

April 5, 2004

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

SUBJECT: SEQUOYAH FUELS CORPORATION - MATERIALS LICENSE NO. SUB-1010 -
DISPOSAL OF NON-11e.(2) BYPRODUCT MATERIAL

Dear Mr. Ellis:

The U.S. Nuclear Regulatory Commission (NRC) staff is in the process of reviewing Sequoyah Fuels Corporation's (SFC's) proposed reclamation plan for your site in Gore, Oklahoma. The reclamation plan was last updated by your submittal of February 17, 2004. SFC proposes to use the cell to dispose of material that does not meet the definition of byproduct material in section 11e.(2) of the Atomic Energy Act of 1954, as amended. Regulatory Issues Summary (RIS) 2000-23, issued November 30, 2000, identifies 8 criteria that must be met in order for the NRC to approve disposal of non-11e.(2) byproduct material in an 11e.(2) cell. Criterion 3 requires the licensee to "provide documentation showing necessary approvals of other affected regulators (e.g., the U.S. Environmental Protection Agency (EPA) or State) for material containing listed hazardous wastes or other material regulated by another Federal Agency or State because of environmental or safety considerations." SFC's reclamation plan (in Appendix A) addresses Criterion 3 by stating that no approvals of other regulators are needed for the non-11e.(2) byproduct material and provides justification to support that statement. However, in order for us to conclude that no EPA or State permit is required for the non-11e.(2) byproduct material, you will need to provide us with statements from EPA and the State of Oklahoma to that effect. Please provide us copies of letters from the appropriate EPA and Oklahoma officials verifying that permits are not needed to dispose of the non-11e.(2) byproduct material in the proposed 11e.(2) cell.

If you have any questions concerning this letter please contact me at (301) 415-6629 or by e-mail at mhf1@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Myron Fliegel, Senior Project Manager
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

cc: William Andrews, USGS
Patricia Ballard, NRMNC
Michael Broderick, OK DEQ
Will Focht, OSU
Alvin Gutterman, Esq., Morgan Lewis & Bockius
Pat Gwin, Cherokee Nation
Jeannine Hale, Esq., Cherokee Nation
Craig Harlin, SFC
Jim Harris, USACE
Sarah Penn, Esq., OK AG
Kathy Peter, USGS
Troy Poteete, Cherokee Nation
Charles Scott, USFWS
David Smit, OK DEQ
Merritt Youngdeer, BIA
Rita Ware, EPA

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/RA/

Myron Fliegel
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
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Office of Nuclear Material Safety
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- Pat Gwin, Cherokee Nation
- Jeannine Hale, Esq., Cherokee Nation
- Craig Harlin, SFC
- Jim Harris, USACE
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- Kathy Peter, USGS
- Troy Poteete, Cherokee Nation
- Charles Scott, USFWS
- David Smit, OK DEQ
- Merritt Youngdeer, BIA
- Rita Ware, EPA

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|-------------|-----------|--|-----------|--|-------------|--|----------|--|
| OFC | FCFB | | FCFB | | OGC | | FCFB | |
| NAME | M.Fliegel | | B.Garrett | | M. Schwartz | | R.Nelson | |
| DATE | 04/5/04 | | 04/5/04 | | 04/5/04 | | 04/5/04 | |

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4/5/04-----this page is part concurrence

Mike,

As revised in the attachment to your April 5, 2004 email, the letter to Mr. Ellis of the SFC has OGC's NLO. Please enter this email into ADAMS.

Maria

>>> Myron Fliegel 04/05/04 09:17AM >>>

Maria:

Attached is the version that is going through concurrence. I made your suggested revision. I am requesting OGC NLO.

Mike

>>> Maria Schwartz 03/29/04 09:26AM >>>

Mike,

The letter looks like it satisfies OGC's concern. I would propose a change in the sentence (in bold) as follows (but this is a suggestion and has no bearing on the legal aspects of this letter):

SFC proposes to **use the cell to dispose of** material that does not meet the definition of byproduct material in section 11e.(2) of the Atomic Energy Act of 1954, as amended.

I still have to run this by Stuart but I don't see any problems with the letter. I will get back to you shortly.

Maria