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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'99 AUG -6 P 3:03

BEFORE THE PRESIDING OFFICER

OFFICE OF SECRETARY
RULING AND
ADJUDICATION STAFF

In the Matter of)	Docket No. 40-8027
)	
SEQUOYAH FUELS CORPORATION)	Re: Request to Amend Source
Gore, Oklahoma)	Material License No. SUB-1010
)	

NRC STAFF'S RESPONSE TO REQUEST FOR HEARING
FILED BY THE STATE OF OKLAHOMA

INTRODUCTION

Sequoyah Fuels Corporation (SFC or Licensee) is the holder of source material license SUB-1010 (License) which authorizes SFC to possess source material in any form at its Gore, Oklahoma Site.

On February 16, 1993, SFC notified the U.S. Nuclear Regulatory Commission (NRC) that SFC would cease operations and filed a Preliminary Plan for Completion of Decommissioning. On or about December 15, 1998, Sequoyah Fuels Corporation (SFC) submitted to the NRC the first revision to its proposed Site Decommissioning Plan ("First Revised SDP"). The First Revised SDP was a request to amend Source Material License SUB-1010 for decommissioning the SFC Site for restricted release pursuant to 10 C.F.R. § 20.1403. On February 11, 1999, the NRC Staff notified SFC that the First Revised SDP failed to meet the minimum criteria for technical review.

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On or about March 26, 1999, Sequoyah Fuels Corporation (SFC) submitted the second revision to its proposed SDP for the SFC Site (the "Second Revised SDP"), which also was a request to amend Source Material License SUB-1010 for decommissioning the SFC Site for restricted release pursuant to 10 C.F.R. § 20.1403. On May 20, 1999, the NRC staff notified SFC that the NRC Staff would begin its technical review of the Second Revised SDP.

The NRC Staff considered the submittal to be a license amendment request and, on June 9, 1999, caused a "Notice of Consideration of Amendment Request for Sequoyah Fuels Corp., Gore, Oklahoma and Opportunity for Hearing" (Notice) to be published. 64 *Fed. Reg.* 31023.

Pursuant to Subpart L of 10 C.F.R. Part 20, § 2.1205, the State of Oklahoma filed a "Request for Hearing," dated July 7, 1999, in response to the Notice.

SFC filed its "Sequoyah Fuels Corporation Answer in Opposition to Request for Hearing of Attorney General of Oklahoma" on July 19, 1999.

For the reasons stated below, the NRC Staff concludes that Oklahoma's "Request for Hearing" does not meet the requirements of 10 C.F.R. § 2.1205(e)(3) because it fails to identify an area of concern germane to the proceeding, and § 2.1205(e)(2) because it fails to explain how Oklahoma's interests may be affected by the results of a hearing or to demonstrate that a favorable decision would redress alleged injuries to those interests.

BACKGROUND

SFC operated a uranium processing facility at its Gore, Oklahoma site between 1970 and 1993. As a result, the earth underneath the main process and solvent extraction buildings and underneath the process and storage impoundments, and the ground water aquifers under the SFC Site were contaminated with uranium and its decay products. The ground water in the vicinity of the impoundments is also contaminated with chemicals, including arsenic and nitrates, that are not regulated by the NRC. The ground water aquifers under the SFC Site are connected to alluvial deposits adjacent to the Arkansas River and the Illinois River. The Illinois River and Arkansas River conjoin adjacent to the SFC Site. The Robert S. Kerr Lake (downstream of the confluence of the Illinois River and the Arkansas River and above the Robert S. Kerr Dam) is downstream from the SFC Site. The Salt Branch and Lake Ten Killer are located approximately ½ mile and 8 miles, respectively, upstream from the SFC Site. The Robert S. Kerr Unit of the McClellan-Kerr Wildlife Refuge is approximately 1½ miles south of the SFC Site. Oklahoma Highway 40 runs adjacent to the eastern border of the SFC Site for approximately 1 mile.

