



STEVEN A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

BRAD HENRY
Governor

May 24, 2006

U.S. Nuclear Regulatory Commission
ATTN: Mr. Myron Fliegel, Senior Project Manager
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety and Safeguards, NMSS
Two White Flint North
11545 Rockville Pike
Rockville, Maryland 20852-2738

Re: Disposal of Non-11e.(2) Byproduct Materials (Non-hazardous Calcium Fluoride Sludge) On-site at Sequoyah Fuels Corporation ("SFC") Site, Gore, Oklahoma

Dear Mr. Fliegel:

It is my understanding that SFC has recently requested a statement from your office to the effect that SFC's non-11e.(2) byproduct material does not meet the definition of hazardous waste and is not subject to regulation under the Oklahoma Hazardous Waste Program.

Provisions of Oklahoma statutes and regulations are incorporated by reference as part of the hazardous waste management program under subtitle C of the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921 et seq. (See 40 CFR Sec. 272.1851(2005)). Jurisdiction in Oklahoma to regulate hazardous waste disposal lies with the Oklahoma Department of Environmental Quality ("DEQ"). Statutory provisions governing the permitting of hazardous waste disposal cells in Oklahoma provide for permits to be issued only to facilities for the disposal of solid or hazardous waste. Based on its review of information that SFC had submitted to the U.S. Nuclear Regulatory Commission (NRC), the U.S. Environmental Protection Agency and the State, DEQ determined that the only non-11e.(2) byproduct material proposed for disposal in the SFC onsite disposal cell that might be hazardous waste was the Calcium Fluoride sludge. DEQ required SFC to show by testing that the Calcium Fluoride sludge is not hazardous waste. DEQ then reviewed test results provided by SFC and found them to be acceptable. Therefore, DEQ is not asserting jurisdiction to regulate any of the SFC non-11e.(2) byproduct material as hazardous waste under its RCRA authority.

If you have any questions or concerns, please contact Martha Penisten, Deputy General Counsel for the DEQ, at 702-7184.

Sincerely,

Scott A. Thompson
Director
Land Protection Division

C: Trevor Hammons, Assistant Attorney General, State of Oklahoma
Al Gutterman, Attorney for Sequoyah Fuels

