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



OFFICE OF THE
GENERAL COUNSEL

March 12, 2004

Patrick J. Fisher, Jr., Clerk
U. S. Court of Appeals for the
Tenth Circuit
Byron White United States Courthouse
Denver, CO 80257

RE: *State of Oklahoma v. U.S. Nuclear Regulatory Commission*, No. 04-9503
and 04-9523

Dear Mr. Fisher:

Enclosed you will find an original and three copies of the "Joint Motion to Consolidate Cases and Change Briefing Schedule," in the above-referenced case. Please date stamp the enclosed copy of this letter to indicate date of receipt, and return the copy to me in the enclosed envelope, postage pre-paid, at your convenience. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jared K. Heck".

Jared K. Heck
Attorney
Office of the General Counsel

Enclosures: As stated

Cc: Service list

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

STATE OF OKLAHOMA,)	
Petitioner,)	
)	
v.)	
)	
U.S. NUCLEAR REGULATORY)	
COMMISSION and the UNITED)	Nos. 04-9503 & 04-9523
STATES OF AMERICA,)	
)	
Respondents,)	
)	
and)	
)	
SEQUOYAH FUELS CORP.,)	
)	
Intervenor-Respondent)	

**JOINT MOTION TO CONSOLIDATE CASES
AND CHANGE BRIEFING SCHEDULE**

The parties hereby request the Court to consolidate *State of Oklahoma v. NRC*, Docket No. 04-9503 (filed January 8, 2004) and *State of Oklahoma v. NRC*, Docket No. 04-9523 (filed March 5, 2004). The parties further request a change to the current briefing schedule in No. 04-9503 to reflect the following proposed filing deadlines for briefs in the consolidated case:

Petitioner's brief:	May 8, 2004
Respondents' brief:	June 10, 2004
Intervenor-Respondent's brief:	June 10, 2004
Petitioner's reply brief:	June 28, 2004

This new proposed schedule reflects approximately a 30-day postponement of the Court's current briefing schedule in No. 04-9503. It will allow that case to be briefed together with the new, related case (No. 04-9523). In support of this motion, the parties state as follows:

1. The State of Oklahoma's petitions for review in No. 04-9503 and No. 04-9523 both arise out of the same Nuclear Regulatory Commission (NRC) adjudication, *In the Matter of Sequoyah Fuels Corporation* (Gore, Oklahoma Site), Docket No. 40-8027-MLA-5. Both petitions for review concern the same interested parties and the same administrative record.

2. All legal issues presented by the above-referenced petitions for review may be argued and resolved in one case. Consolidation of these petitions would eliminate filing of duplicative briefs and allow for a more timely and efficient resolution of all legal issues.

3. Consolidation of the above-referenced petitions would avoid potential legal objections to the maintenance of two separate lawsuits brought by the same party and arising from a single NRC adjudication.

4. If the Court consolidates the above-referenced petitions for review, the scope of issues argued in the parties' briefs will expand, warranting a corresponding change to the current briefing schedule.

5. If the Court grants the parties' motion to consolidate, the parties' proposed changes to the current briefing schedule will result in all briefs filed in the consolidated case as soon as (or earlier than) briefs would have been filed in Oklahoma's most recently filed lawsuit, No. 04-9523, were it treated as a stand-alone case.

6. Petitioner and Intervenor-Respondent Sequoyah Fuels Corporation are presently engaged in settlement discussions that, if fruitful, may result in a withdrawal of the above-referenced petitions for review. The parties' proposed changes to the current briefing schedule would allow more time for settlement discussions and a possible negotiated resolution of all litigation arising out of the underlying NRC adjudication.

7. Jared K. Heck, lead counsel for the Respondent NRC, has a briefing deadline (already extended once) in the United States Court of Appeals for the District of Columbia Circuit on April 14, 2004. A change to this Court's current briefing schedule, which requires the NRC to file its brief in No. 04-9503 in early May, would afford the NRC the necessary time to fully respond to arguments presented in Petitioner's brief.

8. The State of Oklahoma fully supports this joint request to consolidate the cases and to change the current briefing schedule (in No. 04-9503) and to adopt,

for the consolidated cases, the new schedule proposed by the parties. But in the event that this Court denies the joint motion, the parties agree to waive any objection to a filing by the State within five days of the issuance of a denial.

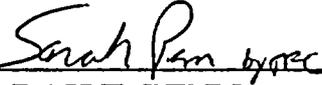
For the foregoing reasons, the parties jointly request that the Court grant this motion to consolidate Petitioner's two lawsuits (No. 04-9503 and No. 04-9523) and change the briefing schedule to reflect the deadlines proposed above.

Respectfully Submitted,



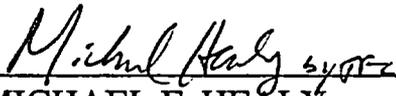
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CERTIFICATE OF SERVICE

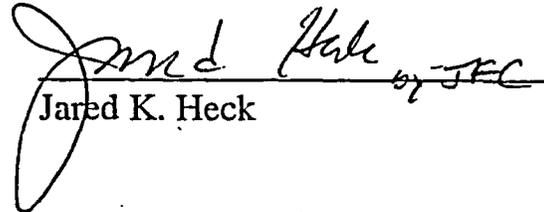
I hereby certify that on March 12, 2004, copies of the foregoing "Motion to Consolidate Cases and Change Briefing Schedule" were served by mail, postage prepaid, upon the following counsel:

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