Since the shutdown in July 1993, the Licensee has conducted limited remediation activities in accordance with Chapter 67 of the License such as consolidation of waste, sale and removal of some process equipment, and cleaning of unused equipment in preparation for decommissioning. The Licensee proposes to decommission the SFC Site pursuant to 10 C.F.R. § 20.1403 by utilizing an on-site disposal cell for the permanent disposal of decommissioning waste, including radioactive material such as uranium, thorium and

radium. The disposal cell would have a volume of 5,000,000 to 11,000,000 cubic feet, a height of 35 to 40 feet above-grade, and would cover an area of approximately 10 to 20 acres.

The NRC Staff has commenced review of the proposed decommissioning plan. Because the plan proposes to leave contaminated ground water in place, an environmental impact statement (EIS) may be necessary. The Staff is currently considering the matter. If an EIS were performed, it would take approximately one year to complete it and then issue it for public comment. It would take several additional months to issue a final EIS, depending upon the extent of the comments received.

DISCUSSION

It is fundamental that any person or entity that wishes to request a hearing (or intervene in a Commission proceeding) must demonstrate that it has standing to do so. Section 189a(l) of the Atomic Energy Act, 42 U.S.C. § 2239(a), provides that:

In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding.

In addition, pursuant to 10 C.F.R. § 2.1205(e), where a request for informal hearing is filed by any person other than the applicant, in connection with a materials licensing action under 10 C.F.R. Part 2, Subpart L, the request for hearing must describe in detail:

- (1) The interest of the requestor in the proceeding;
- (2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in [§ 2.1205(h)];

- (3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and
- (4) The circumstances establishing that the request for a hearing is timely in accordance with [§ 2.1205(d)].

Pursuant to 10 C.F.R. § 2.1205(h), the Presiding Officer must determine "that the specified areas of concern are germane to the subject matter of the proceeding" and

that the requestor meets the judicial standards for standing, and shall consider, among other factors--

- (1) The nature of the requestor's right under the Act to be made a party to the proceeding;
- (2) The nature and extent of the requestor's property, financial, or other interest in the proceeding; and
- (3) The possible effect of any order that may be entered in the proceeding upon the requestor's interest.

The Commission has long held that contemporaneous judicial concepts of standing will be applied in determining whether a petitioner for leave to intervene has sufficient interest in a proceeding to be entitled to intervene as a matter of right under Section 189a of the Act. *See, e.g., Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit No. 1), CLI-83-25, 18 NRC 327, 332 (1983); *Portland General Electric Co.* (Pebble Springs Nuclear Plant, Units I and 2), CLI-76-27, 4 NRC 610, 613 (1976); *Envirocare of Utah, Inc.* (Byproduct Material Waste Disposal License), LBP-92-8, 35 NRC 167, 172 (1992); *Babcock and Wilcox* (Apollo, PA Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 80-81 (1993); *Sequoyah Fuels Corp.* (Source Material License No. SUB-1010), LBP-91-5, 33 NRC 163,

164-65 (1991); *Northern States Power Co.* (Pathfinder Atomic Plant), LBP-89-30, 30 NRC 311, 312-13 (1989). These judicial standards are applicable to informal hearings held pursuant to Subpart L. *Chemetron Corp.* (Bert Avenue, Harvard Avenue, McGean-Rohco Sites, Newburgh Heights and Cuyahoga Heights, Ohio), LBP-94-20, 40 NRC 17, 18 (1994).

