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Reclassification and Rescoping
Public Meeting

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3 + + + + +
4 PUBLIC MEETING ON
5 SEQUOYAH FUELS CORPORATION
6 RECLASSIFICATION AND RESCOPING FOR
7 ENVIRONMENTAL IMPACT STATEMENT

8 + + + + +
9 TUESDAY, MAY 13, 2003

10 + + + + +
11 GORE, OKLAHOMA

12 + + + + +
13 The Public Meeting was held in the Cafeteria of
14 the Gore High School, 1200 Highway 10 North Gore,
15 Oklahoma, at 7:00 p.m.

16 NRC STAFF PRESENT:

17 MIKE FLIEGEL
18 BILL VON TILL
19 CHRISTIE SCHULTE
20 ANGELA COGGINS
21 REBECCA TADESSE
22 JOHN LUSHER
23 VICTOR DRICKS
24 ABE ZEITOUN
25 JOE ZABEL

A-G-E-N-D-A

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P-R-O-C-E-E-D-I-N-G-S

MR. FLIEGEL: I want to welcome everybody to the public meeting of the NRC on the Sequoyah Fuels facility. My name is Mike Fliegel. I'm the project manager for the NRC review of the site.

A few remarks before we actually get into the presentations. First of all, the purpose of the meeting: we're here to inform the public of the changes in the characterization in the material at the Sequoyah Fuels facility. Some of you are aware of the fact that there was a change in the classification of the material and we're here to discuss that. We're also here for what we call an EIS scoping meeting.

And before I start, I think I'd like to have the people from NRC stand up and introduce themselves, so you know who we are and later on if questions are asked, you'll know who the people who answer the questions are.

MR. VON TILL: I'm Bill Von Till. I'm the groundwater hydrogeologist on the case.

MS. SCHULTE: Christine Schulte. I work with Rebecca Tadesse on the environmental part of it.

MS. COGGINS: Hi. Angela Coggins and I'm an attorney with the NRC.

MS. TADESSE: Hi. I'm Rebecca Tadesse,

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1 project manager for the environmental impact
2 statement.

3 MR. LUSHER: I am John Lusher. I'm the
4 health physicist, project manager and inspector for
5 FCSS.

6 MR. DRICKS: I'm Victor Dricks. I'm the
7 public affairs officer with the NRC based in
8 Arlington, Texas.

9 MR. ZEITOUN: I'm Abe Zeitoun. I'm an ATL
10 contractor for the NRC working on EIS.

11 MR. ZABEL: Hi. I'm Joe Zabel and I'm
12 also an ATL contractor.

13 MR. FLIEGEL: I want to talk a little bit
14 about the agenda and the ground rules for the meeting
15 tonight. First of all, we're going to have a
16 presentation on the changes in the characterization of
17 the material and I will give that. As I go through
18 the slides, if you have a question about the slide,
19 please raise your hand, I will try and answer it. If
20 it's a general question about the subject of the
21 presentation, please hold that till the end because
22 I'll ask questions at the end. Please, one question
23 at a time. We will try and answer each question in
24 turn.

25 Also, if you have a question and would

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1 rather not stand up and ask it, we have 3 x 5 cards;
2 you can write a question on the card and we will try
3 and answer that. After my presentation, we will have
4 the scoping meeting which is an EIS process. First,
5 Rebecca will have a discussion of the EIS and a little
6 bit of discussion about the scoping process, and then
7 what we will do is give you an opportunity to provide
8 comment basically on the scope of the EIS, what you
9 think should be in the EIS or questions that you have
10 that should be answered in the EIS.

11 Again, we have forms available if you'd
12 rather not get up and ask the question, just writing
13 and it will be considered the same as an oral question
14 at this meeting.

15 Now, the meeting is being transcribed so
16 if you do stand up and raise a question or provide a
17 comment, please stand, state your name and spell it so
18 that the transcriber can get it accurately, and we
19 will have a copy of the transcript available on the
20 NRC website. I can't tell you when, but when it gets
21 done, we will put it on our website.

22 We also have comment forms just for the
23 public meeting in genera, so if you have any comments
24 just in general about the public meeting, we ask you
25 to fill out a form and mail it to us.

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1 Again, the purpose of this part of the
2 presentation is to explain the changes in the
3 classification of the material at the Sequoyah Fuels
4 site and then discuss reclamation of 11e.(2) byproduct
5 material -- that's the reclassified material at the
6 site -- and to answer questions.

7 Before I do that, I'd like to do a little
8 bit on the background of the Nuclear Regulatory
9 Commission. We're an independent regulatory agency.
10 We were established in 1974 through the Energy
11 Reorganization Act; we had been a part of the Atomic
12 Energy Commission before that. Our mission is to
13 protect the public health, safety and the environment,
14 and we have approximately 2,500 staff members. We're
15 responsible for licensing of civilian use of
16 radioactive material: reactors, source special
17 byproduct, special nuclear byproduct material which
18 are the three kinds of material we regulate. We
19 regulate transportation of radioactive material and
20 low and high level waste.

21 Our role as a regulatory agency, we
22 develop regulations and guidance to implement
23 legislation. We review applications for licenses, we
24 can request additional information where appropriate,
25 we evaluate applications for amendments, and we issue

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1 licenses and amendments. Periodically we do
2 inspections to determine that the regulations have
3 been properly met, and important is that the burden of
4 proof is on the licensee or applicant to prove that
5 they have met our regulations.

6 We do not select sites or designs; that is
7 a licensee's or applicant's responsibility. We don't
8 participate with a licensee or an applicant in their
9 choosing what they request to be licensed for. As a
10 regulatory agency, when we get an application for a
11 license or license amendment, we really only have
12 three alternatives: we can grant that license or
13 license amendment; we can grant it with modifications
14 that the licensee or applicant agrees to -- if we
15 think that something needs to be changed, we can tell
16 a licensee that we would like to see this changed to
17 meet our regulations, and if the licensee agrees, we
18 can grant it with that; or we can deny the
19 application. But we do not redesign a licensee's
20 request for the licensee.

21 A little history about the Sequoyah Fuels
22 site. It operated from 1970 to '93; it primarily
23 converted yellowcake to uranium hexafluoride and also
24 later on it converted depleted uranium hexafluoride to
25 UF-4. The facility submitted a preliminary plan for

1 completion of decommissioning in 1993 when they shut
2 down. NRC adopted new regulations, the license
3 termination rule in '97, and Sequoyah Fuels submitted
4 a decommissioning plan under those new rules and that
5 new regulation, and it was for on-site disposal --
6 that's a restricted release site -- and in order to do
7 that, they needed a third party as a custodian for the
8 site to enforce institutional controls and they were
9 unable to identify a third party to do that.

10 Since the time the site was licensed, the
11 radioactive material at the Sequoyah Fuels site was
12 regulated as source material, and what source material
13 basically is is uranium or thorium and that's what the
14 radioactive contamination at the site is primarily
15 uranium or thorium.

16 Sequoyah Fuels requested that we
17 reclassify the material as byproduct material and as
18 byproduct material as defined in Section 11e.(2) of
19 the Atomic Energy Act, and that definition states --
20 and it's on the slide -- "Tailings or waste produced
21 by the extraction or concentration of uranium or
22 thorium from any ore processed primarily for its
23 source material content."

24 Now, Sequoyah Fuels argued that the front
25 end of their process, the part of the process that

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1 produced most of the waste on the site met the
2 definition in that it was a concentration of uranium
3 and it met the definition of an 11e.(2) byproduct
4 material. That went up to our commission and the
5 Commission agreed in July of 2002 that yes, the
6 material can also be considered as 11e.(2) byproduct
7 material.

