

May 2, 2008

Ms. Hayley Dikeman  
Fish and Wildlife Biologist  
U. S. Fish and Wildlife Service  
Oklahoma Field Office  
9014 East 21<sup>st</sup> Street  
Tulsa, OK 74129

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION MITIGATION PLAN FOR THE  
SEQUOYAH FUELS CORPORATION SITE IN GORE, OKLAHOMA  
DOCKET NO. 40-8027

Dear Ms. Dikeman:

Please find enclosed the U.S. Nuclear Regulatory Commission's (NRC) mitigation plan for the Sequoyah Fuels Corporation (SFC) site. As per the comments you gave during our April 14, 2008 meeting on the draft version of the plan, I have modified the text accordingly and added figures for clarity. To ensure that the licensee (SFC) will adhere to the mitigation plan, NRC will add license conditions to the license amendment for site reclamation. Prior to setting the license conditions, however, NRC will need your written concurrence on the mitigation plan. With this being the case, unless you have additional feedback on the plan, please send me a letter of concurrence at your earliest convenience.

Should you have any questions regarding this matter, please contact me at 301-415-8556 or via e-mail: [allen.fetter@nrc.gov](mailto:allen.fetter@nrc.gov).

Sincerely,

*/RA/*

Allen H. Fetter, Project Manager  
U.S. Nuclear Regulatory Commission  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosure:

1. Mitigation plan for the  
Sequoyah Fuels Corporation site

Docket No.: 40-8027

May 2, 2008

Ms. Hayley Dikeman  
Fish and Wildlife Biologist  
U. S. Fish and Wildlife Service  
Oklahoma Field Office  
9014 East 21<sup>st</sup> Street  
Tulsa, OK 74129

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION MITIGATION PLAN FOR THE  
SEQUOYAH FUELS CORPORATION SITE IN GORE, OKLAHOMA  
DOCKET NO. 40-8027

Dear Ms. Dikeman:

Please find enclosed the U.S. Nuclear Regulatory Commission's (NRC) mitigation plan for the Sequoyah Fuels Corporation (SFC) site. As per the comments you gave during our April 14, 2008 meeting on the draft version of the plan, I have modified the text accordingly and added figures for clarity. To ensure that the licensee (SFC) will adhere to the mitigation plan, NRC will add license conditions to the license amendment for site reclamation. Prior to setting the license conditions, however, NRC will need your written concurrence on the mitigation plan. With this being the case, unless you have additional feedback on the plan, please send me a letter of concurrence at your earliest convenience.

Should you have any questions regarding this matter, please contact me at 301-415-8556 or via e-mail: [allen.fetter@nrc.gov](mailto:allen.fetter@nrc.gov).

Sincerely,

*/RA/*

Allen H. Fetter, Project Manager  
U.S. Nuclear Regulatory Commission  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosure:

1. Mitigation plan for the Sequoyah Fuels Corporation site

Docket No.: 40-8027

**ML081210037**

OFFICE:	DWMEP	DWMEP
NAME:	G.Suber	A.Fetter
DATE:	05/02/08	05/02/08

**OFFICIAL RECORD COPY**

## Mitigation Plan for Sequoyah Fuels Corporation Site in Gore, Oklahoma

### Background

On February 27, 2008, U.S. Nuclear Regulatory Commission (NRC) staff engaged in an informal Section 7, consultation with the U.S. Fish and Wildlife Service (USFWS) at the Sequoyah Fuels Corporation (SFC) Site in Gore, Oklahoma regarding the licensee's (SFC) proposed *Reclamation Plan* and groundwater *Corrective Action Plan*. As a result of this informal consultation, USFWS concluded in a follow up letter on March 13, 2008, that suitable habitat and soil for the endangered American burying beetle (ABB) is present at the SFC site and the beetle could be adversely impacted by the proposed reclamation plan. The area that USFWS also noted the need to adhere to the Migratory Bird Treaty Act (MBTA), which prohibits the taking, killing, and possession of migratory birds, and their eggs, young or active nest. Finally, USFWS requested mitigation for the loss of habitat for migratory birds, the ABB and other fish and wildlife resources. To address and meet these requirements, NRC developed a proposed mitigation plan to incorporate the USFWS recommendations and guidelines outlined in their March 13, 2008 letter. During an April 14, 2008 follow-up meeting, USFWS and NRC discussed the adequacy of the proposed mitigation plan and agreed on changes to make it acceptable. The final mitigation plan is summarized below:

