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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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| In the Matter of |) | Docket No. 40-08027-MLA - 3 |
| |) | |
| SEQUOYAH FUELS CORPORATION |) | (Administrative |
| |) | Organizational Changes) |
| (Source Material |) | |
| License No. SUB-1010) |) | August 24, 1994 |

SFC'S ANSWER IN OPPOSITION TO NACE
AND CHEROKEE NATION'S REQUEST FOR HEARING ON
SFC'S MAY 6, 1994 LICENSE AMENDMENT APPLICATION

Sequoyah Fuels Corporation ("SFC") hereby submits this answer in opposition to the request for hearing of Native Americans for a Clean Environment ("NACE") and Cherokee Nation (together "Petitioners"). Pursuant to a Notice of Hearing published in the Federal Register on June 23, 1994 (59 Fed. Reg. 32,472), Petitioners asked for a hearing on SFC's May 6, 1994 license amendment application reflecting administrative organizational changes in a request dated July 19, 1994 (hereafter "Request for Hearing").

In an effort to avoid unnecessary litigation, SFC and Petitioners sought to negotiate to accommodate Petitioners' concerns without recourse to an administrative hearing under 10 CFR Part 2, Subpart L. Therefore, Petitioners requested, with the concurrence of SFC and the NRC Staff, that their request for a hearing be held in abeyance until August 15, 1994. Negotiations between Petitioners and SFC were unsuccessful, and

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SFC now files this timely response in opposition to the Request for Hearing.

SFC opposes the Petitioners' Request for Hearing because they have failed to identify any particularized "injury in fact" to their organizational interests, or to the interests of a member who has authorized them to act on her or his behalf, that will be affected by the results of this proceeding. Rather, Petitioners have expressed concerns regarding the Sequoyah Facility that are not within the scope of the license amendment application, and they have not shown, because they cannot, that the amendment will impact these concerns so as to affect their purported interests. The Request for a Hearing should be denied, because Petitioners have failed to establish that they have a cognizable interest in this proceeding, have failed to show how their interests may be affected by the results of the proceeding, and have failed to identify the specific areas of concern within the scope of the license amendment request that might have a plausible effect upon their interests.

BACKGROUND

SFC is the owner of NRC-licensed facilities at Gore, Oklahoma ("Sequoyah Facility"). SFC is the sole licensee named in NRC Source Materials License No. SUB-1010 (Docket No. 40-8027) ("SFC License"), which was issued on February 20, 1970 by the Atomic Energy Commission (now the NRC). The NRC renewed the SFC License on September 20, 1985 for a five year term ending on September 30, 1990. On August 29, 1990, SFC submitted a timely

application to renew the SFC License, which remained in effect pursuant to the provisions of 10 CFR § 40.43. NACE filed a request for a hearing on SFC's license renewal application on September 28, 1990. A Presiding Officer was designated,^{1/} and the hearing request was granted by an order dated January 24, 1991.^{2/}

On February 16, 1993, SFC filed a Notification pursuant to 10 CFR § 40.42(b) that it intended to terminate activities involving materials authorized under License No. SUB-1010 effective July 31, 1993 or earlier. SFC also submitted a Preliminary Plan for Completion of Decommissioning. SFC continued activities at the SFC site under the SFC license, as issued on September 20, 1985 and as amended through Amendment No. 19 dated April 9, 1993. On July 7, 1993 SFC informed the NRC that activities at the Sequoyah Facility (other than activities related to decommissioning) had been completed on July 6, 1993. Thus, on July 12, 1993 SFC filed its "Motion for Withdrawal of Application and Termination of Hearing" with the Presiding Officer in the license renewal proceeding. This motion was granted by an order dated December 10, 1993.^{3/}

^{1/} 55 Fed. Reg. 46744 (Nov. 6, 1990).

^{2/} The Cherokee Nation and the State of Oklahoma (Department of Conservation) were later admitted as participants in the license renewal proceeding.

^{3/} Sequoyah Fuels Corporation (Source Material License No. SUB-1010), LBP-93-25, 38 NRC 304 (1993). The Commission granted review of this decision on April 1, 1994, and such review is now pending. See Sequoyah Fuels Corporation
(continued...)