8 Now, why did Sequoyah Fuels do that? As
9 a source material site, before the reclassification,
10 their rules for cleaning up the site were in Title 10
11 of the Code of Federal Regulations, Part 20, Subpart
12 E, and it's what I discussed before, the License
13 Termination Rule. Under that, in order to have
14 restricted release -- and restricted release is when
15 you leave some of the contamination on-site -- you
16 needed institutional controls to ensure that the site
17 wasn't misused and you needed an independent third
18 party custodian to be able to enforce that, but it was
19 the licensee's obligation to find a third party
20 custodian, and the licensee Sequoyah Fuels could not
21 find a third party custodian.

22 There were discussions with the Department
23 of Energy. The Department of Energy has the authority
24 under legislation to become a custodian for a source
25 material site but they were never able to get

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1 agreement from the Department of Energy that it would
2 do that.

3 Now, if we look at an 11e.(2) byproduct
4 material site, the regulations for an 11e.(2) site,
5 the regulations are in Part 40 of our regulations,
6 Appendix A, and the requirements related to public
7 health, safety and the environment are similar. The
8 difference is that under Appendix A of Part 40, for a
9 licensee to dispose of the material on-site, the site
10 will be a restricted site and there must be a long-
11 term custodian but it can only be one of two parties:
12 it can be the state in which the site is in, or the
13 Department of Energy.

14 Yes?

15 MS. COLLINS: Jessie, J-E-S-S-I-E,
16 Collins, C-O-L-L-I-N-S. It was my understanding that
17 the Department of Energy only regulates government
18 projects. Why would they be regulating or become the
19 long-term custodian for private industry?

20 MR. FLIEGEL: Well, as a source material
21 site, the legislation allows DOE to become the
22 custodian. For an 11e.(2) site, as the last bullet
23 says, they must become the long-term custodian if the
24 state declines. And why would they do it? Because
25 Congress told them they had to.

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1 MS. BARTON: I had a question. My name is
2 Nadine Barton, B-A-R-T-O-N, and I'm with CASE,
3 Citizens Action for a Safe Environment. My question
4 is this: several times that you referred to
5 restricted release, exactly what is the size of the
6 restricted? Is it only the cell itself that would be
7 restricted and the other adjoining property to the
8 cell would be unrestricted release? How would that
9 work?

10 MR. FLIEGEL: Well, why don't we hold that
11 till the end because it's a general question. It's a
12 good question but it's really not relevant to this
13 slide.

14 MS. BARTON: Okay.

15 MR. FLIEGEL: As an 11e.(2) byproduct
16 material site, the requirements of Appendix A apply,
17 and the regulations in Appendix A cover all aspects of
18 site cleanup: building decommissioning, soil cleanup,
19 cell design and construction, and groundwater
20 remediation. This stems from the Uranium Mill
21 Tailings Radiation Control Act which amended the
22 Atomic Energy Act, and among other things, what that
23 did was define this new category of byproduct
24 material, it directed EPA to establish the standards,
25 both radiological and non-radiological standards, for

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1 this material, and it directed NRC to conform its
2 regulations to the standards that EPA wrote, and that
3 was done in the 1980s that EPA wrote the standards and
4 NRC conformed its regulations.

5 And the non-radiological standards -- and
6 this is something new with this material -- previously
7 the material that NRC regulates, source material,
8 special nuclear material, we regulate the radiological
9 hazard of that material. For this material, the
10 11e.(2) byproduct material, Congress directed us to
11 regulate both the radiological and the non-
12 radiological hazards, and the non-radiological
13 standards that were written by EPA are basically the
14 same that EPA wrote in conformance with the Solid
15 Waste Disposal Act -- that is essentially RCRA
16 standards for groundwater. So for this material, NRC
17 regulates the hazardous constituents of contamination
18 in the groundwater in addition to the radiological
19 constituents.

20 Just to give you an idea of what happens
21 in a reclamation, first the NRC has to evaluate the
22 proposed surface reclamation plan and we've just
23 started to do that. That was received in January and
24 we've taken a first look at it and wrote back to the
25 licensee that there's enough material there for us to

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1 begin the review. That's known as an acceptance
2 review. It doesn't mean we've accepted the
3 reclamation plan as appropriate, it means that we've
4 accepted it as being sufficient to do a review on it.
5 And the reclamation plan is in seven looseleaf
6 binders.

7 The NRC also has to evaluate a proposal to
8 clean up the groundwater and that's due to us by the
9 middle of next month. And the licensee, after we've
10 reviewed that and we'll probably go raise questions
11 with the licensee -- but at some point if it's
12 approved, the licensee then must go through and
13 actually accomplish all the things in the reclamation
14 plan -- that is, the building decommissioning, the
15 site cleanup, building the disposal cell, and cleaning
16 up the groundwater.

17 At the end of the process, when the
18 licensee is done and has cleaned up the site, it will
19 pass over to the Department of Energy, but what
20 actually happens is that at some point prior to the
21 actual completion of the cleanup, the Department of
22 Energy will be talking to the licensee and preparing
23 a long-term surveillance plan which will explain to us
24 how the DOE will function as a custodian -- that is,
25 the surveillance that it will do on the site.

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1 When we accept that and we've determined
2 that the licensee has indeed cleaned up the site to
3 all the standards, we terminate the license that
4 Sequoyah Fuels holds, the actual land gets transferred
5 to the United States Government, and DOE becomes a
6 licensee under a general license for long-term care,
7 so the site continues to be licensed by NRC.

8 Now, there are other things that have to
9 happen outside the review of the reclamation plan
10 before the license for Sequoyah Fuels can be
11 terminated and is passed to DOE. One of those is an
12 environmental review, and we're going to discuss that
13 a little further in the next presentation. NRC cannot
14 approve a license amendment until the environmental
15 review is complete. There's another thing that has to
16 be done and that is the EPA groundwater requirements.
17 When this was a source material site, before the site
18 was reclassified, EPA had jurisdiction for the
19 chemical hazard -- that is, the groundwater
20 contamination. Under our regulations and under
21 legislation, as an 11e.(2) site, the NRC also has
22 authority for the non-radiological contaminants in the
23 groundwater.

24 MS. COLLINS: Jessie Collins again. My
25 memory tells me that in the late '80s that EPA said

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1 they had no jurisdiction at Sequoyah Fuels, that it
2 was deferred to the NRC. Now they have jurisdiction?

3 MR. FLIEGEL: Not for the radiological
4 contamination. It's my understanding that they have
5 imposed requirements for groundwater cleanup at the
6 site through RCRA which is Resource Conservation
7 Recovery Act.

8 MS. COLLINS: So the EPA is not deferring
9 their jurisdiction to the NRC under RCRA at the site?

10 MR. FLIEGEL: Well, until it was
11 reclassified, the non-radiological contaminants were
12 EPA's responsibility under RCRA, and now that it has
13 been reclassified, since NRC and EPA are basically
14 working through this same kind of regulations -- that
15 is, the regulations that we use to ensure groundwater
16 cleanup were written by EPA, the standards were, and
17 were derived from RCRA standards -- what we will do is
18 NRC and EPA will work together to assure that the
19 groundwater is properly cleaned up.

20 And the other thing that has to happen
21 before the site can transfer is conclusion of NRC
22 adjudicatory hearings. There was one hearing that's
23 now held in abeyance on the decommissioning plan that
24 the licensee submitted under the old classification.
25 When we announced that we had received a request from

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1 the licensee to amend its license to allow it to
2 possess 11e.(2) byproduct material, there were several
3 requests for hearing, and that's right now before a
4 hearing board. It hasn't been decided yet whether or
5 not the hearing will be granted. But in any event,
6 the license won't be terminated and the site
7 transferred to DOE if there are actually hearings
8 ongoing; they have to be concluded before that can
9 happen.

