

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'96 JUN 20 P1:41

Before Administrative Judges:

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Thomas D. Murphy
Alternate Board Member

SERVED JUN 20 1996

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 20, 1996

ORDER
(Granting Additional Stay
of Discovery)

Upon consideration of the June 14, 1996 NRC staff/General Atomics (GA) joint motion for extension of the stay of discovery, and there being no opposition thereto from intervenors Native American for a Clean Environment (NACE) and the Cherokee Nation,¹ it is

ORDERED, that the joint motion for extension of the discovery stay is granted; and it is

FURTHER ORDERED, that all discovery activities suspended in accordance with the Board's prior discovery

¹ On June 19, 1996, counsel for NACE and the Cherokee Nation advised the Board by telephone that the intervenors did not intend to file any response to the staff/GA joint discovery stay extension request.

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stay orders will continue to be stayed through Monday, July 1, 1996; and it is

FURTHER ORDERED, that if the staff and GA want an additional stay of discovery beyond July 1, 1996, on or before Tuesday, June 25, 1996, the staff and GA shall file a motion requesting a stay extension that addresses both the factors of "significant progress" and substantial prejudice outlined in the Board's November 13 and December 8, 1995 issuances;² and it is

² By letter filed on the June 3, 1996 due date for requesting a further discovery stay extension, staff counsel advised the Board that although the staff and GA were preparing to file an executed settlement agreement by the June 14, 1996 date upon which the existing discovery stay was to end, "unexpected events" might arise that would require a further stay extension. Letter from Steven Hom, NRC Staff Counsel, to the Licensing Board (June 3, 1996). As the basis for their June 14, 1996 joint extension motion, which the Board received by facsimile transmission on 4:30 p.m. that day, the staff and GA rely on the need for (1) Commission approval of a related staff action regarding another GA facility; (2) further assistance concerning establishing a trust fund; and (3) coordination with another federal agency. See NRC Staff's and [GA's] Joint Motion for Extension of Stay of Discovery Through July 1, 1996 (June 14, 1996) at 2-4.

Certainly, "last minute" problems may occur that could delay an expected settlement. As described in the joint extension motion, however, at least some of the delays involved do not appear to be of the type that are so "unexpected" as to justify the staff and GA waiting until literally the last minute to file their extension request. This is particularly disturbing here because intervenors, who previously indicated they intended to oppose future extension requests, were deprived of the opportunity to respond before the date the stay was due to expire. See id. at 7 (staff unsuccessful in attempting to reach intervenors' counsel "[i]mmEDIATELY prior to the filing of this motion"

(continued...)

FURTHER ORDERED, that intervenors NACE and the Cherokee Nation shall have up to and including Thursday, June 27, 1996, within which to file a response to a staff/GA request for a further stay extension; and it is

FURTHER ORDERED, that if either the staff or GA informs the Board that it does not wish to continue settlement negotiations, the stay entered by this order shall be terminated immediately; and it is

FURTHER ORDERED, that if the stay extended by this order is terminated for any reason, all discovery activities shall recommence within five days of the date of termination under the same schedule that was in effect prior to entry of the Board's initial August 30, 1995 stay order;³ and it is

(...continued)
to determine whether they oppose the motion).

We strongly suggest that in the future the staff and GA let the Board and the intervenors know about any "last minute" delays that require a further discovery stay extension as soon as the staff and GA are reasonably sure they will be unable to meet the deadline for submitting an agreement.

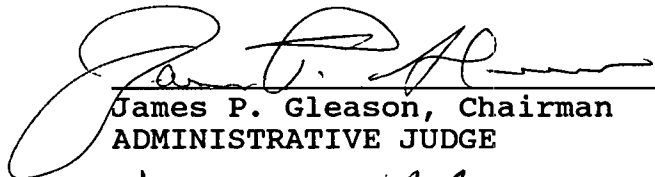
³ For example, if on the date of the Board's August 30, 1995 order a party had three days remaining within which to answer certain interrogatories, that party would have eight days after the stay is terminated to answer the interrogatories. Any activities that were due to be completed before the August 30, 1995 order was entered but were delayed because of the pendency of the initial stay request are due within five days of termination of the stay. The parties previously have recognized that depositions scheduled but delayed by the discovery stay will have to be rescheduled by the new discovery completion date established under this order.


FURTHER ORDERED, that if the stay extended by this order is terminated for any reason the discovery completion date for this phase of the proceeding will be the date that is sixteen days from the date of the termination of the stay; and it is

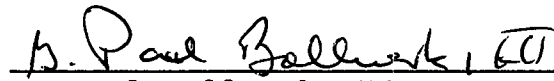
FURTHER ORDERED, that besides service by regular mail, copies of any staff/GA stay extension motion or stay termination declaration, or any response to a staff/GA stay extension motion shall be sent to the Office of the Secretary, the Board, and counsel for the other parties

before the Board by facsimile transmission or other means that will ensure its receipt by 4:30 p.m. EDT on the day of filing.

THE ATOMIC SAFETY
AND LICENSING BOARD⁴


James P. Gleason, Chairman
ADMINISTRATIVE JUDGE


Jerry R. Kline
ADMINISTRATIVE JUDGE


G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

June 20, 1996

⁴ Copies of this order are being sent this date to counsel for GA, NACE, and the Cherokee Nation by facsimile transmission and to staff counsel by E-mail transmission through the agency's wide area network system.

**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 ORDER (GRANTING STAY) 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
G. Paul Bollwerk, III
Atomic Safety and Licensing Board
Mail Stop T-3 F 23
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
Mail Stop T-3 F 23
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Alvin H. Gutterman, Esq.
John E. Matthews, Esq.
Morgan, Lewis & Bockius LLP
1800 M Street, N.W.
Washington, DC 20036**

**Administrative Judge
James P. Gleason, Chairman
Atomic Safety and Licensing Board
Mail Stop T-3 F 23
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board
Mail Stop T-3 F 23
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Steven R. Hom, Esq.
Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop 0-15 B 18
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Diane Curran, Esq.
Harmon, Curran, Gallagher & Spielberg
2001 S Street, Suite 430
Washington, DC 20009**

Docket No.(s)40-8027-EA
LB ORDER (GRANTING STAY)

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

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

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


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

William F. O'Brien, OBA #6736
Assistant Attorneys General
2300 N. Lincoln Blvd.
State Capitol Building, Room 112
Oklahoma City, OK 73105

James G. Wilcoxon, Esquire
Wilcoxon, Wilcoxon & Primomo
P.O. Box 357
Muskogee, OK 74402

Betty Robertson
HCR 68 Box 360
Vian, OK 74962

Dated at Rockville, Md. this
20 day of June 1996


Office of the Secretary of the Commission