To show an interest in the proceeding sufficient to establish standing, the requestor must show that the proposed action will cause "injury in fact" to its interest and that its interest is arguably within the "zone of interests" protected by the statutes governing the proceeding. *Georgia Power Co.* (Vogtle Electric Generating Plant, Units I and 2), CLI-93-16, 38 NRC 25, 32 (1993); *Three Mile Island, supra*, 18 NRC at 332-33; *Pebble Springs, supra*, 4 NRC at 613-14. In proceedings before the NRC, the petitioner must establish an injury to its public health and safety interests protected by the Atomic Energy Act or to its environmental interests protected by the National Environmental Policy Act. *Niagara Mohawk Power Corp.* (Nine Mile Point Nuclear Station, Unit 2), LBP-83-45, 18 NRC 213, 215 (1983). See *Northern States Power Co.* (Pathfinder Atomic Plant), LBP-89-30, 30 NRC 311, 312-13 (1989); *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), LBP-91-23, 33 NRC 430, 432, 437 (1991); and *Babcock and Wilcox* (Apollo, Pennsylvania Fuel Fabrication Facility) LBP-93-4, 37 NRC 72, 80 (1993) Further, it has been held that in order to establish standing, the petitioner must establish that he personally has suffered or will suffer "distinct and palpable" harm that constitutes injury in fact, that the injury can fairly be traced to the challenged action, and that the injury is likely to be redressed by a favorable decision in the proceeding. *Dellums v. NRC*, 863 F.2d 968,

971 (D.C. Cir. 1988); *Vogtle, supra*, CLI-93-16, 38 NRC at 32; *Babcock and Wilcox, supra*, LBP-93-4, 37 NRC at 81; *Envirocare, supra*, LBP-92-8, 35 NRC at 173. *See also Warth v. Seldin*, 422 U.S. 490, 504 (1974). A petitioner must have a "real stake" in the outcome of the proceeding in order to establish injury in fact for standing. *Houston Lighting and Power Co.* (South Texas Project, Units 1 and 2), LBP-79-10, 9 NRC 439, 447-48 (1979). While the petitioner's stake need not be a "substantial" one, it must be "actual," "direct" or "genuine." *Id.* at 448.

In a proceeding involving a materials license, "a petitioner who wants to establish 'injury in fact' for standing purposes must make some specific showing outlining how the particular radiological (or other cognizable) impacts from the . . . materials involved in the licensing action at issue can reasonably be assumed to accrue to the petitioner." *Atlas Corp.* (Moab, Utah Facility), LBP-97-9, 45 NRC 414, 426 (1997), citing *Yankee Atomic Electric Co.* (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 247-48 (1966).

The Supreme Court of the United States has recently reiterated the "irreducible constitutional minimum" requirements for standing -- that the plaintiff suffer an "injury in fact" which is "concrete and particularized and . . . actual or imminent, not conjectural or hypothetical," that there is a causal connection between the alleged injury and the action complained of, and that the injury will be redressed by a favorable decision. *Bennett v. Spear*, 520 U.S. 154, 167-68, 117 S. Ct. 1154, 1163-64 (1997). In addition, the petitioner must meet the "prudential" standing requirement that the complaint must arguably fall within the "zone of interests" of the governing law. *Id.* at 1167. *See also Vogtle, supra*, 38 NRC

at 32; *Three Mile Island, supra*, 18 NRC at 332; and *Pebble Springs, supra*, 4 NRC at 613-14.

In its Request for Hearing, the State of Oklahoma (Oklahoma) alleges that the SFC Site is located in Oklahoma and that Oklahoma has numerous property, financial and other interests that would be affected if the Second Revised SDP were approved. The specific interests identified by Oklahoma are as follows: (1) Oklahoma is trustee for the natural resources of Oklahoma and is responsible for protecting the air, land, waters, environment, and natural resources of Oklahoma, as well as the public health, safety, and welfare of its citizens, including those living in the vicinity of and immediately adjacent to the SFC Site; (2) Oklahoma owns the waters in certain defined streams located on the SFC Site, the Salt Branch, the Illinois River, the Arkansas River, Lake Tenkiller and Robert S. Kerr Lake, all located near the SFC Site and some of which are hydrologically connected to groundwater under the SFC Site; (3) Oklahoma operates and manages the Robert S. Kerr Unit of the McClellan-Kerr Wildlife Refuge and leases agricultural rights and privileges in that property to third parties; (4) Oklahoma and its political subdivisions derive revenue from income taxes, sales, taxes, and ad valorem taxes; and (5) Oklahoma owns, operates, and maintains roads and thoroughfares in close proximity to the SFC Site. Request for Hearing at 3-4. Oklahoma alleges that its interests fall within the zone of interests protected by the Atomic Energy Act, specifically: (1) widespread participation in the development and utilization of atomic energy consistent with the public defense, security and with the public health and

safety; (2) environmental and economic interests; (3) protection of public health and safety; and (4) public participation in the administrative process. *Id.* at 7.