10 MR. HENSHAW: Ed Henshaw, H-E-N-S-H-A-W.
11 Mr. Fliegel, who requested this hearing you're
12 speaking of?

13 MR. FLIEGEL: There are a number of
14 parties that requested the hearing. It was a hearing
15 request from the Cherokee Nation, from the State of
16 Oklahoma, and about 15 or 17 individuals.

17 I'm ready to answer questions. There was
18 a question previously.

19 MS. BARTON: Nadine Barton with CASE. My
20 question was the question concerning the restricted
21 area and the non-restricted area after completion of
22 the cell. How large will the restricted area be? Is
23 that only going to be restricted to the restricted
24 cell itself and then all of the surrounding property
25 will be released for unrestricted use, or exactly what

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1 is the status, or is there one at this point in time.

2 MR. FLIEGEL: In terms of the restricted
3 area -- which is essentially the property boundary
4 that will be turned over to the Department of
5 Energy -- that is for the licensee to propose. The
6 licensee has to propose sufficient area to control the
7 radiological and non-radiological hazards. The
8 licensee can in some cases propose a larger area. The
9 rest of the site, if it is properly cleaned up, the
10 licensee can do what the licensee wants with that, can
11 keep it, can sell it, can donate it to local
12 government, state government. But I just don't recall
13 at this point exactly what that boundary line is and
14 it could change during the course of the review.

15 MS. BARTON: This is Nadine Barton with
16 CASE with a follow-up question on that. Will there be
17 any kind of deed restriction to notify a prospective
18 buyer that this has been previously released by either
19 the NRC or the DOE for unrestricted use, if that is
20 the qualification, or does somebody just come in from
21 out of state and buy it, not knowing that there were
22 serious radiological hazards on this site and
23 supposedly the site was cleaned up? Or do you even
24 know the answer to that?

25 MR. FLIEGEL: I'm not aware of a

1 requirement for that, but the requirement for allowing
2 the site to be released is to remove the radiological
3 hazard, and that's done after the site is cleaned
4 up -- surveys have to be done and the survey has to
5 show. It's not enough for the licensee to propose a
6 methodology to clean up the areas that will be
7 released. When the licensee is done, the licensee
8 then has to do surveys, do soil samples and other
9 means to verify that it indeed has removed the
10 radiological contamination and in the groundwater all
11 the contamination.

12 MS. BARTON: Well, is there a satisfied
13 exposure level for an unrestricted release that would
14 be considered safe for children and infants?

15 MR. FLIEGEL: The actual standards were
16 written by EPA in response to the legislation, and the
17 standards for -- John, do you want to talk to that?

18 MR. LUSHER: The standards are established
19 in the regulations and it is six pico curies per
20 gram -- and it's the same thing that the EPA does --
21 for the first 15 centimeters which is about 12 inches,
22 and then after that it's 15 pico curies per gram for
23 the next 15 centimeters down, and then the next 15
24 centimeters down. That ensures that there will be no
25 exposure above the EPA limits, and that's about 25

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1 milligram.

2 MS. BARTON: Is that an annual exposure?

3 MR. LUSHER: Yes.

4 MR. FLIEGEL: What assumptions are made,
5 that somebody lives there?

6 MR. LUSHER: That somebody will be living
7 there full-time.

8 MR. LASTER: My name is Don Carroll
9 Laster, Marble City, Oklahoma. In your insurance
10 qualification/verification for nuclear or hazardous
11 materials, atomic byproducts, they call for any
12 equipment or device used for processing anything at
13 any time the total amount of such material in custody
14 of the insured at the premises, whereas such equipment
15 or device is located, consists or contains more than
16 25 grams of plutonium or uranium 233 or any
17 combination thereof, or more than 250 grams of U253
18 you cannot get insurance.

19 MR. LUSHER: They don't have any of those
20 materials on that site. All the material that they
21 have on that site was natural uranium, was no enriched
22 uranium whatsoever, no thorium, they processed normal
23 uranium that came from uranium mills, from uranium
24 mines.

25 MR. LASTER: What is natural uranium?

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1 Give me the analysis.

2 MR. LUSHER: Uranium 238 is the main
3 isotope and it has like .07 percent maximum of 235.

4 MR. LASTER; And natural uranium, if I'm
5 correct, 2 percent U235, 38 percent U238 and I forget
6 the other amounts.

7 MR. LUSHER: The majority of it is 238,
8 and in its natural state it's like .07 percent.

9 MR. LASTER: But you were processing
10 material to make fuel rods out of; it has to be U235
11 for fuel rods.

12 MR. LUSHER: No. What they processed was
13 natural uranium and turned it into uranium
14 hexafluoride. The uranium hexafluoride then was
15 shipped to a fuel processing facility or to an
16 enrichment facility such as Paducah, Kentucky or Fort
17 Smith.

18 MR. LASTER: How many more stages is done
19 before it's produced into fuel rods?

20 MR. LUSHER: That's right.

21 MR. LASTER: How many more stages?

22 MR. LUSHER: Well, it goes from Paducah or
23 Fort Smith at the time -- Fort Smith is shut down
24 now -- but from Paducah it goes to a fuel fabricating
25 facility after it's been enriched. The cylinders that

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1 they were shipping here were like 10- or 14-ton
2 cylinders of UF6 which is just nothing but natural
3 uranium. It's shipped to Paducah, they run it through
4 the gaseous diffusion process and enrich it from 3 to
5 5 percent and U235. And then it goes in 3-ton
6 cylinders of UF6 to a fuel fabrication facility where
7 the material is then converted to ceramic pellets or
8 metal and that becomes fuel.

9 MR. LASTER: But as you say you're
10 processing natural uranium here, that means then there
11 was U235 had to have been on-site.

12 MR. LUSHER: There was natural uranium 235
13 on-site but only in the percentage in the natural
14 state; it was not enriched.

15 MR. TADESSE: The enrichment process
16 starts from before. It's mined, milling and then
17 Sequoyah Fuels is like the number three stage. After
18 that to be in a power plant to generate, you have to
19 go through enrichment and then fuel fabrication and
20 then next in a power plant.

21 MS. LASTER: Here's the problem. I want
22 to introduce into evidence a letter that I'd sent back
23 in 1990 to Dale Hunter, NRC Region IV. He was retired
24 Office of Inspection and Enforcement. It was about
25 uranium seepage in Sequoyah County, talking about the

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1 uranium leaking out in the old salt mines in Sequoyah
2 County -- of course, that ended up coming out in the
3 Sequoyah County Times, November 4, 1984.

4 The U.S. Geologist's records show there
5 are no known uranium deposits within the state of
6 Oklahoma. If there was any, furthermore, they would
7 be close to the Continental Divide which would be the
8 western part of the state. That means then any
9 natural uranium that's been seeping out has been
10 relocated or trans-located or placed here. This was
11 talking about the injection amount of radioactive
12 material that was injected into that well. It still
13 hasn't been answered where all that went. It was put
14 in the Arbuckle Foundation which is a porous limestone
15 foundation. They're mining that at Marble City.
16 Uranium is leaching out till now the City of Fort
17 Smith is fixing to abandon Lower Lee Creek.

18 MR. FLIEGEL: I don't think that's a
19 question on this presentation, but what I would
20 suggest is that later on when we're actually doing the
21 issues for the scoping of the EIS, if you want to
22 bring it up then or put it into the record then, I
23 think that's where it's appropriate to do that. What
24 we're trying to do here is to answer questions just
25 about the reclassification, but the scoping, that is

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1 certainly appropriate to bring up as part of the
2 scoping.