The SFC License now "continues in effect" under the terms of 10 CFR § 40.42(e). Pursuant to 10 CFR §§ 40.42(e)(1) and (2), SFC's activities are limited to those permitted under its license that are "related to decommissioning" the Sequoyah Facility and necessary "to control entry to restricted areas." SFC's completion of decommissioning of the facility will be conducted under a Decommissioning Plan that will be reviewed and approved by NRC. Any activities related to decommissioning that are not currently authorized under the present SFC License pursuant to 10 CFR § 40.42(e) will be authorized upon NRC's approval of a Decommissioning Plan.

On May 6, 1994, SFC filed an application to amend the SFC License to reflect administrative organizational changes in light of SFC's limited activities. Petitioners have requested a hearing on this amendment application.

DISCUSSION

I. LEGAL STANDARDS FOR INTERVENTION

The NRC's Federal Register notice of SFC's amendment application, "Consideration of Amendment to Source Material License and Opportunity for a Hearing," provides that:

a request for a hearing filed by a person other than the applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

^{2/}(...continued)

(Source Material License No. SUB-1010), CLI-94-4, 39 NRC 187 (1994).

(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(g);

(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(c). ^{4/}

59 Fed. Reg. at 32472.

Petitioners have the burden to submit sufficient information regarding the four factors stated in the NRC's Federal Register notice to establish a right to party status in this proceeding. Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-91-2, 33 NRC 42, 44 (1991) ("the burden rests with the petitioner to demonstrate that he or she satisfies the requirements [of the regulation]"); see also Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), LBP-79-10, 9 NRC 439, 459 (1979) ("A petitioner is responsible for providing a Board with sufficient information for determining whether that petitioner has standing of right.").

In determining "whether a petitioner has established the requisite 'interest' to intervene, the Commission has long applied contemporaneous judicial concepts of standing." Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993) (and cases cited

^{4/} SFC does not contest the timeliness of Petitioners' Request for Hearing.

therein); see also Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 614 (1976). A clear statement of the judicial requirements for standing was recently provided by the Supreme Court in Lujan v. Defenders of Wildlife, 112 S. Ct. 2130, 2136 (1992):

Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements: First, the plaintiff must have suffered an "injury in fact" -- an invasion of a legally-protected interest which is (a) concrete and particularized; and (b) "actual or imminent, not 'conjectural' or 'hypothetical.'" Second, there must be a causal connection between the injury and the conduct complained of -- the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court." Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision."

112 S. Ct. at 2136 (brackets and ellipses in original) (citations omitted).

Although variously described, the basic precepts contained in the Lujan formulation and its predecessors have been consistently applied in NRC case law. See, e.g., Babcock and Wilcox (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 81 (1993); Public Service Co. of New Hampshire (Seabrook Station, Unit 1), CLI-91-14, 34 NRC 261, 266-67 (1991). Significantly, it is clear that in order to establish "injury in fact" for standing, a petitioner must have a real stake in the outcome of the proceeding. Houston Lighting

and Power Co. (South Texas Project, Units 1 and 2), LBP-79-10, 9 NRC 439, 447-48, aff'd, ALAB-549, 9 NRC 644 (1979).

Petitioners often seek to establish standing in NRC proceedings by relying upon their residence, activities or ownership of property within geographic proximity to a licensed facility. In proceedings involving commercial power reactors the Commission has adopted the so-called "fifty-mile rule," pursuant to which geographic proximity creates a presumption of the requisite injury in fact in many proceedings. Apollo, LBP-93-4, 37 NRC at 83. However, the Commission "has made it clear that this 'fifty mile' presumption does not apply in materials licensing actions." Id.^{2/} For example, in Apollo the Presiding Officer held that petitioners who lived approximately 250 feet, 450 feet, and 10,000 feet from the licensed facility at issue did not establish standing where they failed to "provide some evidence of a causal link between the distance they reside from the facility and injury to their legitimate interests." Id. at 83-84.^{3/}

^{2/} When promulgating 10 CFR Part 2, Subpart L, the Commission explicitly rejected the suggestion that standing may be based on geographic proximity to the facility alone. See 54 Fed. Reg. 8269, 8272 (1989).