### Mitigation Plan

In order to avoid any adverse impacts on the American burying beetle, SFC will follow Conservation Approach 1 and Avoidance Measure 1 as described in USFWS guidance "Conservation Approaches for the American Burying Beetle. Specifically, prior to undertaking any ground disturbing activities associated with the proposed reclamation plan, SFC will have an ABB survey performed by a section 10 permitted biologist. This survey is required to be done during the beetle's active season (May 20 to September 20). All survey results, positive or negative, must be submitted in writing to the USFWS Oklahoma Field Office for review prior to initiating any ground disturbing activities. Should any beetles be identified to be present, either the "*Bait Away Protocol or Trap and Relocation Protocol*" must be employed prior to ground disturbance to avoid adversely affecting the beetle. Any bait away, trapping or relocation must be coordinated with Oklahoma Field Office under an appropriate section 10 permit from the Service. If baiting away or trapping and relocation are conducted, a respective "Relocation Data Form" or "Bait Away Form" must be submitted to the Oklahoma Field Office within 30 days following cessation of relocation or bait away efforts. Section 7 consultation is not considered complete until the proper form is submitted.

To meet the no "take" (i.e., no mortality) provision of the Migratory Bird Treaty Act, clearing of any woodland or potential nesting area should be done outside of the nesting season of migratory birds in Oklahoma – from August 1 to the end of February as per USFWS recommendations. To afford the best protection to both the American burying beetle and migratory birds, however, SFC noted that clearing activities could be done between August 1 and September 20, when migratory birds have completed nesting and the American burying beetle is still active. For clearing done during between August 1 and September 20, USFWS indicated that the "Bait Away Protocol" would be appropriate; with bait away stations placed in timbered areas in areas T1, T2, T3 and T4 (see Figure 1). The principal wooded area impacted by SFC's proposed reclamation plan is a 15 acre block of young forest in the southern part of the site, which is marked as "CB" for clay borrow area in Figure 1. This secondary-growth oak-hickory forest area, which is habitat for nesting migratory birds and potentially the ABB, has been identified by SFC as a source of borrow material needed for construction and capping of

the proposed engineered disposal cell. An aerial photo from 1952 (Figure 2), shows that this area was formerly pastureland containing some young trees prior to secondary forest growth. Once borrow operations are completed, the 15 acres will be graded to ensure surface water flow to the north-northeast (the existing hydrologic gradient), covered with topsoil and reseeded.

To help mitigate the habitat loss associated with modification of the existing borrow area habitat, Sequoyah Fuels Corporation proposes to recontour, regrade and revegetate portions of the site outside of the engineered disposal cell footprint (18 acres) within the 324 acre proposed institutional control boundary (ICB). A total of 124 acres inside the ICB will be regraded, covered with 6 inches of topsoil, and revegetated with a native seed mix (see Table 1 below). Of the 124 acres, 83 acres will involve substantial excavating and recontouring in order to recreate the original topography of the site prior to its development (following the USGS 7.5 minute quadrangle maps). The principal areas to be excavated and recontoured are currently occupied by the industrial settling ponds and a lake.

Once the initial vegetation becomes established, the 124 acres will undergo natural succession by pioneer tree species, followed by development of an upland oak-hickory climax forest. Of the remaining 171 acres within the ICB, approximately 99 acres now consists of open pastureland and 72 acres are wooded. Over time all of these components will merge into a contiguous 305 acre tract of climax upland forest within the ICB, which will serve as potential habitat for migratory birds and the American burying beetle. The 124 acres to be regraded, recontoured and restored versus the loss of 15 acres in the proposed borrow area represents a mitigation ratio of more than 8:1.

### Actions

To ensure that these mitigation measures are followed, NRC will obtain a letter from SFC committing to implement and adhere to the components of the mitigation plan. These measures will be binding under NRC license conditions attached to SFC's license amendment (allowing site reclamation).