3 MR. LASTER: Okay. What I'm concerned
4 with, they've been practicing for two days in Seattle,
5 Washington on a dirty bomb. What fuel, the amount of
6 material that's unaccounted for here and everything,
7 how dangerous is it? I know eight gallons of tritium
8 is what they had in Moscow that would have
9 contaminated a 2-1/2 square mile area if it went ahead
10 and went off before they recovered it three ears ago.
11 What problems have we got with this?

12 In other words, what I'm concerned about,
13 we're dealing with stuff that's going to affect people
14 for eternity. Once a species is mutated from this
15 stuff, it's never be changed, and 1,500 years from
16 now -- just like I told Jim Shepherd there two years
17 ago at the meeting -- our descendants are running
18 around with three arms and three legs, it's kind of
19 late and they're going to say why didn't our
20 forefathers have a little more backbone about it.
21 Let's dig down and find exactly what we've got to do,
22 do whatever we've got to do, quit worrying about what
23 it's going to cost or what, but do it, make sure it's
24 clean, the environment is clean.

25 Like you say, the insurance commissions

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1 and stuff, they've all got certain regs that have got
2 to be met on this. Let's do it and do it right and
3 not worry about the cost and not worry what we've got
4 to do, let's just do it right and protect our
5 generations that will be coming from now on. In other
6 words, we've got to protect the people for the next
7 million years with what we do over the next two or
8 three years.

9 MR. FLIEGEL: And that's what the
10 standards that are in our regulations that the EPA has
11 written are intended to do, and again, we will
12 consider that a comment for the scoping of the EIS and
13 try and ensure that that's covered in the EIS.

14 MR. LUSHER: Also, our mission is to
15 protect public health and safety.

16 MR. LASTER: I'd like to make another
17 statement further. As far as clean fuel, I think it's
18 eventually uranium and nuclear facilities will be the
19 cleanest thing we've got. We've got to figure out
20 what to do with the waste where it's safe. But we're
21 going to have to clean up the environment but we've
22 got to watch what we do with what we produce, and
23 that's what I'm concerned with.

24 MR. BRODERICK: Just a minor thing. A
25 minute ago you were talking about the cleanup

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standards and you referred to the top 15 centimeters -- I'm Mike Broderick from Oklahoma DEQ -- minor thing for the benefit, you said that was equal to 12 inches, I think it's six inches actually.

MR. FLIEGEL: Yes, it's five pico curies per gram in the upper 15 centimeters which is about six inches, yes.

Do we have any more questions on this presentation?

MR. BRUGGE: Doug Brugge with Nuclear Risk Management for Native Communities.

I want to follow up on the last thing this gentleman said which is the financing of the reclamation. I'm wondering if you could clarify a little bit how the change in designation affects or does not affect what financing is available for carrying out the reclamation. My understanding is that under UMTRCA there were both sites that were cleaned up by federal money as well as sites that were cleaned up the still-existing companies that owned the mills. And one of my concerns over the years here has been that at this site there is an existing company but there's a limited amount of money available from that company at this point. I'm not sure exactly what it is but it's in the tens of millions of dollars but

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1 not in the hundreds of millions of dollars, and I'm
2 wondering whether this change does anything that
3 affects the available funding for the kinds of choices
4 of reclamations that might be made.

5 MR. FLIEGEL: You're correct in that the
6 Uranium Mill Tailings Radiation Control Act of 1978,
7 UMTRCA, identified two different types of mill tailing
8 sites, Title 1 and Title 2. Title 1 were the sites
9 that DOE was charged to clean up and the federal
10 government paid 90 percent and the state paid 10
11 percent. Those sites were identified in the
12 legislation and they were sites that had terminated
13 their license prior to the legislation -- that is, the
14 sites no longer had a license because there was no
15 reclamation standards prior to UMTRCA, and the DOE was
16 given the task to go back and clean those sites up to
17 standards.

18 Title 2 was sites that had an NRC license
19 or an agreement state license. This site would be
20 under Title 2 and that is, other than an act of
21 Congress, the Department of Energy is not responsible
22 for cleaning up this site; the Sequoyah Fuels Company
23 is responsible for all of it.

24 MS. BARTON: Nadine Barton with CASE.

25 You had mentioned that you have like seven

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1 binders of the plan for the cleanup of the site, and
2 in reference to that, you had mentioned that the NRC
3 about a cleanup of the groundwater when you were
4 talking about that, and I was wondering exactly what
5 were the hazardous constituents that were found in the
6 groundwater that needed to be cleaned up.

7 MR. FLIEGEL: Do you know that, Bill?

8 MR. VON TILL: This is Bill Von Till. I'm
9 the hydrogeologist on the site.

10 The actual corrective action plan that's
11 going to address the remediation of the groundwater
12 constituents, the radiological and the non-
13 radiological, the materials that EPA was looking at
14 under RCRA are going to be submitted to us in June.
15 Those constituents -- I'm new on the case -- but
16 uranium, arsenic, nitrate, and some other radiological
17 and non-radiological hazards. There is a groundwater
18 contaminant plume there and we've put in the license
19 requiring Sequoyah Fuels to submit to us a groundwater
20 corrective action plan which is a proposal of how
21 they're going to deal with that contamination.

22 What this does, this change in
23 classification, is it gives the NRC the full authority
24 over all those constituents and we'll continue to work
25 with the EPA on the arsenic and the nitrate and so

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1 forth. Whereas, before under the Source Material
2 license, the NRC only looked at the radiological, but
3 we've yet to actually even get the corrective action
4 plan so we still have a lot of details on that that
5 we're going to get later on.

6 MS. BARTON: This is Nadine Barton again.

7 With that plan for the groundwater
8 remediation, is this going to be a whole new plan?
9 Have you even started to look at the groundwater
10 remediation? Was that a consideration when you
11 changed the classification?

12 MR. VON TILL: There has been a lot of
13 characterization and modeling of the groundwater
14 contaminant plume as a part of the environmental
15 impact statement and also as part of the RCRA site
16 characterization activities. Now, that's all going to
17 be encompassed in one document in the corrective
18 action plan under our 10 CFR Part 40 under the new
19 classification in the document we're going to get in
20 June.

21 MS. BARTON: It will be out for public
22 view in June. Is that correct?

23 MR. VON TILL: Yes, it will be a public
24 document. That's correct.

25 MS. BARTON: Groundwater is awfully hard

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1 to clean up once it's been contaminated like that.
2 Are you just going to allow the cleanup to be at a
3 certain level for human consumption, or is it just to
4 flush toilets with? I mean, at what level under this
5 new classification do you require that groundwater
6 remediation plan to be cleaned up?

7 MR. VON TILL: Under the regulations of
8 Part 40 we assure that whatever plan that we
9 approve -- well, first of all, the licensee will
10 propose whatever their option is. There's a number of
11 technologies and ways of addressing a contaminant
12 plume such as this, but when we review the document,
13 we'll assure that the action that's taken is
14 protective of human health and the environment,
15 whatever that action may be. We have a number of
16 uranium mill tailing sites, mainly out west, which
17 we've already been looking at groundwater corrective
18 action. They've been pumping and treating, doing
19 various technologies to try to remediate those
20 groundwater plumes associated with uranium mill
21 tailing sites.

22 MS. BARTON: Are you at all concerned
23 about the local folks, their water well being
24 contaminated by this groundwater, and will that be
25 addressed and how would that be addressed? And I'm

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1 going to let it go at that.

