomics, would directly violate the Commission's long-standing policy of encouraging the settlement of contested proceedings.[37] It would also undermine the settling parties' desire to devote their manpower and financial resources to the completion of decommissioning, rather than to wasteful and avoidable litigation.

IV. THERE IS NO REASON TO DELAY APPROVAL OF THE SETTLEMENT AGREEMENT.

In its February 27, 1996 Memorandum and Order (CLI-96-3), the Commission observed that answers to three questions set forth in

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[35] Memorandum (Ruling on Motions for Summary Disposition or Dismissal, Oral Argument, Staying Discovery and Leave to File Reply), June 8, 1994, pp. 9-12.

[36] Joint Motion for Approval of Settlement Agreement (August 24, 1995), Attachment 1 (Settlement Agreement), p. 1.

[37] See 10 C.F.R. §§ 2.759, 2.1241; Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452, 456.

the Order[38] would aid the Commission in its review of the NRC Staff-SFC Settlement Agreement. The first question relates to the financial capability of SFC. It is best answered by SFC's management. The second question relates to the NRC Staff's intentions regarding the review of SFC's financial statements. It is best answered by the NRC Staff.

The third question seeks information regarding the prejudice that would occur if the Commission should delay final approval of the Settlement Agreement until after the NRC Staff and General Atomics conclude their settlement negotiations. As a third-tier shareholder of SFC, the prejudice to General Atomics from such delay would be less direct than the prejudice to SFC, but it would be no less real. The mere existence of the October 15 Order during the last two and one-half years has adversely and significantly affected the credit rating of General Atomics and its ability to engage in its regular business activities, irrespective of the lawfulness or the merits of the Order. Any major claim by the Federal Government has definite consequences in the market place for companies which are affected.

The militant and unreasonable litigation in which the Intervenors and the State have engaged in opposition to the instant Settlement Agreement, demonstrates vividly the kind of litigation that can be expected if the NRC Staff and General Atomics successfully conclude their own negotiations. Eight months have

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[38] CLI-96-3, p. 2.

already elapsed since the Staff and SFC requested approval of their Settlement Agreement. Who can predict how many additional months would pass before the Licensing Board and the Commission finally approved an NRC Staff-General Atomics Settlement Agreement? It would be irresponsible and very unfair to both SFC and General Atomics to permit uncertainty about the NRC Staff's claim against SFC to linger one minute longer than is absolutely necessary.

A delay in resolving the issue would also accomplish nothing. The only issue currently before the Commission is the question of whether the NRC Staff-SFC Settlement Agreement is, as the Intervenors and the State allege, contrary to the public interest. The Agreement requires SFC to devote <u>all</u> of its net assets and net revenues to decommissioning. It can not pledge more, whatever the terms of any settlement agreement between the NRC Staff and General Atomics. In short, the NRC Staff-SFC Settlement Agreement would not be affected by any NRC Staff-General Atomics Settlement Agreement. Consequently, additional delay should not be permitted and the Staff-SFC litigation should be promptly, and finally, terminated.

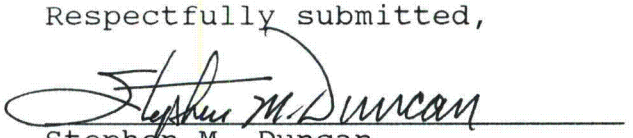
CONCLUSION

The NRC Staff-SFC Settlement Agreement requires SFC to devote all of the resources to which it is lawfully entitled to the decommissioning of the SFC Facility. It permits the full exercise by the NRC Staff of its broad authority to enforce the Agreement. It brings to an end expensive litigation. Nothing more could be fairly asked of any settlement agreement.

The arguments advanced by the Intervenors and the State are totally without merit. If made in court, they might well elicit a motion for sanctions pursuant to Federal Rule of Civil Procedure 11 (c)(1)(A).

For these reasons, the NRC Staff-SFC Settlement Agreement is clearly in the public interest and the October 26, 1995 Memorandum and Order of the Licensing Board should be promptly affirmed.

Respectfully submitted,



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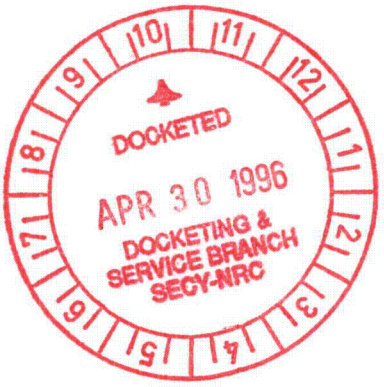

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of	)	Docket No. 40-8027-EA
SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS	)	Source Material License No. SUB-1010
(Gore, Oklahoma Site Decontamination and Decommissioning Funding)	)	April 29, 1996

CERTIFICATE OF SERVICE

I hereby certify that the foregoing General Atomics' Response to Intervenors' Brief on Appeal of LBP-95-18 and State of Oklahoma's Amicus Curiae Brief on April 29, 1996, upon the following persons by deposit in the United States mail, first class postage prepaid and properly addressed, and to those persons marked with an asterisk by telecopier:

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U.S. Nuclear Regulatory Commission
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Attention: Docketing & Service Branch
(Original and two copies)

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