Oklahoma alleges that approval of the Second Revised SDP by the NRC will result in injury in fact to Oklahoma's interests, specifically: (1) permanent disposal of long-lived radioactive wastes and materials at the SFC Site will pollute the air, land, waters, environment, and natural resources of Oklahoma; (2) removal of a large portion of the SFC Site from all future uses will render it useless, worthless, and incapable of generating ad valorem tax revenue for Oklahoma and its political subdivisions; (3) the tax base of Oklahoma and of its political subdivisions will be eroded by lower values of the real property surrounding the SFC Site and by increasing area unemployment and associated socioeconomic problems; (4) a release from the on-site disposal cell would directly harm and pollute defined streams located on the SFC site, the Salt Branch, the Illinois River, the Arkansas River, Lake Tenkiller, and Robert S. Kerr Lake, as well as the air, land, environment and natural resources of Oklahoma; (5) a release from the on-site disposal cell would injure the roads and thoroughfares of Oklahoma, inhibiting the right and ability of citizens to travel; and (6) the beauty and aesthetic quality of the surrounding environs, including the Illinois River (designated by Oklahoma as a scenic river), the Arkansas River, and the Robert S. Kerr Unit of the McClellan-Kerr Wildlife Refuge will be damaged, and scenic vistas in the areas surrounding the SFC Site will be permanently marred. Oklahoma alleges that a causal connection exists between its interests and the injuries that it will suffer. Request for Hearing at 4-5.

Oklahoma has established injury in fact to interests within the zone of interests protected by the Atomic Energy Act and the National Environmental Policy Act by alleging that the radiological waste and materials on the SFC Site could harm streams located on the SFC Site, the Illinois River, the Arkansas River, Robert S. Kerr Lake, the Robert S. Kerr Unit of the McClellan-Kerr Wildlife Refuge, roads and thoroughfares in close proximity to, and citizens residing in the environs of the SFC Site.¹ A presumption of standing based on geographic proximity may be applied in non power reactor cases where the proposed action involves a significant source of radioactivity producing an obvious potential for offsite consequences. *Georgia Institute of Technology* (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 116 (1995), citing *Sequoyah Fuels Corp.* (Gore, Oklahoma Site), CLI-94-12, 40 NRC 64, 75 n.22 (1994); and *Armed Forces Radiobiology Research Institutes* (Cobalt-60 Storage Facility), ALAB-682, 16 NRC, 150, 153-54 (1982). Even minor radiological exposures resulting from a proposed licensed activity can create the requisite injury in fact. See *Yankee Atomic Electric Co.* (Yankee Nuclear Power Station), LBP-96-2, 43 NRC 61, 70 (1996), *aff'd* CLI-96-7, 43 NRC 235, 246-48 (1996). *General Public Utilities Nuclear Corp.* (Oyster Creek Nuclear Generating Station), LBP-96-23, 44 NRC 143, 158 (1996). The Second Revised SDP has an obvious potential for offsite radiological

¹ Although Oklahoma has not identified the particular highways involved, the NRC Staff is aware of those highways and has identified them. See p. 3, *supra*. Oklahoma has not identified any citizens residing in the environs of the SFC Site, although one citizen residing in close proximity to the SFC site has been previously found by the NRC to have a property interest which could be injured by groundwater contamination under the SFC Site. *Sequoyah Fuels Corp.* (Gore, Oklahoma Site), CLI-94-12, 40 NRC 64, 74 (1995).