**Table 1 Proposed Seed Mix for Revegetation**

<b>Species</b>		<b>Pounds of Pure Live Seed per Acre</b>
<b>Common Name</b>	<b>Latin Name</b>	
Big bluestem	<i>Andropogon gerardii</i>	6
Little bluestem	<i>Schizachyrium scoparium</i>	3
Switchgrass	<i>Panicum virgatum</i>	2
Indiangrass	<i>Sorghastrum nutans</i>	2
Hairy wildrye	<i>Elymus villosus</i>	2
High plains goldenrod	<i>Solidago altiplanities</i>	1.5
Prairie sunflower	<i>Helianthus petiolaris</i>	1.5
Compassplant	<i>Silphium laciniatum</i>	0.5
Blazing star	<i>Liatris Gaertn. Ex Schreb.</i>	0.5
Littleleaf sumac	<i>Rhus microphylla</i>	2

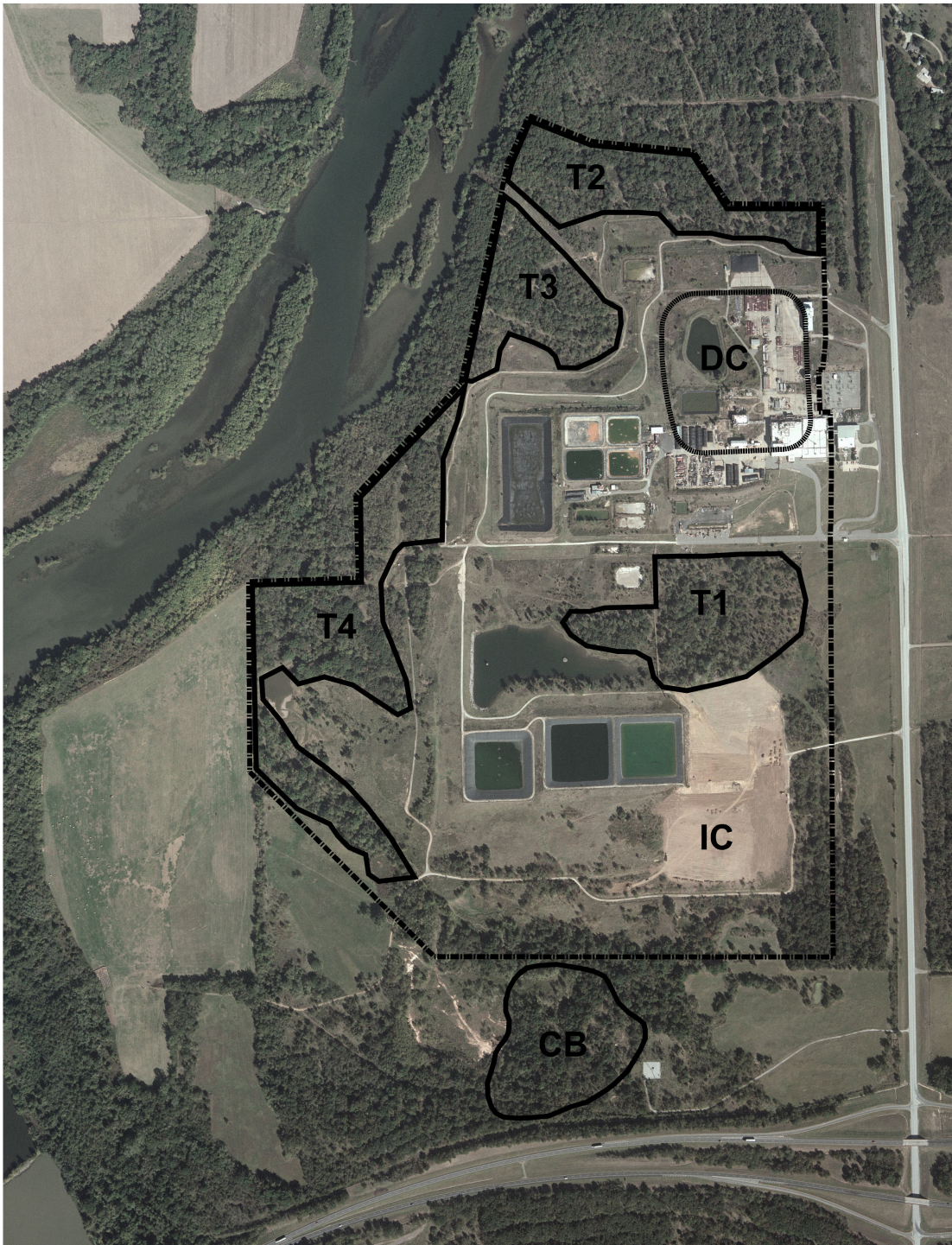


Figure 1 – 2005 aerial photo of Sequoyah Fuel Corporation site with outlined areas superimposed. Legend: Dashed line = Proposed institutional control boundary, CB = Proposed clay borrow area, DC = Proposed disposal cell, IC = Proposed institutional control area, T1, T2, T3 and T4 = Currently timbered areas within the proposed institutional control boundary.