2 MR. VON TILL: That also might be a good
3 comment to bring up as far as the scoping meeting for
4 something for us to address as far as any
5 environmental impacts that we would look at, but
6 you're absolutely right. The river, people's water
7 supplies are all parts that we look at as far as what
8 we need to protect from the groundwater contamination.

9 MR. FLIEGEL: Do we have any more
10 questions? Just a few more because we want to get on
11 to the scoping meeting.

12 MR. HENSHAW: Ned Henshaw again.

13 Mr. Fliegel, on the switching from the
14 earlier regs to the 11e.(2) reg that you've switched
15 to now, at the mill tailings do you find radium and
16 thorium in the concentrations that you do at this
17 site?

18 MR. FLIEGEL: The concentrations of some
19 of the constituents in the waste at this site is
20 different than what's typically seen at a uranium
21 mill.

22 MR. HENSHAW: Okay. And do you intend to
23 handle -- and I'm speaking of the raffinate sludges
24 especially -- do you intend to handle them the same as
25 the 11e.(2) material, or are they going to get special

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1 treatment?

2 MR. FLIEGEL: Again, it's the licensee who
3 will propose what to do with that. What we will
4 determine is that it meets the standards for safety --
5 that is, it's encapsulated in a disposal cell and that
6 the licensee shows that the material will not leak
7 out, will not become a hazard to public health and
8 safety or the environment.

9 MR. HENSHAW: Will there be future
10 opportunities for hearings on the reclamation plan for
11 applications for hearings?

12 MR. FLIEGEL: The reclamation plan, there
13 was a Federal Register notice announcing that we had
14 received the application for a reclamation plan and an
15 opportunity for hearing. There will be an opportunity
16 for hearing on the groundwater cleanup plan when we
17 receive that. We will put a Federal Register notice
18 announcing that we had received that request and there
19 will be an opportunity for that.

20 MR. HENSHAW: Since an injection well was
21 used on site, will a proper environmental
22 characterization be made determining the lower strata
23 of contamination at this site -- which hasn't been
24 done as yet?

25 MR. FLIEGEL: You're getting ahead of us

1 in that we, or at least the group that's now looking
2 at it have just started the review on the reclamation
3 plan and we haven't seen the groundwater cleanup plan,
4 so I really am unable to get into detail about the
5 licensee's proposed reclamation plan or groundwater
6 cleanup plan. We've just begun the review on one and
7 haven't seen the other yet.

8 MR. HENSHAW: Thank you.

9 MR. FLIEGEL: Let's take one more.

10 MR. BRODERICK: Mike Broderick from
11 Oklahoma DEQ. I have two questions and I promise to
12 shut up.

13 One, on that reclamation plan you spoke
14 about the Federal Register notice and the hearing, for
15 the benefit of the citizens here, would you explain
16 what the process is and what the deadlines are if they
17 wanted to request a hearing on the reclamation plan?
18 That's one.

19 The second question -- I'll go ahead and
20 do them and then I'll sit down -- based on your slides
21 what that implied was that the Department of Energy
22 was required to take custody of the site -- that's at
23 least what I got out of it -- and my understanding is
24 that it's not that clear-cut. Could you expand on
25 that a bit? Thank you.

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1 MR. FLIEGEL: Taking the second one first,
2 what the law says is that if the NRC determines that
3 the site has been cleaned up to meet all applicable
4 standards and requirements and the state does not
5 choose to become the custodian, it goes -- and I think
6 the words in the legislation are: "To the Department
7 of Energy or to any other agency designated by the
8 president." So I don't think DOE has a choice on that
9 unless --

10 MR. BRODERICK: Even if they have non-
11 11e.(2) waste in the cell?

12 MR. FLIEGEL: The question of non-11e.(2)
13 is a little different. If some of the material on the
14 site, even with the reclassification, does not meet
15 the classification of 11e.(2) byproduct material, in
16 order to dispose of that in the cell, the licensee
17 must show us several things, including the fact that
18 what they've proposed to do is protective of public
19 health and safety, look at the environmental impacts
20 of doing that, and one of the things that the licensee
21 must do is get a commitment beforehand from the
22 Department of Energy that the Department of Energy
23 will take the site with the non-11e.(2) in it.

24 And you're correct, the Department of
25 Energy doesn't have to take the non-11e.(2), and if

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1 the Department of Energy says no, then the licensee
2 has to come up with another solution for the
3 radioactive material that's not 11e.(2), so that is
4 correct.

5 And in terms of the first question, the
6 Federal Register notice was dated April 15 announcing
7 the opportunity for hearing; you're allowed 30 days to
8 file a request for hearing. This will be the last
9 question.

10 MS. COLLINS: Jessie Collins again.
11 Hypothetically speaking, if the state does decline to
12 be the perpetual guardian and the DOE does take it
13 over, will there be any assurances to the citizens at
14 all that the DOE would not later decide to bring in
15 additional waste from other sites?

16 MR. FLIEGEL: Well, the DOE, first of all,
17 they haven't done that in the other sites that they
18 have. Second of all, they're under a license from NRC
19 and in order to do that, they would have to make an
20 application to NRC and NRC would have to review that,
21 and presumably if DOE were to propose to do that and
22 NRC were to review that, there would be an opportunity
23 for citizens here to raise objections to that. But
24 DOE does not have the authority, once the custodian of
25 the site, to bring in radioactive materials by

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1 themselves.

2 MR. LUSHER: And we periodically inspect.

3 MR. FLIEGEL: Yes, we inspect the DOE
4 sites.

5 MR. BRUGGE: Just a quick follow-up. Doug
6 Brugge again, a quick follow-up on my financial
7 question. If DOE became the custodian of the site and
8 at some future date, 20, 30, 50 years from now the
9 site deteriorated and there was a need for substantial
10 future remediation on the site, would they then be
11 financially responsible for taking care of that?
12 Because you said that this was a site that it was the
13 company's money that was available to remediate the
14 site and there would be no federal money and they
15 could not use federal money, I just want to know who
16 would repair the site at a future date if there were
17 an unanticipated problem later on down the road.

18 MR. FLIEGEL: The site would be owned by
19 the United States Government and DOE would be the
20 custodian, and like any property that the United
21 States Government owns, if there was a problem with
22 it, the United States Government would either have to
23 fix it or not fix it, but the responsible party would
24 be the United States Government. Presumably what
25 would happen if DOE found a problem at any of the

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1 sites that they're custodian at, and it was more than
2 what their annual budget for stewardship -- as they
3 call it -- would allow them, they would go to Congress
4 and ask for the appropriations.

5 MR. LUSHER: Criterion 9 sets up the
6 criteria for long-term stewardship and it requires the
7 licensee to provide \$250,000 in 1978 dollars to the
8 Federal Government when the site is terminated, and
9 that is part of the special care dollars. The
10 interest from that is supposed to provide money to DOE
11 to do the maintenance.

12 MR. FLIEGEL: And \$250,000 in 1978 dollars
13 is about what now?

14 MR. LUSHER: \$690,000 in today's money.

15 MR. FLIEGEL: Okay, with that I think
16 we're ready to go into the next part of the meeting
17 which is the environmental scoping. A five-minute
18 break?

19 (Whereupon, a brief recess was taken.)

20 MR. FLIEGEL: Rebecca Tadesse will talk
21 now about the environmental impact statement, and then
22 at the conclusion of the talk we will be able to take
23 comments, scoping comments, comments to be included in
24 the things we look at in the environmental impact
25 statement.

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1 MR. TADESSE: Good evening. My name is
2 Rebecca Tadesse. I'm the project manager for the
3 environmental impact statement development. I want to
4 say thank you for coming here with an evening like
5 this; it didn't start very good with the weather.