^{3/} The Commission has also recently clarified that in cases involving materials licensees "a presumption based on geographical proximity (albeit at distances much closer than 50 miles) may be applied where there is a determination that the proposed action involved a significant source of radioactivity producing an obvious potential for offsite consequences." Sequoyah Fuels Corporation and General Atomics (Decontamination and Decommissioning Funding), CLI-94-12, slip op. at 13-19 n.22 (August 23, 1994).

In a proceeding involving an amendment to a materials license, the fact that a petitioner resides or engages in activities within geographic proximity to the licensee "can be relevant to standing depending on the radiological materials and potential hazard involved." Northern States Power Company (Pathfinder Atomic Plant), LBP-89-30, 30 NRC 311, 316 (1989). However, the petitioner must show "what particular impact the planned licensing action will have upon its legitimate (e.g., health, safety, or environmental) interests." Apollo, LBP-93-4, 37 NRC at 83. Thus, in order to establish a cognizable interest in a materials license amendment proceeding, a petitioner must establish a plausible injury based upon articulated areas of concern that are within the scope of the proposed amendment. In this case, the Petitioners must demonstrate that the members they are authorized to represent will be subject to a "realistic threat . . . of sustaining a direct injury" from some plausible consequence of the proposed amendment. Sequoiah Fuels Corporation and General Atomics (Decontamination and Decommissioning Funding), CLI-94-12, slip op. at 16-17 (August 23, 1994).

A petitioner's areas of concern that are not impacted by the proposed amendment cannot form the basis of the petitioner's interest, because such concerns are not cognizable in a hearing on the proposed amendment. Consideration of a petitioner's areas of concern must be circumscribed by "the controlling principle that an amendment proceeding is limited to

a consideration of those issues 'directly arising from the proposed change.'" Florida Power & Light Co. (Turkey Point Nuclear Generating Station, Units 3 and 4), LBP-8114, 13 NRC 677, 697 (1981), aff'd ALAB-660, 14 NRC 987 (1981) (quoting Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), ALAB-245, 8 AEC 873, 875 (1974)).

II. PETITIONERS HAVE FAILED TO MEET THE STANDARDS FOR INTERVENTION

A. Petitioners Do Not Have the Requisite Interest To Intervene

Petitioners have failed to establish a sufficient interest in this proceeding. In order to meet the requirements for standing, an "organization must show injury either to its organizational interests or to the interests of members who have authorized it to act for them." Philadelphia Electric Co. (Limerick Generating Station), LBP-82-43A, 15 NRC 1423, 1437 (1982) (citing Warth v. Seldin, 422 U.S. 490, 511 (1975); Sierra Club v. Morton, 405 U.S. 727, 739-40 (1972)); see also Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), CLI-91-13, 34 NRC 185, 187 (1991). The Petitioners appear to claim both organizational and representational standing, but have failed to establish a cognizable interest in the proposed license amendment.

1. Organizational Standing

NACE appears to claim organizational standing based upon broad allegations that "[i]ts purpose is to educate the

general public about environmental issues, with emphasis on the nuclear industry" and that it represents a membership including "approximately 700 members [who] live in the United States, Canada, Guatemala, and Brazil." Request for Hearing at 3. However, these interests are clearly insufficient to establish organizational standing.

The Commission has held that an organization's interest in performing educational or informational activities is insufficient to confer standing. Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station), CLI-92-2, 35 NRC 47, 57-61 (1992). In doing so, the Commission followed both long-established Commission precedent and the United States Court of Appeals for the District of Columbia Circuit's recent conclusion that it had "never sustained an organization's standing in a NEPA case solely on the basis of 'informational injury.'" Foundation on Economic Trends v. Lyng, 943 F.2d 79, 84 (D.C. Cir. 1991).