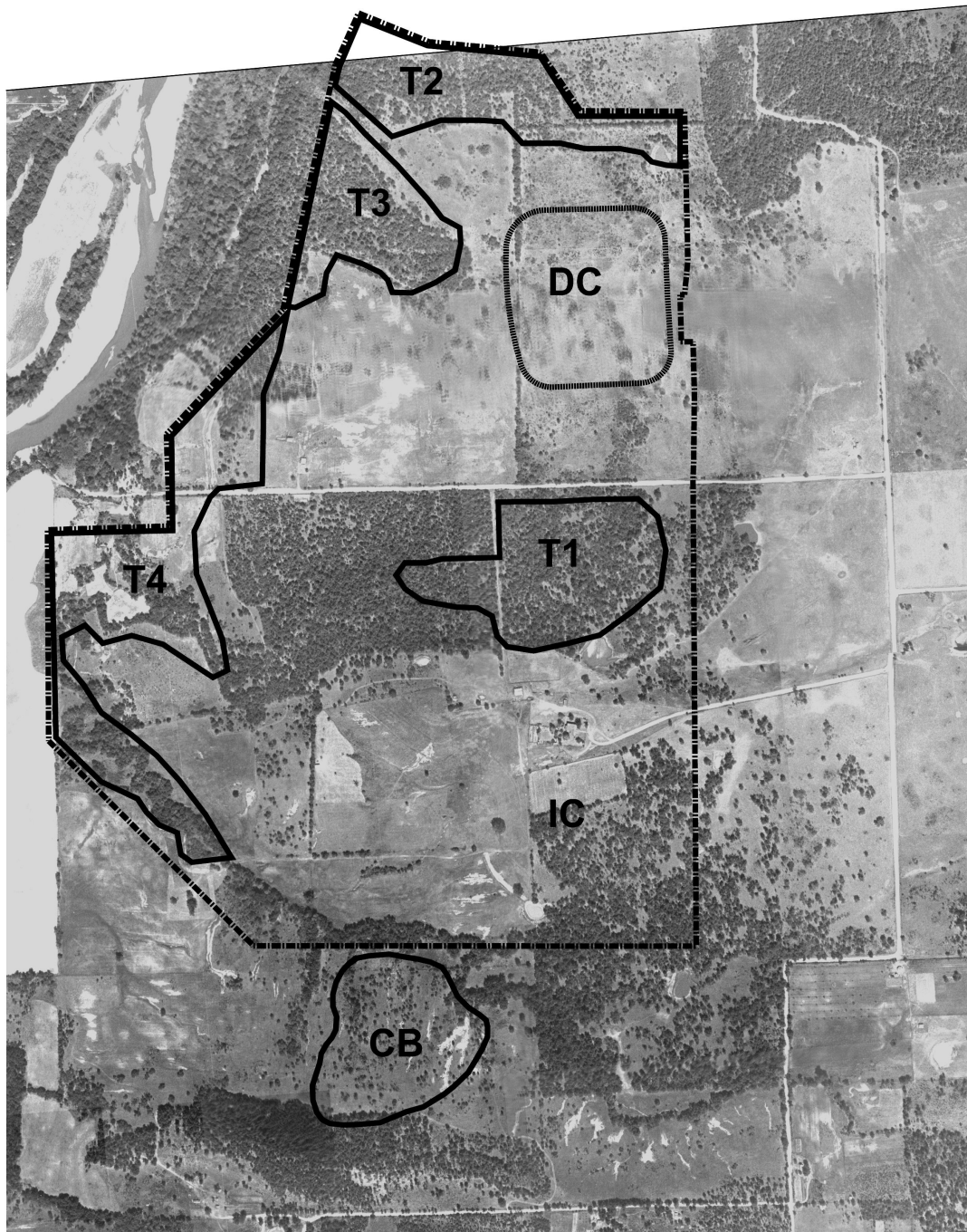


Figure 2 – 1952 aerial photo of Sequoyah Fuel Corporation site with outlined areas from figure 1 superimposed. Legend: Dashed line = Proposed institutional control boundary, CB = Proposed clay borrow area, DC = Proposed disposal cell, IC = Proposed institutional control area, T1, T2, T3 and T4 = Currently timbered areas within the proposed institutional control boundary