or environmental effects on Oklahoma's interests. A disposal cell containing approximately 5 to 11 million cubic feet of contaminated matter² will be in close proximity to Highway 40 and the Robert S. Kerr Wildlife Refuge, and contaminated groundwater is hydrologically connected to the Illinois River, the Arkansas River, the Robert S. Kerr Lake, waters owned by Oklahoma. As the alleged injuries are directly related to the presence of radioactive contaminants on the SFC Site, the alleged injuries are in the zone of interests protected by the Atomic Energy Act and the National Environmental Policy Act. It is a "concrete and particularized and . . . actual or imminent" injury. *See Bennett v. Spear*, 520 U.S. at 167. There is a causal connection between the alleged injuries and the presence of the radioactive waste and materials as a result of the groundwater connection between the SFC Site and the waters of streams on the SFC Site, the Illinois River, the Arkansas River, and the Robert S. Kerr Lake, and as a result of the location of the disposal cell on the SFC Site in close

² It is true that the License authorizes 20 million metric tons of uranium at the SFC Site and that a smaller amount of waste, 5 to 11 million cubic feet, is proposed to be stored at the site. That, however, does not change the fact that a significant source of radioactive contamination is in close proximity to property of Oklahoma, or require that Oklahoma be denied standing, as suggested by SFC. *See Answer in Opposition at 9. International Uranium (USA) Corp (Receipt of Material)*, LBP-98-21, 48 NRC 116, 146 (1998) does not require denial of standing to Oklahoma. In that case, the State of Illinois requested a hearing upon a license amendment to allow the receipt and processing of uranium-bearing material, which the Staff had concluded in its Technical Evaluation Report would not cause a significant change or increase in the types or amounts of effluents that may be released offsite or a significant increase in the potential for or consequences from radiological accidents. Nonetheless, the State of Illinois was found to have standing because the harm alleged was distinct and apart from the initial licensing and the continued operation of the facility, and raised issues that had a nexus to the subject amendment. Likewise, Oklahoma alleges a harm distinct and apart from the initial licensing and continued operation of the facility, and raises issues that have a nexus to the subject amendment concerning decommissioning.

proximity to highways and the Robert S. Kerr Wildlife Refuge owned by Oklahoma. Oklahoma, however, has not established injury in fact to its interests in the waters of Salt Branch or Lake Tenkiller. Oklahoma has not indicated whether they are upstream or downstream of the SFC Site (in fact they are upstream), and no plausible chain of causation has been described to link alleged injuries to Salt Branch and Lake Tenkiller to the challenged action. *See Atlas Corp.* (Moab, Utah Facility), LBP-97-9, 45 NRC 414, 425-26 (1997).

Oklahoma's economic interest in the collection of taxes and employment of its citizenry fall within the zone of interests protected by the National Environmental Policy Act. *Public Service Company of New Hampshire* (Seabrook Station, Units 1 & 2), ALAB-471, 7 NRC 477, 509 n.58 (1978).

Oklahoma, however, has not established injury in fact to its economic interest in the collection of tax revenue and the employment of its citizenry. Economic injury gives standing under the National Environmental Policy Act only if it is environmentally related to the challenged action. *Tennessee Valley Authority* (Watts Bar Nuclear Plant, Units 1 & 2), ALAB-413, 5 NRC 1218, 1421 (1977); *Sacramento Municipal Utility District* (Rancho Seco Nuclear Generating Station), LBP-91-17, 33 NRC 379, 390-91 (1991); *Sacramento Municipal Utility District* (Rancho Seco Nuclear Generating Station), CLI-92-2, 35 NRC 47, 56-57 (1992), *aff'd*, *Environmental and Resources Conservation Organization v. NRC*, 996 F.2d 1224 (9th Cir. 1993) (Table); *Sacramento Municipal Utility District*, (Rancho Seco Nuclear Generating Station), LBP-92-23, 36 NRC 120, 131 (1992). *See also Long Island*

