



Department of Energy

Washington, DC 20585

January 11, 2007

Mr. Robert Pierson
Director
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Pierson:

This is in response to your letter dated August 14, 2006, in which you requested DOE concurrence in the disposal of the non-11e.(2) byproduct material in the Sequoyah Fuels Corporation (SFC) site, and its commitment to take custody of the site, at the appropriate time, if the State of Oklahoma declines. As indicated in our June 5, 2003 letter to SFC, consistent with our 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 site and the 11e.(2) byproduct material at the site, if the State of Oklahoma does not exercise its option to do so. DOE is also prepared to accept the SFC non-11e.(2) wastes, provided the following conditions are met:

- 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;
- at the time of transfer of the site to DOE, the site is subject solely to regulation by the NRC (e.g., no wastes or other materials regulated under the Resource Conservation and Recovery Act or Toxic Substance Control Act (TSCA) will be placed in the cell);
- the disposal cell can be managed effectively in long-term surveillance and maintenance.

In their May 24, 2006 letter to the NRC, the State of Oklahoma indicated that they were "not asserting any jurisdiction to regulate any of the SFC non-11e.(2) byproduct material as hazardous waste under its RCRA authority." The Department will expect SFC to provide final assurances to NRC at the time of license termination that there are no remaining jurisdictional issues related to the nature of the wastes at the site, so that the Department has a clear understanding at that time that the site will be subject solely to NRC regulation under the DOE General License.

If NRC has questions about this matter, please contact Ray Plienness of my staff at 970-248-6091.

Sincerely,

Michael W. Owen
Director
Office of Legacy Management