6 There's three main objectives to tonight's
7 meeting: that's the explain the process of developing
8 the environmental impact statement, to discuss the new
9 EIS schedule, and the most important objective is to
10 obtain your comments to what the environmental impact
11 statement should include.

12 As you know, scoping is a process we use
13 to identify all issues/concerns related to
14 decommissioning of Sequoyah Fuels facility, therefore,
15 we look forward to your comments about the scoping
16 emphasis.

17 As you've heard earlier, Sequoyah Fuels
18 submitted a reclamation plan for our review and
19 approval and the groundwater contamination plan will
20 be submitted to NRC in June. The reclamation plan
21 proposes that Sequoyah will construct an on-site
22 disposal cell. The technical evaluation report plan
23 of the groundwater and the corrective action plan will
24 be completed by NRC technical staff. The evaluation
25 report deals with the safety aspects of it such as the

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1 cell design, the radiation protection, the
2 geotechnical stability, and protection of the water
3 resource. Although there is some overlap between the
4 technical evaluation report and the EIS, their intent
5 is different, however, since they provide information
6 to each other, they must be prepared in parallel.

7 The environmental impact statement is
8 prepared to assess the potential environmental impacts
9 of a decommissioned facility. We are working with
10 other cooperating agencies to develop the
11 environmental impact statement. The cooperating
12 agencies are: Cherokee Nation, Department of
13 Environmental Quality for Oklahoma, U.S. EPA, Corps of
14 Engineers, and United States Geological Survey. And
15 again, as I was speaking to somebody earlier, if you
16 feel that you have a stake and you want to be part of
17 the cooperating agencies, we are still willing to
18 accept members.

19 Once the environmental impact statement
20 has been developed, there will be an opportunity for
21 hearing. When the draft gets published, we'll provide
22 60 days comment period for the DEIS and then also
23 we'll have a public meeting to discuss our findings on
24 environmental impacts associated with the project.

25 According to the proposal, Sequoyah Fuels

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1 would construct an on-site disposal cell where all
2 waste material from the site will be disposed at the
3 cell. The technical adequacy of the groundwater
4 corrective action plan will be evaluated by the staff
5 upon successful demonstration to the NRC of meeting
6 the performance standards of the reclamation, this
7 site will be transferred to the State of Oklahoma or
8 U.S. Department of Energy for long-term care
9 maintenance. At that point the NRC will terminate the
10 license.

11 Just to give you an understanding of what
12 the NEPA process is, once a decision has been made
13 that environmental impact statements need to be
14 developed, we publish a notice of intent in the
15 Federal Register and we have a scoping meeting where
16 we get information from the stakeholders as well as
17 any cooperating agencies. We identify the cooperating
18 agencies and consult with them and identify what needs
19 to be included in the environmental impact statement.

20 Once we have identified those issues, we
21 analyze the environmental impacts and we prepare a
22 draft environmental impact statement, and that gets
23 published. It will be filed to EPA and it's published
24 as a public document. There's 60 days comment period
25 for that document, and we have a number of public

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1 meetings to discuss the findings. And at that time,
2 stakeholders are allowed to have comments on those
3 documents and the draft EIS will be revised based on
4 the comments that are received, and we publish a final
5 environmental impact statement.

6 Once the final has been published, 30 days
7 later a record of decision is published. What that
8 does is it concludes the NEPA process and basically it
9 says that they're going to accept the proposed action
10 or it doesn't. So that is the NEPA process as
11 described in the National Environmental Policy Act.

12 As for the Sequoyah application, site
13 characterization of the report has been submitted
14 throughout the years. I think the most current one
15 was in 1998 and after that there's some groundwater
16 characterization report that has been submitted. The
17 reclamation plan was submitted January of this year,
18 and as Mike said earlier, they just did an acceptance
19 review on it and the technical review will begin as of
20 now. And the corrective action plan for the
21 groundwater is scheduled to be received June of 2003.

22 We've had a number of meetings. February
23 of 1993 Sequoyah notified NRC that to cease operation
24 at the Gore, Oklahoma facility; in October 1995, NRC
25 published a notice of intent and held a public meeting

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1 at Gore, Oklahoma, and we received a number of
2 comments. A summary report of the scoping process was
3 published in 1997, and then because of the lack of
4 time in October of 2000 we had a public outreach
5 meeting in Gore, Oklahoma and we received a number of
6 comments from that meeting, and that's also going to
7 be included in the EIS.

8 I assure you that all previous comments
9 that have been received are retained and they will be
10 addressed in the EIS. Any additional comments that
11 you provide us today, that would also be included, so
12 all previous comments are still going to be part of
13 the EIS development.

14 Just to give you the outline of what the
15 draft environmental impact statement will contain, the
16 Purpose and Need section explains why the action is
17 needed and why it requires an EIS. The Alternatives
18 section introduces the alternatives that could also
19 accomplish the need for proposed action. The Sequoyah
20 Fuels EIS will consider three alternatives: no
21 action, proposed action which is the on-site disposal,
22 and the off-site disposal. And again, if you think
23 that other alternatives should be considered, let us
24 know at the scoping time and we'll address those.

25 The description of the affected

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1 environment focuses on the baseline condition which is
2 the status quo. The baseline condition will be used
3 to assess the environmental consequences. Basically
4 we start where it is and what the action will create
5 as a result of the action that will be taken.

6 The areas that the DEIS will address is:
7 impact to humans, plants and animals; ground and
8 surface water; transportation; future land use;
9 socioeconomic impacts during cleanup; historical and
10 cultural resources; aesthetics; mineral resources; air
11 quality and visibility; noise and ecological
12 resources; and cumulative impacts. Those are the
13 areas that we'll address on each alternative that has
14 been chosen to discuss.

15 The schedules that we are anticipating,
16 again, this is anticipated because it all depends on
17 the information being provided on time as well as
18 review and depending on the questions that NRC staff
19 generates, but if everything goes on schedule: we
20 have a scoping meeting today; we have 30 days from the
21 date the Federal Register notice was published for
22 comments; that takes us to May 31 for any comments,
23 written comments that we'll accept; and then the draft
24 EIS we're hoping to publish it in spring of 2004, and
25 the public comment period will be given, again as I

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1 mentioned, 60 days, and then we'll have a number of
2 public meetings, hopefully one or two; and then the
3 final EIS will be published about one year after that.

4 That's our schedule and I'll take any
5 questions at this moment and we can open it for the
6 scoping. Any questions?

7 MR. BRUGGE: Doug Brugge again. One thing
8 that I hope you'll do in drafting the EIS and looking
9 at the proposed reclamation plan is look at these
10 criteria for cleanup of soils. I'm not sure I
11 understand what's in the proposed reclamation plan --
12 I've read it a couple of times and there seems to be
13 different numbers in different places -- but it's
14 fairly clear to me that for natural uranium the
15 cleanup criteria being proposed are not the five pico
16 curies per gram. and 15 pico curies per gram, but
17 rather much higher values. And I think the
18 justification that's being used is that the five and
19 15 are for radium in soil.

20 MR. LUSHER: If they can clean it up to
21 radium standards, normally they will meet uranium
22 standards.

23 MR. BRUGGE: Well, I just would ask that
24 you look at that and make sure of that, because one of
25 the things that I like about this being under UMTRCA

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1 is that those standards do apply to it, whereas in the
2 old process I think there was more variability and
3 less rigidity about what standards applied to cleanup
4 of soil, and so I'm just asking that that be looked at
5 and clarified.

6 MR. TADESSE: Okay.

7 MS. BARTON: Nadine Barton with CASE.
8 Could you clarify something for me? The questions
9 that are being asked now of you, are they part of the
10 public comment period that will be of record of the
11 concerns for the new EIS, or are these just a general
12 information question-and-answer just concerning your
13 presentation?

