

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

COMMISSIONERS:

Glenn T. Seaborg, Chairman  
John G. Palfrey  
James T. Ramey  
Gerald F. Tape



In the Matter of  
GENERAL ELECTRIC COMPANY AND  
SOUTHWEST ATOMIC ENERGY ASSOCIATES

DOCKET NO. 50-231

*(formal)*  
File Copy

MEMORANDUM AND ORDER

An atomic safety and licensing board granted a provisional conditional construction permit for the Southwest Experimental Fast Oxide Reactor (SEFOR) at Cove Creek, Washington County, Arkansas. In doing so the board re-opened the record and ordered that certain supplemental evidence be filed concerning safety questions (which it has now found to be adequately covered, and which are no longer in the case), and as to whether the issuance of a permit would be contrary to Section 104(d) of the Atomic Energy Act of 1954, 42 U.S.C. Sec. 2134(d) and of the regulations, 10 CFR § 50.38, because of the participation of Gesellschaft für Kernforschung m.b.H., a non-profit association of the Federal Republic of Germany owned by the Federal Republic and the State of

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Baden-Württemberg. Matter of General Electric Company and Southwest Atomic Energy Associates, 3 AEC --.

After the submission of further evidence, the board issued a supplemental initial decision rescinding the conditional authorization for a provisional construction permit, and ordered that the application be denied. 3 AEC --.

One of the applicants, General Electric Company, has filed a petition to review the supplemental initial decision. The other applicant, Southwest Atomic Energy Associates, a non-profit association, has moved in the alternative that the Commission either summarily reverse the supplemental initial decision insofar as it denies the construction permit or grant review of that portion of the decision.

The regulatory staff suggests that it would be appropriate to conduct a review of the supplemental initial decision in a single step without requiring exceptions and further briefs or, as a less preferred alternative, that the petitions for review should be granted.


The staff has also moved, with the consent of the applicants, that we take official notice of the terms of the four contracts, all dated as of May 14, 1964, and portions of which have already been received in evidence: (1) an agreement between Southwest Atomic Energy Associates and Gesellschaft für Kernforschung m.b.H.; (2) the SEFOR contract between Southwest Atomic Energy Associates and General Electric Company; the "Program Contract" between Southwest Atomic Energy Associates and General Electric Company; and (4) Contract No. AT(04-3)-540 between United States Atomic Energy Commission and Southwest Atomic Energy Associates, under which a research and development program is to be conducted as a part of the Commission's fast breeder reactor program.

It appearing that substantial and important questions of law, policy and discretion have been raised (10 CFR § 2.762(d)), it is ORDERED:

1. The petitions to review the supplemental initial decision of the atomic safety and licensing board issued on January 7, 1966, are granted;
2. Exceptions and such supplemental briefs as the parties may wish to submit may be filed on or before February 28, 1966;
3. Official notice is taken of the following contracts:
  - (a) Agreement between Southwest Atomic Energy Associates and Gesellschaft für Kernforschung m.b.H.;
  - (b) "SEFOR contract" between Southwest Atomic Energy Associates and General Electric Company;
  - (c) "Program Contract" between Southwest Atomic Energy Associates and General Electric Company; and
  - (d) Contract No. AT(04-3)-450 between United States Atomic Energy Commission and Southwest Atomic Energy Associates;
4. The motion for summary reversal of the supplemental initial decision is denied.

Dated: February 16, 1966.

By the Commission

  
W. B. McCool  
Secretary

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*(for file)*

CERTIFICATE OF SERVICE

I hereby certify that copies of the Commission's MEMORANDUM AND ORDER dated February 16, 1966 in the captioned matter were served on the following by deposit in the United States Mail, first class or air mail, this 16th day of February, 1966:

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Office of the Secretary

cc: Troy Conner, Esq.  
R. Diggs ✓