



OFFICE OF THE
GENERAL COUNSEL

~~RELATED CORRESPONDENCE~~
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 13, 1995

DOCKETED
USNRC

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Jeanine Hale, Assistant Attorney General
Environmental Protection
Office of the Attorney General of Oklahoma
2300 N. Lincoln Blvd., Suite 112
Oklahoma City, OK 73105-4894

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of
SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS
Docket No. 40-8027-EA

Dear Ms. Hale:

This letter is in response to your letter of September 29, 1995, to Steven R. Hom of this office regarding the proposed Settlement Agreement between the NRC and Sequoyah Fuels in the above referenced matter.

In order to become effective, the proposed agreement must be approved by the Atomic Safety and Licensing Board. I have forwarded a copy of your letter to the Board and the parties.

For your information, I have enclosed herewith a copy of the NRC staff's comments to a letter objecting to the proposed settlement from the U.S. Army Corps of Engineers.

Thank you for your courtesies in this matter.

Sincerely,

Susan L. Uttal
Counsel for NRC Staff

Attachment: As stated

cc: Service List

DESIGNATED ORIGINAL

Certified By DOS-07 CFFK

SECY-040

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September 29, 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S COMMENTS ON THE CORPS OF ENGINEERS' LETTER

On September 25, 1995, the Atomic Safety and Licensing Board issued an Order (Request for Information) which provided an opportunity for the parties to the proceeding to submit comments on a letter from the Corps of Engineers of the Department of the Army, dated September 11, 1995. In its letter the Corps expressed its objections to the proposed Settlement Agreement between the staff of the Nuclear Regulatory Commission (Staff) and Sequoyah Fuels Corporation (SFC). The Corps of Engineers objects to the Settlement Agreement in that "[i]t appears that the present settlement does not provide for full financial commitments by Sequoyah Fuels nor General Atomics to remediate the site." In addition, the Corps of Engineers states that "[i]t further appears that the settlement agreement would prohibit certain future actions regarding enforcement of regulations in the event that Sequoyah Fuels was not able to fully fund a remediation action, which would include lands owned by United States adjacent to the plant facility."

DISCUSSION

The proposed Settlement Agreement provides that SFC use the total amount of its present, as well as any future, net assets and revenues, as defined in the agreement, for the completion of decommissioning.¹ Accordingly, the Settlement Agreement does embody a "full financial commitment" by SFC to remediate the site to the extent SFC is required to expend the fullest amount of its financial resources for decommissioning. Thus, the Corps of Engineers' first concern appears to be fully addressed by the Settlement Agreement.²

With respect to the Corps of Engineers' second point, the Settlement Agreement includes provisions whereby the Staff agrees to forbear from further litigation against SFC as to the decommissioning funding issues covered by the October 15, 1993 Order, in consideration of the provisions of the Settlement Agreement that bind SFC and require it to dedicate all of its net assets and revenues for decommissioning purposes. The purpose of this settlement is to resolve all disputed issues with SFC with regard to site remediation funding. To continue to hold out the threat of further enforcement action against SFC would be counterproductive. More importantly, nothing apparent to the Staff can be gained by bringing litigation against SFC after it has expended all of its net

¹ The status of General Atomics (GA) is not at issue here inasmuch as the settlement agreement is between SFC and the Staff.

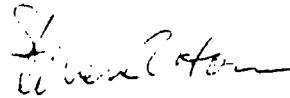
² A final dollar cost to completely remediate the site has yet to be determined, and will not be determined for some time. Given that SFC could not realistically be expected to have unlimited assets and revenues, the Settlement Agreement achieves the maximum relief obtainable from SFC -- that all of SFC's net assets and revenues, both present and future, be dedicated fully and completely for the purpose of decommissioning.

assets and revenues towards decommissioning efforts, even if complete remediation has not been achieved. Under such a scenario, valuable resources of the government would be wasted in meaningless litigation. Accordingly, the concern expressed by the Corps is misplaced, and should not deter the Board from approval of the Settlement Agreement.

Respectfully submitted,



Catherine L. Marco
Counsel for NRC Staff



Steven R. Hom
Counsel for NRC Staff

Dated at Rockville, Maryland
this 29th day of September 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

I hereby certify that copies of "NRC STAFF'S COMMENTS ON THE CORPS OF ENGINEERS' LETTER" in the above-captioned matter have been served on the following by deposit in the United States mail, first class; or as indicated by single asterisk through deposit in the Nuclear Regulatory Commission's internal mail system; or as indicated by triple asterisk by hand delivery this 29th day of September 1995.

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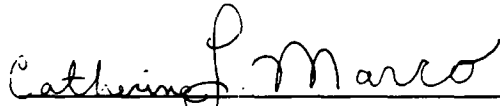
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