

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

The State of Oklahoma,)
)
 Petitioner,)
)
 v.)
)
 United States Nuclear Regulatory)
 Commission and the United States)
 of America,)
)
 Respondents.)

Case File No. 04-9503

PETITION FOR REVIEW

The above-named Petitioner hereby petitions for review by this Court of the final order approving a license amendment request which reclassifies radioactive source material located at the Sequoyah Fuels Corporation facility in Gore, Oklahoma as byproduct material pursuant to 42 U.S.C. § 2014(e)(2) (2003) that was entered by the United States Nuclear Regulatory Commission on November 13, 2003. 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

jurisdiction of this judicial circuit.

This petition is timely filed pursuant to F.R.A.P. 15 and 28 U.S.C.A. § 2344 (1994) as it is filed within 60 days of the final order of license amendment.

Relief is sought on the basis that the proposed license amendment will alter the regulatory scheme applicable to the Sequoyah Fuels Corporation ("SFC") facility because the radioactive source material does not qualify as byproduct material and is therefore inconsistent with the Atomic Energy Act of 1954, as amended 42 U.S.C. § 2011 (2000), 10 C.F.R. Part 20, 10 C.F.R. Part 40, 10 C.F.R. Part 40, Appendix A, and Standard Review Plan for the Review of a Reclamation Plan for Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (NUREG -1620, Final Rev. 1) 2003. Relief is also sought on the basis that the proposed license amendment will have a negative impact on public health, safety and the environment by applying a different standard of decommissioning than is appropriate for the type of contamination at the SFC facility.

Therefore, Petitioner prays for a reversal of the decision issued by Respondent and a denial of the license amendment request.

Respectfully submitted,



Guy L. Hurst OBA# 4509
Assistant Attorney General
Office of Attorney General
State of Oklahoma
4545 N. Lincoln Blvd., Suite 260
Oklahoma City, Oklahoma 73105-3498
tel.: 405/522-2916
fax: 405/528-1867
e-mail: guy_hurst@oag.state.ok.us
Attorney for Petitioner

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