Likewise, NACE's assertion that it represents 700 members from North and South America does not confer organizational standing and has no relevance in this proceeding. Well-established NRC precedent makes clear that NACE cannot intervene in order to represent the interests of unnamed individuals who have not explicitly authorized it to intervene on their behalf. See Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit No. 2), ALAB-470, 7 NRC 473, 474 n.1 (1978); Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and

2), ALAB-413, 5 NRC 1418, 1421 (1977); Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-77-11, 5 NRC 481, 483-84 (1977); Allied-General Nuclear Services (Barnwell Fuel Receiving and Storage Station), LBP-75-60, 2 NRC 687, 690 (1975).

The Cherokee Nation asserts organizational standing based upon its property interests in the vicinity of the Sequoyah Facility. However, as noted above, mere residence or property interest in geographic proximity to a materials facility is insufficient to confer standing to request a hearing with regard to a materials license amendment. See Apollo, LBP-93-4, 37 NRC at 83. In light of SFC's limited activities at its now shutdown facility, the proposed license amendment does not involve or affect a "significant source of radioactivity producing an obvious potential for offsite consequences." Sequoyah Fuels Corporation and General Atomics (Decontamination and Decommissioning Funding), CLI-94-12, slip op. at 18-19 n.22 (August 23, 1994).^{2/} Petitioners' broad allegations that inadvertent releases from the Sequoyah Facility could jeopardize the Cherokee Nation's property interests are insufficient to

^{2/} Although CLI-94-12 involved NACE and the same facility at issue in this proceeding, the Commission did not rely upon any presumption based on the geographical proximity in admitting NACE to that proceeding. Rather, NACE was admitted to the decommissioning funding proceeding based upon its having articulated a particularized injury to a specific individual that could result from the failure to properly complete the decommissioning of the facility. In contrast, this proceeding does not affect activities related to the completion of decommissioning of the Sequoyah Facility. Such activities will be authorized under a Decommissioning Plan that will be reviewed and approved by the NRC.

confer standing to request a hearing on this license amendment. The proposed amendment does not change license requirements regarding effluent releases, nor does it relax requirements under the license which limit off-site releases. If anything, SFC's decision to terminate operations at the Sequoyah Facility and the resulting reduction of activities at the site have significantly reduced the likelihood of any inadvertent off-site releases. Petitioners have failed to make a plausible demonstration of how the proposed amendment regarding administrative changes to SFC's organization could affect the Cherokee Nation's property interests.

Finally, both Petitioners assert organizational standing based upon their participation as a parties in other proceedings regarding the Sequoyah Facility. Request for Hearing at 2 n.2. Such participation in other proceedings has no bearing on whether Petitioners have standing to request a hearing on this specific license amendment. See, e.g., Georgia Power Co. (Vogtle Electric Generating Plant, Units 1 and 2), LBP-90-29, 32 NRC 89, 91 (1990) (a petitioner for intervention may not base its standing on reference to its participation in other NRC or non-NRC proceedings). But see Georgia Power Co. et al. (Vogtle Electric Generating Plant, Units 1 and 2), LBP-31-33, 34 NRC 138, 141 (1991), and compare Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-92-27, 36 NRC 196, 198 (1992). This principle is especially pertinent in this materials license amendment proceeding, because Commission

precedent has made clear that a petitioner's interest in each amendment proceeding must be assessed vis a vis the specific proposed licensing action. See, e.g., Apollo, LBP-93-4, 37 NRC at 83, 94. Therefore, Petitioners have an independent obligation, without regard to other proceedings relating to the Sequoyah Facility, to establish how their interests might be affected by SFC's requested license changes.

2. Petitioners' Representational Standing

SFC acknowledges that an organization can acquire representational standing if one of its members "has standing in his or her own right and the member authorizes the organization to represent his or her interests." See, e.g., Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), ALAB-952, 33 NRC 521, 530 (1991). Under this approach the organization's standing is derivative of the member's standing. Id. at 531.

Both NACE and Cherokee Nation have asserted representational standing to request a hearing on the license amendment based upon the interests of Patricia W. Ballard and Patty Cather-Cobb.^{8/} These individuals assert interests in the license amendment based upon residence, certain activities, and property interests within geographic proximity of the Sequoyah

^{8/} It should be noted that the affidavits of these two individuals only authorize NACE to represent them. It is questionable whether any single person or entity can authorize more than one organization as its representative in a specific proceeding.