14 MR. TADESSE: If the questions are just
15 concerning the presentation provided, that would be
16 just be comments or answers and comments, but at 8:30
17 we'll start the scoping where we take all comments and
18 those comments will be on record. Everything is on
19 record but those comments will be addressed in the EIS
20 of each question. Right now I'm answering questions
21 but if you want those questions to be considered in
22 the scoping -- and I think yours was --

23 MR. BRUGGE: That's what I thought we were
24 doing.

25 MR. TADESSE: I guess let me clarify. If

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1 there is any questions in the next five minutes from
2 my slides that you need clarification, I'll take
3 those, and at 8:30 we will take all scoping questions
4 or comments or anything to be designed, but since I
5 already have it on record, that will be considered as
6 part of the scoping. Yes?

7 MS. COLLINS: I have one question from
8 your presentation. You said after the meeting tonight
9 there will be a 30-day comment period that people can
10 send in their comments, but then you said by May 31,
11 so which is it?

12 MR. TADESSE: Thirty days from the Federal
13 Register notice, and we have comment paper, and if it
14 comes 30 days from today, we'll still accept it -- we
15 can take June 30. We're trying to get as much of the
16 public involved and get the comments, and so if I get
17 a comment on June 1, I'm not going to reject it. We
18 just want to make sure that at least we have some time
19 limit, so the Federal Register notice was published,
20 I think, February 23 so that's why I said May 31 to
21 give a little bit of time, but again, we'll take any
22 comments, if that's not enough time, until June 30 --
23 I'll go on record for that.

24 MR. HENSHAW: Is there an e-mail address?

25 MR. TADESSE: Yes. Actually this is my

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1 contact information -- I don't know if everybody can
2 see it. The e-mail address is txt@nrc.gov, and my
3 phone number.

4 MS. BARTON: Nadine Barton again from
5 CASE. You're going to be the project manager that
6 oversees the EIS or the reclamation plan?

7 MR. TADESSE: I'm the project manager for
8 the development of the EIS. The project manager for
9 the technical review will be Mike Fliegel.

10 MS. BARTON: And is there a possibility
11 that you will be transferred to some other project in
12 the middle of this, or you don't know?

13 MR. TADESSE: There's always that
14 possibility.

15 MS. BARTON: I know how the government
16 does -- it's like banks: you just get to know about
17 something and then they transfer you around, and then
18 we have to start all over again in that transfer. It
19 is a concern of the citizens that there is experience
20 and information lost through the acceptance of someone
21 new to the project. There's no inference made of your
22 lack of qualifications but it is a concern of
23 transferring in the middle of the stream here. I
24 guess you don't have much to say about that. Right?

25 MR. TADESSE: I understand.

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1 MR. GWIN: Pat Gwin with the Cherokee
2 Nation.

3 Looking at your schedule up there, you
4 show that a semi-realistic date for the FEIS in mid
5 2005. What's the time frame for issuing a ROD after
6 that, best case scenario, and not the worse case but
7 a bad case scenario?

8 MR. TADESSE: I think best case scenario
9 30 days after.

10 MR. GWIN: Thirty days after the FEIS?

11 MR. TADESSE: Yes.

12 MR. GWIN: And the other extreme?

13 MR. TADESSE: I don't think there's
14 another extreme.

15 MR. GWIN: So 30 days.

16 MR. TADESSE: If the SER is not done, then
17 we'll wait for the technical evaluation report that is
18 going to be published by them. The way it works is
19 that our draft environmental impact statement is not
20 going to be published until at least they have a draft
21 technical evaluation report, so we're pretty much
22 consistent with whatever the safety evaluation does,
23 we'll go with that. But if the final EIS gets
24 published and the final technical evaluation report is
25 not published, we would not have a ROD on it. We will

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1 wait until that happens, but most likely I think we
2 will take longer than they will take due to the fact
3 that we have public comment. There's certain
4 requirements by NEPA that we have to fulfill, so the
5 safety evaluation report or the technical evaluation
6 report would be out before we do the final EIS.

7 I guess we need to start the scoping right
8 now, so any of your comments will be recorded and will
9 be addressed in the EIS.

10 MR. BRUGGE: Don Brugge again. It seems
11 to me that because there are, I believe, 24 other
12 UMTCA sites that have been completed in the United
13 States, and some of those have been completed 10 or 15
14 years ago and have some history in terms of the
15 stability of the cells and how well they've held up,
16 that there should be a pool of knowledge about these
17 cells, what has happened to them, what problems have
18 occurred, what unanticipated problems might have
19 occurred that could be brought to bear on the design
20 and construction of the cell here in order to avoid
21 any problems that came up in the earlier set of these
22 UMTCA sites.

23 And so what I would encourage is that as
24 part of the EIS that to the extent you're able to, to
25 extract information from this previous experience and

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1 compare it to what is being done here with this site
2 and make any suggestions that you think would head off
3 any problems.

4 I'm only familiar with one other UMTRCA
5 site and I know on that site that they had
6 unanticipated groundwater problems after they built
7 the cell that looked like, at least to me looking at
8 the reports, that water was permeating through the
9 cell and probably contaminants were coming out from
10 under the cell and still leaching into the groundwater
11 and out into the river. I know the plan is for that
12 not to happen but what have we learned from these
13 other sites that will allow us to be more certain this
14 time around that something like that -- that the plan
15 really does work the way that it's intended to.

16 MR. TADESSE: That's a good comment.

17 MR. LASTER: What happens when it don't
18 work, who picks up the bill?

19 MR. TADESSE: I think that was addressed
20 by Mike earlier that if it doesn't work. That isn't
21 scoping, though.

22 MR. FLIEGEL: It depends upon when it
23 doesn't work. If it doesn't work while Sequoyah Fuels
24 is still the licensee, they have to fix it; if we
25 conclude that it's been cleaned up and remediated

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1 properly and it gets passed on to DOE and then we
2 discover a problem, then it's DOE's to fix.

3 MR. LASTER: Why I was asking that was
4 it's showing the State of Oklahoma had first
5 redemption rights, but the state, if you run into
6 problems in groundwater and everything else, the worst
7 case scenario, the state wouldn't have money but then
8 the DOE would fall back in on that then?

9 MR. FLIEGEL: Are you asking if the state
10 were to decide to be the custodian?

11 MR. LASTER: Yes.

12 MR. FLIEGEL: I think that's why so far no
13 state has volunteered to become a custodian.

14 MR. LASTER: Okay, money.

15 (General laughter.)

16 MS. BARTON: My name is Nadine Barton with
17 CASE, Citizens Action for a Save Environment, and my
18 address is 6609 East 86th Place and that's Tulsa
19 74133. And you're going to have to bear with me
20 because I want this read into the record, and I want
21 the questions answered, so I hope the audience will be
22 patient.

23 My name is Nadine Barton and I'm with
24 CASE, Citizens Action for a Safe Environment. This is
25 a letter that was in our comments during the comment

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1 period but I want to have it re-entered into this
2 record, into this scoping of this EIS scoping meeting
3 as of this date, May 13, 2003.

4 To Whom It May Concern: Pursuant to the
5 above action, reference section -- and this is the
6 change of classification from processing to mill
7 tailings that we had some concerns about, and we do
8 have members that do live in this area and a lot of
9 our membership has died in the last 20 years and we've
10 been following this for over 20 years, so we're
11 concerned mainly about future generations because all
12 of us in this room have a responsibility.
13 Regulations/no regulations, there's a moral and
14 spiritual responsibility other than a financial
15 responsibility, and we cannot overlook that.

