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

July 6, 1993

MEMORANDUM FOR:           The Chairman  
                                  Commissioner Rogers  
                                  Commissioner Remick  
                                  Commissioner de Planque

FROM:                       James M. Taylor  
                                  Executive Director for Operations

SUBJECT:                    CLARIFICATION OF STAFF REMARKS

At the close of the periodic briefing of the Commission on operating reactors and fuel cycle facilities on June 25, 1993, Commissioner Remick asked a question regarding the criteria that might be used in the decommissioning of the Sequoyah Fuels facility at Gore, Oklahoma.

Dr. John H. Austin responded for the staff. Dr. Austin noted that Sequoyah Fuels had proposed to remediate its site by being declared an 11e(2) byproduct material disposal site, therefore using 10 CFR Part 40, Appendix A, as the criteria. Dr. Austin's description of the Sequoyah Fuels proposal was based upon section 2.2.2 of the Preliminary Plan for Completion of Decommissioning, dated February 16, 1993. That section of the Preliminary Plan suggests that the Sequoyah Fuels decommissioning waste might be able to be characterized as 11e(2) byproduct material, thus importing Appendix A criteria.

OGC has provided informal views that hexafluoride conversion plants had never been considered as uranium mills, and were not contemplated as such in the Uranium Mill Tailings Radiation Control Act of 1978. The uranium contaminated decommissioning wastes at Sequoyah Fuels do not fit the definition of 11e(2) byproduct material and thus fall outside the coverage of the Act. This was the legal advice referred to by Dr. Austin in his remarks to the Commission.

However, even if the decommissioning waste at Sequoyah Fuels could not be characterized as 11e(2) byproduct material that does not preclude the application of 10 CFR Part 40, Appendix A, criteria in the evaluation of the applicant's proposal. As long as the NRC lacks codified residual radiation criteria applicable to fuel cycle decommissioning (apart from uranium mill tailings disposal areas) the staff has the discretion to apply criteria that have been endorsed by policy directive, such as the Site Decommissioning Management Program Action Plan, found in analogous codified regulations, or developed for application to a specific case.

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Dr. Austin's remarks may suggest that, as a consequence of placing the site on the SDMP list, a decision had been made to use the Action Plan criteria, although he noted in response to a comment by the Chairman that if analysis supports something less stringent than Action Plan criteria, the staff would give it serious consideration.

To assure that there is no misunderstanding, we would like to clarify that, although the Sequoyah Fuels site has been put on the SDMP list, no decision had yet been taken by the staff as to the criteria against which the Sequoyah decommissioning effort would be evaluated. Such decision awaits a full site characterization and detailed decommissioning plan, including the nature and extent of the radioactive waste materials, the physical characteristics of the site, and the technical design of any onsite disposal cell.

Original signed by  
James M. Taylor

James M. Taylor  
Executive Director  
for Operations

cc: SECY  
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