Lighting Co. (Jamesport Nuclear Power Station, Units 1 & 2), ALAB-292, 2 NRC 631, 640 (1975). Clearly, SFC's decision to suspend operation of its licensed operations resulted in lost tax revenue to Oklahoma and fewer individuals employed at the SFC Site. That, however, is not related to the challenged action, and does not lead to the conclusion that the proposed decommissioning could constitute an injury-in-fact to Oklahoma's interests. See *Rancho Seco Nuclear Generating Station, supra*, 36 NRC at 57. Additionally, the allegation that approval of the Second Revised SDP will erode the tax base, increase unemployment, and cause adverse social consequences is so general, so lacking in specificity and unsupported by any facts, as to be hypothetical or conjectural. Moreover, SFC may decommission the SFC Site for restricted use as long as SFC meets the criteria of 10 C.F.R. § 20.1403, and Oklahoma does not allege that SFC has failed to meet those criteria or Section 1403. Finally, the alleged injury to Oklahoma's interest in tax revenues and employment of its citizens cannot be redressed by the NRC. Oklahoma has not alleged that any successor owner, assuming that the SFC site were decommissioned for unrestricted release, would engage in economic activity or employ Oklahoma citizens, and the NRC could not require that a successor owner do so.

Oklahoma's alleged interest in the beauty, aesthetic quality and scenic vistas of the area surrounding the SFC Site constitutes an environmental interest protected by the National Environmental Policy Act. *Yankee Atomic Electric Co.* (Yankee Nuclear Power Station), CLI-98-21, 48 NRC 185, 208 (1998). See *Dubois v. USDA*, 102 F.3d 1273, 1282 (1st Cir. 1996), and *Kelly v. Selin*, 42 F. 3d 1501, 1509 (6th Cir. 1995), *cert. den.* 515 U.S.

1159 (1995). Oklahoma, however, has not established injury in fact to this interest because the allegation is so general that it fails to demonstrate the requisite concreteness and is conjectural. Oklahoma has not alleged any facts to show that approval of the Second Revised SDP could cause a change in the beauty, aesthetic and scenic quality of the area surrounding the SFC Site. The Request for Hearing contains insufficient information to demonstrate an injury in fact.

Oklahoma states that it has the following areas of concern about SFC's request for authority to decommission the SFC Site which are germane to the subject matter of the proceeding: (1) the proposal to decommission the SFC Site for restricted release pursuant to 10 C.F.R. § 20.1403; (2) misapplication of 10 C.F.R. § 20.1403 to the SFC site and the precedential effect thereof upon other decommissioning activities within the State of Oklahoma under NRC jurisdiction; (3) long-term custodianship/stewardship of the SFC Site, should it be decommissioned for restricted release; (4) technical sufficiency of the Second Revised SDP; (5) SFC's proposed remediation or lack thereof of impacted groundwater at the SFC Site; (6) proposed utilization of an on-site, above-grade disposal cell for permanent disposition of decommissioning radioactive waste, including the design and sufficiency thereof. Request for Hearing at 7-8.

The Presiding Officer must determine whether any of the stated concerns are germane to the subject matter of the proceeding. 10 C.F.R. § 2.1205(h). The statement of the area of concern must be sufficient to establish that the issues the requestor wants to raise generally fall within the range of matters properly subject to challenge in such a proceeding.

Statements of Consideration, "Informal Hearing Procedures for Materials Licensing Adjudications," 54 *Fed. Reg.* 8269, 8272 (February 28, 1989). The areas of concern alleged by Oklahoma are so generally stated that it is not possible to conclude that there is an area of concern or that it is germane. Oklahoma does not allege that the proposal to decommission the SFC Site for restricted release fails to meet the requirements of 10 C.F.R. § 20.1403 or that § 20.1403 has been misapplied. Oklahoma does not allege that the proposed license amendment is deficient technically. To the extent that Oklahoma challenges the NRC staff's technical review of the license amendment application, it may not be the subject of any hearing. *Curators of the University of Missouri* (TRUMP-S Project), CLI-95-8, 41 NRC 386, 395-96 (1995). Oklahoma does not allege that SFC's proposal concerning treatment of impacted groundwater at the SFC Site is deficient. Oklahoma does not allege that the design of the disposal cell is deficient or that the disposal cell is inadequate in any way. Finally, Oklahoma does not state in what respect this proceeding should address long-term stewardship or custodianship of the SFC Site.

