Courtesy COPY

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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| **The State of Oklahoma,** | ) | |
| | ) | |
| **Petitioner,** | ) | **Case File No.** 04-9523 |
| | ) | |
| **v.** | ) | |
| | ) | |
| **United States Nuclear Regulatory Commission and the United States of America,** | ) | |
| | ) | |
| **Respondents.** | ) | |

**PETITION FOR REVIEW**

The above-named Petitioner hereby petitions for review by this Court of the final order denying the State of Oklahoma's Request for Hearing on the matter of Sequoyah Fuels Corporation's ("SFC") request to amend Source Material License No. SUB 1010 to authorize possession of byproduct material and decommission its facility in Gore, Oklahoma pursuant to that authorization was entered by the United States Nuclear Regulatory Commission ("NRC") on January 8, 2004. A copy of the decision is attached.

To date, no court has upheld the validity of the order.

Jurisdiction is asserted pursuant to 28 U.S.C.A. §2342(4) (1994 & Supp. I 2003).

Venue is asserted pursuant to 28 U.S.C.A. §2343 (1994) because Petitioner has its principal offices located in Oklahoma City, Oklahoma which is within the

The license amendment request will convert the entire SFC facility to a uranium mill tailings site with an onsite disposal cell and grant SFC a new license under 10 C.F.R. §40.31. The fact that the NRC determined a portion of SFC's waste could legally be classified as mill tailings does not mean that SFC has satisfied all the requirements for obtaining a mill tailings license nor does it mean that the entire SFC site should be decommissioned as a mill tailings site under 10 C.F.R. Part 40, Appendix A. Further, it does not relieve the NRC of their obligation to evaluate the impacts of issuing this license in a Safety Evaluation Report and Environmental Assessment. In addition to the legality of reclassifying SFC's waste as 11e(2) byproduct material, the State of Oklahoma raised the following issues with regard to SFC's license amendment in its Request for Hearing on which it is entitled to be heard.

(1) SFC's failure to identify the waste to be reclassified;

(2) SFC's proposal to decommission the entire site under 10 C.F.R. Part 40, Appendix A and terminate the license upon compliance with those regulations;

(3) Removal of the condition requiring decommissioning for unrestricted release and pollutant discharge reporting;

(4) SFC's failure to comply with the requirements for issuance of a uranium mill tailings license in 10 C.F.R. Part 40;

Further, all of these areas of concern are germane to the proceeding and constitute adequate grounds for denying or conditioning SFC's license because they relate directly to SFC's compliance with the statutes and regulations governing issuance of licenses and license amendments under the AEA, as well as the impact of the amendment on public health, safety and the environment.

Therefore, Petitioner prays for a reversal of the decision issued by Respondent and for the grant of Petitioner's Request for Hearing to address the stated concerns.

Respectfully submitted,

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