

18140

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'97 JAN 22 P1:52

COMMISSIONERS

Shirley Ann Jackson, Chairman
Kenneth C. Rogers
Greta J. Dicus
Nils J. Diaz
Edward McGaffigan, Jr.

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED JAN 22 1997

In the Matter of

SEQUOYAH FUELS CORPORATION
and GENERAL ATOMICS

(Gore, Oklahoma Site
Decontamination and
Decommissioning Funding)

Docket No. 40-8027-EA

CLI-97-01

MEMORANDUM AND ORDER

The State of Oklahoma, Native Americans for a Clean Environment and the Cherokee Nation have filed petitions for Commission review of the Atomic Safety and Licensing Board's Memorandum and Order, LBP-96-24 (Nov. 5, 1996), in which a majority of the Board approved a settlement agreement between the NRC staff and General Atomics (GA) in this proceeding. In a dissenting opinion, Judge Bollwerk raised questions which, in his view, merited further inquiry. The NRC staff and GA oppose Commission review. In accordance with the considerations set forth in 10 C.F.R. § 2.786(b)(4), the Commission has decided that review of LBP-96-24 is appropriate.

Pursuant to 10 C.F.R. § 2.786(d), the Commission sets the following briefing schedule:

9701290040 970122
PDR ADOCK 04008027
C PDR

DS02

1. Intervenor and the State shall file their briefs within 21 calendar days after service of this order. Their briefs shall not exceed 30 pages each.
2. The staff and GA may file responsive briefs within 21 calendar days after service of the petitioners' brief. Their responses shall not exceed 30 pages each.
3. Within 10 calendar days after service of the responsive briefs, intervenors and the State may file reply briefs. Their replies shall not exceed 10 pages each.

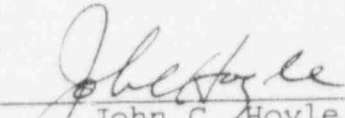
The parties' briefs should address (1) what the role of the Board should be in reviewing settlements; (2) what factors the Board should consider when applying the "public interest" standard governing review of settlements (see Sequoyah Fuels Corp and General Atomics, CLI-94-12, 40 NRC 64, 71 (1994)); (3) the arguments set forth in the petitions for review; and (4) the questions raised by Judge Bollwerk. Briefs exceeding 10 pages must contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited, with references to the pages of the brief where they are cited. Page limitations on briefs are

exclusive of pages containing a table of contents, table of cases, and of any addendum containing statutes, rules, regulations, etc.

IT IS SO ORDERED.



For the Commission¹


John C. Hoyle
Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of January, 1997.

¹ Commissioner Diaz was not available for the affirmation of this Order. If he had been present, he would have approved the Order.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

SEQUOYAH FUELS CORPORATION
GENERAL ATOMICS
(Gore, Oklahoma, Site Decontamination and Decommissioning Funding)

Docket No.(s) 40-8027-EA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMM MEMO & ORDER (CLI-97-1) 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 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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

Administrative Judge
James P. Gleason, Chairman
Atomic Safety and Licensing Board
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Steven N. Hom, Esq.
Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop - O-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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

Docket No.(s)40-8027-EA
COMM MEMO & ORDER (CLI-97-1)

Stephen M. Duncan, Esq.
Bradfute W. Davenport, Jr., Esq.
Mays & Valentine
8201 Greensboro Drive, Suite 800
McLean, VA 22102

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

Jeannine Hale, Esq.
Assistant Attorney General
Environmental Unit
Office of the Attorney General
440 S. Houston, Suite 605
Tulsa, OK 74127

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
22 day of January 1997

Adrian T. Byrdsong
Office of the Secretary of the Commission