



40-8027

Department of Energy

Washington, DC 20585

June 5, 2003

Mr. John H. Ellis
President
Sequoyah Fuels Corporation
P.O. Box 610
Gore, Oklahoma 74435

Dear Mr. Ellis:

This is in response to your November 18, 2002, letter to the Department of Energy (DOE) requesting that DOE concur in a proposal by Sequoyah Fuels Corporation (SFC) to dispose of certain material that is non-11e.(2) byproduct material in the licensed 11e.(2) disposal cell at SFC's site in Gore, Oklahoma. You also requested DOE's concurrence that the proposed disposal would not affect DOE's anticipated role at the site.

Consistent with its responsibilities under section 83 of the Atomic Energy Act of 1954, 42 U.S.C. §2113, DOE is prepared, at the request of the Nuclear Regulatory Commission (NRC), to take title to the Gore site and the 11e.(2) byproduct material at the site, if the State of Oklahoma does not exercise its option to do so. Section 83 requires that the licensee transfer the land and byproduct material without cost to the United States and provides that the receiving agency's sole responsibilities are to monitor and maintain the site and to take any emergency measures necessary to protect public health and safety, as required by the NRC.

As your letter noted, NRC's *Regulatory Issue Summary 2000-23* allows the NRC to approve the disposal of non-11e.(2) material in 11e.(2) byproduct material disposal cells. However, as a prerequisite to its approval of the requested disposal of such material, the NRC requires a certification by the licensee that, among other things, the potential long-term custodian concurs in the disposal of the non-11e.(2) material and commits to take title to the site after the NRC license is terminated.

Any disposal of material at the SFC 11e.(2) byproduct material cell must be consistent with the requirements of section 83 and the NRC policy (RIS 2003-23). Based on your representations concerning the material at the SFC site, and subject to the ability of SFC to satisfy the remaining criteria of section 83 and RIS 2000-23, DOE would not object to the disposal of the subject non-11e.(2) material in the SFC 11e.(2) byproduct material disposal cell.

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DOE is committed to ensuring that, in the event of a transfer of the site to DOE, the relevant provisions of section 83 are met, particularly those requiring that transfers occur at "no cost to the United States." These provisions will help to ensure that DOE has adequate resources to monitor and maintain the site for which it accepts responsibility.

DOE also expects that the licensee will satisfy the requirements of the NRC policy. The NRC policy requires that the licensee certify that:

- all non-11e.(2) materials to be disposed of in an 11e.(2) disposal cell are chemically and physically very similar to 11e.(2) byproduct material,
- no hazardous waste regulated under the Resource Conservation and Recovery Act will be placed in the cell, and
- the disposal cell can be managed effectively in long-term stewardship.

DOE intends to work closely with the NRC staff and the SFC to ensure that these important conditions will be met at the Gore site. Nothing in this letter is intended to waive any rights that DOE may have in the event that DOE takes possession of the SFC 11e.(2) byproduct material disposal cell.

If you have any further questions, please call Mr. David Geiser, Office of Long-Term Stewardship, at 202-586-9280.

Sincerely,



Jessie Hill Roberson
Assistant Secretary for
Environmental Management

cc: Mike Owen, WT-1