Facility. However, as discussed above with regard to the Cherokee Nation's property interests, the interests expressed by these two individuals are insufficient to confer standing to request a hearing on the proposed license amendment. Their broad concerns with regard to activities at the Sequoyah Facility are not within the scope of the license amendment. As demonstrated more fully below, Petitioners have failed to make a plausible demonstration that the license amendment would affect the areas of concern that they have articulated and would cause the particularized injury required to confer standing.

B. Petitioners Have Failed to Articulate Areas of Concern Potentially Affecting Their Interests That Are Within the Scope of the License Amendment Application

Although unnumbered and scattered throughout the Request for Hearing, Petitioners appear to be alleging that there are ten areas of concern arising out of the license amendment request that could affect their interests and form the basis for their standing to request a hearing. However, virtually all of the articulated areas of concern are beyond the scope of SFC's license amendment application. Some of the articulated areas of concern may appear to be tangentially related to the license amendment application; however, upon closer scrutiny, it is clear that Petitioners have failed to show how the proposed licensing action would impact these concerns and potentially affect Petitioners' interests. Each of Petitioners' ten articulated areas of concern are addressed below.

1. ***SFC's proposed management changes . . . are insufficient to protect [Petitioners'] health and safety or the environment during decommissioning.* (Request for Hearing at 6-7).**

This area of concern is not within the scope of the license amendment. The license amendment does not affect management of the Sequoyah Facility "during decommissioning." Rather, the completion of decommissioning will be authorized pursuant to a Decommissioning Plan that will be subject to future NRC review and approval. Petitioners' concerns regarding management of the Sequoyah Facility during decommissioning can be addressed in connection with NRC's review and approval of the Decommissioning Plan. In contrast, the license amendment relates to administrative organizational changes affecting SFC's limited activities under the existing license that are "related to decommissioning" the Sequoyah Facility and necessary "to control entry to restricted areas." 10 CFR § 40.42(e). Petitioners' have not shown -- nor even alleged -- that the requested amendment will affect the limited activities authorized under the present SFC License in a manner that could cause injury to the named individuals.

2. ***SFC's proposed organizational structure does not assure that decommissioning will be carried out in a safe and effective way.* (Request for Hearing at 7).**

This area of concern is not within the scope of the license amendment. SFC's decommissioning of the facility will be carried out under a Decommissioning Plan that will be subject to future NRC review and approval. Petitioners have not shown --

nor even alleged -- that the requested amendment will affect the limited activities authorized under the present SFC License in a manner that could cause injury to the named individuals.

Petitioners' concerns regarding an organizational structure that assures safe and effective decommissioning of the Sequoyah Facility can be addressed in connection with NRC's review and approval of the Decommissioning Plan.

3. ***SFC has drastically reduced its managerial staff without demonstrating that the extensive and highly technical tasks associated with decommissioning can be accomplished safely and effectively under the new organization.***
(Request for Hearing at 7).

This area of concern is not within the scope of the license amendment. Neither SFC's current license, nor the proposed changes to the license, would authorize SFC to carry out any extensive and highly technical tasks associated with the completion of decommissioning of the Sequoyah Facility. SFC's organizational changes and managerial staffing are fully adequate to carry out the limited activities authorized under the current license, and SFC will have the opportunity to demonstrate that its organization is adequate to conduct decommissioning activities in connection with NRC's review of its Decommissioning Plan. Petitioners' challenge to SFC's ability to conduct the extensive and highly technical tasks associated with the completion of decommissioning is therefore premature and beyond the scope of the proposed license amendment.

4. **"SFC apparently plans to rely extensively on contractors to carry out decommissioning tasks, but it does not provide adequately for contract management and supervision."
(Request for Hearing at 7)**

This area of concern is not within the scope of the license amendment. Neither SFC's current license, nor the proposed changes to the license, would authorize SFC to carry out decommissioning tasks that will be subject to review in connection with NRC's approval of SFC's Decommissioning Plan. Thus, Petitioners' concerns regarding the adequacy of SFC's management and supervision of contractors performing decommissioning tasks is premature and beyond the scope of the license amendment.