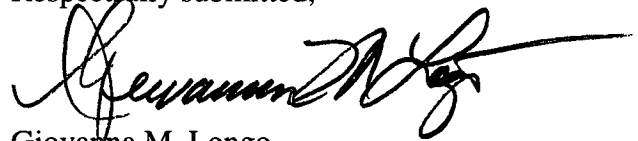
Oklahoma alleges that the injuries it will suffer from approval of the Second Revised SDP will be redressed by a decision favorable to Oklahoma, and that any order entered in this proceeding will have an effect upon the property, financial and other interests of Oklahoma Request for Hearing at 6-7. Oklahoma has, however, failed to indicate how the alleged injuries to any of its alleged interests could be redressed by a decision in this proceeding, and thus has failed to establish the requisite redressibility for standing. *Bennet v Spear*, 520 U.S.

154, 167, 117 S. Ct. 1154, 1163 (1997); *Dellums v. NRC*, 863 F.2d 968, 971 (D.C. Cir. 1988); *Vogle, supra*, 38 NRC at 32; *Babcock and Wilcox, supra*, 37 NRC at 81; and *Envirocare, supra*, 35 NRC at 173. *See also Warth v. Seldin*, 422 U.S. 490, 504 (1974).

CONCLUSION

Based upon the foregoing, the Staff concludes that the State of Oklahoma's Request for Hearing does not establish that Oklahoma has the requisite standing to participate as a party in any hearing concerning SFC's Second Revised SDP.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Giovanna M. Longo", with a long horizontal flourish extending to the right.

Giovanna M. Longo
Counsel for NRC staff

Dated at Rockville, Maryland
this 6th Day of August 1999

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE PRESIDING OFFICER

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In the Matter of)

Docket No. 40-8027

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATION STAFF

SEQUOYAH FUELS CORPORATION)
Gore, Oklahoma)

Re: Request to Amend Source
Material License No. SUB-1010)

NOTICE OF PARTICIPATION AND APPEARANCE

In accordance with § 2.1213, 10 C.F.R., Part 2, notice is hereby given that effective August 6th, 1999, the Nuclear Regulatory Commission (NRC) Staff wishes to participate as a party in the above captioned matter and that the undersigned attorney enters an appearance for the NRC Staff. The following information is provided:

Name of Attorney: Giovanna M. Longo

Address: U.S. Nuclear Regulatory Commission
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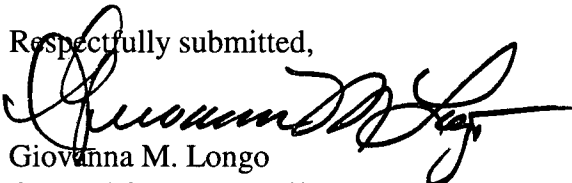
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District of Columbia
The Supreme Court of the United States

Name of Party: NRC Staff

Respectfully submitted,


Giovanna M. Longo
Counsel for NRC Staff

Dated at Rockville, Maryland
this 6th Day of August 1999

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OFFICE OF THE SECRETARY
RULEMAKING AND ADJUDICATIONS
STAFF

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO REQUEST FOR HEARING FILED BY THE STATE OF OKLAHOMA" and "NOTICE OF APPEARANCE" for Giovanna M. Longo in the above-captioned proceeding have been served on the following by deposit into the United States mail, or through deposit in the Nuclear Regulatory Commission's internal mail system as indicated with an asterisk, or with a double asterisk by hand delivery on this 6th day of August 1999.

Administrative Judge*
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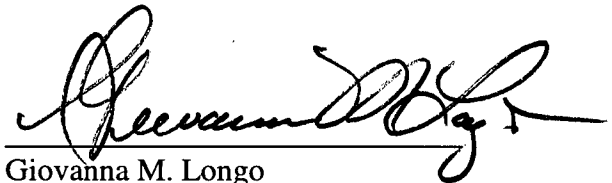
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A handwritten signature in black ink, appearing to read "Giovanna M. Longo", written over a horizontal line.

Giovanna M. Longo
Counsel for NRC Staff