5. **"SFC Has Altered Lines of Reporting So that Safety and Environmental Tasks Are Not Overseen By Qualified Personnel
(Request for Hearing at 7)**

This area of concern is ill-founded. The proposed changes will not impact any interest articulated by Petitioners. Decommissioning-related, waste management and safety-related activities at SFC are controlled by the utilization of a system of pre-approved procedures that define technical and safety parameters. These procedures are reviewed and approved by the Plant Review Committee or by the Director of Regulatory Affairs and the President prior to implementation. Managers who are not technically qualified do not have the authority to make technical decisions and are not in the review and approval chain for the applicable procedures. As a result, administrative oversight of

safety and environmental tasks by such management personnel cannot adversely impact Petitioners alleged interests.^{2/} The license amendment does not alter SFC's system of pre-approved procedures which control safety and environmental tasks by defining technical and safety parameters. Therefore, Petitioners' concerns are beyond the scope of the requested amendment.

6. **"SFC inappropriately has reduced qualifications requirements for positions associated with health and environmental protection."
(Request for Hearing at 7).**

This area of concern appears to relate to the qualification requirements under SFC's license for the functions performed by the Manager, Environmental and the Manager, Licensing and Health Physics. Petitioners have expressed concern to SFC because the qualifications for these positions, as stated in SFC's existing license (as amended through Amendment No. 19 dated April 9, 1993) and as continued in the proposed license amendment, are different from the qualifications proposed in SFC's license renewal application. However, the provisions proposed in SFC's license renewal application are irrelevant to SFC's existing license and the proposed amendment to that license.

^{2/} For example, activities at any NRC licensed facility are often overseen by corporate officers or boards of directors, who are not themselves technically qualified to conduct the licensed activities. This oversight does not undermine the established regime for assuring the safe conduct of licensed activities.

The pending license amendment application does not propose to change the qualifications for the two individuals performing the two functions in question. Under the proposed amendment, the functions and qualifications of the Manager, Environmental are unchanged. The position of Manager, Licensing and Health Physics is eliminated, and the health physics function is assigned to the newly created Manager, Health and Safety. Significantly, this position has precisely the same qualification requirements as the former Manager, Licensing and Health Physics under SFC's existing license. Thus, there are no changes in the qualifications for the two positions performing the health and environmental protection functions. Any of Petitioners' concerns with the currently applicable qualifications requirements for these positions are beyond the scope of this license amendment.

7. **"SFC's new quality assurance program is inadequate"**
(Request for Hearing at 7).

This area of concern is not within the scope of the license amendment. SFC has not proposed any changes to its quality assurance program. Changes were made affecting the quality assurance program in the amendment approved by the NRC on April 9, 1993. However, Petitioners' concerns regarding those changes are not within the scope of the current license amendment request.

8. "[T]he proposed license amendment is incomplete and unclear with respect to critical safety and environmental functions."
(Request for Hearing at 7).

This area of concern is vague and insufficient to meet Petitioners' burden of showing the "particular impact the planned licensing action" would have on Petitioners' interest. See Apollo, LBP-93-4, 37 NRC at 83. In addition, to the extent Petitioners may be seeking additional changes to the SFC License with respect to safety and environmental functions, this area of concern is beyond the scope of the license amendment request. Moreover, as described above with regard to Petitioners' concern number 5, decommissioning-related, waste management and safety-related activities at SFC are controlled by the utilization of a system of pre-approved procedures that define technical and safety parameters. The requested license amendment does not change this system of procedures.

9. "[T]he currently proposed management reforms will not be adequate to ensure that the contamination is cleaned up adequately."
(Request for Hearing at 4).

This area of concern is not within the scope of the license amendment. The license amendment does not address the ultimate clean-up of contamination. Rather, SFC's Decommissioning Plan will provide for the adequate clean up of contamination at the site, and this plan will be the subject of future NRC approval. Petitioners' concerns regarding adequate clean-up of contamination at the Sequoyah Facility are therefore

premature and beyond the scope of the license amendment application.

10. "[T]he currently proposed management reforms will not be adequate . . . to prevent further inadvertent releases of contamination" and Petitioners interests will be jeopardized by "[a]ny radioactive materials, heavy metals, or other substances that are inadvertently released to the Arkansas River as a result of poor management"
(Request for Hearing at 4, 5).

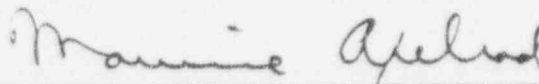
This area of concern is vague and insufficient to meet Petitioners' burden of showing the particular impact from the proposed license amendment that could affect their interests. Petitioners fail to articulate any specific aspect of the proposed license amendment that would result in poor management of the Sequoyah Facility so as to make inadvertent releases of contamination a plausible impact of the amendment. The proposed amendment does not change license requirements regarding effluent releases, nor does it relax requirements under the license which control SFC's activities and limit off-site releases. If anything, SFC's decision to terminate operations at the Sequoyah Facility and the resulting considerable reduction of activities at the site has significantly reduced the possibility of any inadvertent off-site releases. Considering the limited activities authorized under the current license, and as proposed to be amended, Petitioners' conjecture that inadvertent releases will be caused by poor management is highly speculative and clearly insufficient to confer standing to request a hearing on SFC's proposed administrative changes.

CONCLUSION

Petitioners have failed to identify any cognizable concern related to or within the scope of the requested license amendment, and they have failed to demonstrate how any aspect of the requested license amendment could impact any of their organizational interests or the interests of the individuals they seek to represent. Petitioners have therefore failed to establish their standing to request a hearing on SFC's license amendment application.

FOR THE FOREGOING REASONS, the Native Americans for a Clean Environment and Cherokee Nation's request for a hearing on SFC's May 6, 1994 license amendment application reflecting administrative organizational changes should be denied.

Respectfully submitted,



Maurice Axelrad
John E. Matthews

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ATTORNEYS FOR
SEQUOYAH FUELS CORPORATION

August 24, 1994

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| (Source Material |) | Organizational Changes) |
| License No. SUB-1010) |) | August 24, 1994 |

OFFICE OF SECRETARY
DOCKETING SERVICE
BRANCH

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter on behalf of Sequoyah Fuels Corporation. The following information is provided pursuant to 10 CFR § 2.713(b):

| | |
|----------------------|--------------------------------------------------------------------------------------------------------------|
| NAME: | Maurice Axelrad |
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| ADMISSION: | D.C. Court of Appeals |
| NAME OF PARTY: | Sequoyah Fuels Corporation |

Respectfully Submitted,

Maurice Axelrad
Maurice Axelrad

August 24, 1994

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| |) | (Administrative |
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| |) | August 24, 1994 |

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter on behalf of Sequoyah Fuels Corporation. The following information is provided pursuant to 10 CFR § 2.713(b):

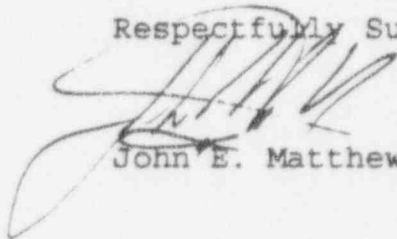
NAME: John E. Matthews

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1615 L Street, N.W., Suite 1000
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ADMISSION: D.C. Court of Appeals

NAME OF PARTY: Sequoyah Fuels Corporation

Respectfully Submitted,



John E. Matthews

August 24, 1994

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BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of "SFC's Answer in Opposition to NACE and Cherokee Nation's Request for Hearing on SFC's May 6, 1994 License Amendment Application," together with notices of appearance by Maurice Axelrad and John E. Matthews, were served upon the following persons by deposit in the United States mail, postage prepaid and properly addressed on the date shown below:

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Docketing & Service Branch
(Original and two copies)

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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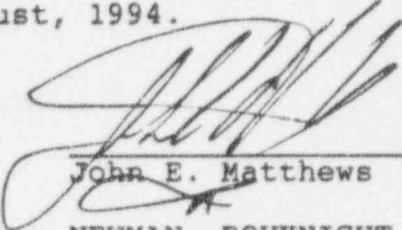
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Dated this 24th day of August, 1994.



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