16 Anyway, to go on with this. The following
17 are some major concerns and consequences associated
18 with the approval of the license amendment and planned
19 ownership of the land by the U.S. Department of Energy
20 under the provisions of Title 2 of the Uranium Mill
21 Tailings Radiation Control Act after the reclamation
22 has been completed.

23 The major concerns revolve around the fact
24 that the groundwater will be severely impacted should
25 the proposed cell leak contaminating water wells,

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1 groundwater and the waters of the Arkansas and
2 Illinois River. This fact is highly probably due to
3 the fact that the groundwater is so close to the
4 surface and the rivers are near the proposed
5 remediation site.

6 Once the contaminants -- and we listed the
7 contaminants under this act as radium 226, thorium 230
8 and uranium, plus other hazardous constituents -- leak
9 into the groundwater and the rivers, it is almost
10 impossible to clean up.

11 The cost of the cleanup would be
12 astronomical. There are not presently the funds
13 available for proper cleanup; therefore, the economic
14 impact for the future would leave this area and the
15 cities downstream economically deprived and
16 contaminated, not to mention the far-reaching public
17 health effects and the environmental degradation.

18 Within this appendix -- and we talk about
19 the Appendix 1-C to amendments of the Sequoyah Fuels
20 will be required to submit the reclamation plan of the
21 site that meets the requirements of Appendix A to 10
22 CFR -- within that Appendix 1-C, the applicant cannot
23 be near an earthquake fault, and this is yet to be
24 addressed, and this was one of my original comments in
25 the first EIA, but I want this addressed again.

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1 Within the appendix the applicant must
2 provide information and prove ownership of the
3 subsurface mineral rights. In our research, that fact
4 has yet to be made public. So who owns the subsurface
5 mineral rights?

6 Question: Should Sequoyah Fuels deed over
7 the, quote, land to the Department of Energy at the
8 end of the reclamation, how would the issue of
9 subsurface rights be resolved? Within the permit
10 amended it is not clear how much of the, quote, land
11 the Department of Energy would own after the
12 department takes ownership for long-term stewardship
13 under provisions of Title 2 under the Act.

14 There is a concern that if the Department
15 of Energy takes ownership under the present
16 regulations, it could bring to the site the same type
17 of waste that has been placed in the cell and the
18 department would be able to expand the waste site and
19 bring in waste from other locations. It's my
20 understanding that the Department of Energy is allowed
21 to bring up to 20 percent of additional waste to the
22 site, adding to what's presently there. I'd like to
23 have that clarified if that's true.

24 The public would not have any right to
25 object. As stated, the amendment from Subsection 1010

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1 to 11e.(2) under the Uranium Mill Tailings Radiation
2 Control Act, this change is viewed only as, quote,
3 administrative in nature and therefore neither the
4 safety evaluation report nor an environmental
5 evaluation would be prepared, nor would there be any
6 concern for the public health. And that was made
7 prior to this meeting, that statement.

8 Finally, a most important hazardous
9 concern, upon the final change from Sequoyah Fuels
10 Corporation's present permit status to byproduct
11 material as defined in the Atomic Energy Act, the dose
12 level from the exposure would change from that of the
13 exposure level of radioactive material radium 226,
14 thorium 230 and uranium due to uranium processing to
15 convert uranium oxide to uranium hexafluoride, a step
16 in the production of the nuclear reactor fuel and the
17 converting of depleted uranium hexafluoride to
18 depleted uranium tetrafluoride to that of the benign
19 sounding exposure level of radon found in the
20 regulations outlined in the Uranium Mill Tailings
21 Radiation Control Act. That was a big concern of
22 citizens and I noticed that when the gentleman over
23 here spoke of exposure level, he spoke of pico curies
24 which is basically the measurement that always goes
25 along with radon, and our concern is that the exposure

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1 level will be lessened under this act to the public.

2 This reclassification will be misleading
3 to future generations because the Department of Energy
4 will own the site and the public will not have the
5 money to fight or to file a suit for the health or
6 environmental damages.

7 That is the end of that part, and then I
8 have some questions that I would like to have for the
9 scoping meeting.

10 I'd like to start out with one that was
11 very disturbing to anyone that has been an
12 environmental activist -- and it's going on 30 years
13 for me. We have made many, many comments before off
14 of information that we found in notification from the
15 Federal Register, and this is the first time since
16 I've been doing this in 30 years that I can remember
17 that your notice was given back in November -- on
18 November 14 it appeared for the comments for the
19 reclassification from processing to mill tailings for
20 Sequoyah Fuels and it gave the public approximately 30
21 days notice to make comment, and this is the first
22 time in my experience that I have seen the NRC make a
23 ruling prior to the comment period.

24 The end of the comment period was December
25 16 and after the December 16 comment period, we were

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1 notified by other stakeholders that the NRC had made
2 the decision to reclassify this site to reflect mill
3 tailings. I'd like to know -- I'd like to have
4 answered under what jurisdiction and cite what ruling
5 that the NRC has the authority to do this, to make a
6 ruling prior to the end of the public comment period
7 on a change of classification. This is the first time
8 that this classification has been designated in this
9 type of circumstances and it sets a precedent.

10 So as part of the public for future
11 generations, will that be the way that we do business?
12 It did not look appropriate. What was the rush? And
13 if this has occurred before, I'd like to have several
14 cases within the last five years cited as to where
15 that a classification involving radioactive material
16 from one classification which appears to be a lesser
17 classification was made prior to the comment period
18 for the public to make public comment on this
19 situation.

20 I will bring up again about the
21 groundwater in one of the questions, and the first
22 question was about the groundwater contamination and
23 remediation plan, and I have to go on record that I
24 don't ever remember -- I remember sitting in meetings
25 with Sequoyah Fuels and said, There's no problem with

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1 the groundwater, we've got groundwater wells and
2 there's no problem with the groundwater, there's no
3 contamination. And now it's obvious that there is
4 contamination, so I would request that in that
5 reclamation plan that private wells in this are be
6 tested for those hazardous constituents that are
7 showing up in the groundwater.

8 And I would also like to make a
9 recommendation that water well levels rise and fall
10 according to the seasons. If we have a rainy season,
11 then the water is closer and there's more water in the
12 well, and of course you know the solution to pollution
13 is dilution. In times where there's drought, the
14 water is less in the wells and so therefore the
15 contaminants may be a higher source. So I'd like to
16 request that at least two times of the year, in a
17 rainy season and the drought season, that the public
18 water wells, if they're using those for main sources
19 of drinking water, that they be tested for those
20 hazardous constituent levels, along with the town of
21 Gore if their main use is for well, if that's how they
22 get their water.

23 I'd also like to have the question
24 answered that has there ever in the reclamation
25 plan -- obviously this is a cell and for the lay

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1 people, you dig a hole, you throw all the stuff in the
2 cell, yes you put clay down and maybe a plastic liner,
3 and it's my understanding that the hazardous
4 constituents, their half-life can be millions of
5 years -- does anybody ever conclude that possibly in
6 that time that the river would change course in a
7 thousand years or whatever? Ad is there any proposal
8 that the more hazardous the material and the more
9 liquified form, that that constituent be taken off-
10 site and not put into the cell?

11 I have a technical question about the
12 ownership of this. Being in real estate for over 40
13 years and also being certified to do environmental
14 phase 1 and 2, I'm concerned about the responsibility
15 in the situation of restricted and unrestricted
16 release of the property. Obviously the restricted
17 part, if the DOE is going to take control over that
18 site, is really not an issue. The issue is that
19 somebody that comes in, either a developer or a
20 private person, and buys the land, is there some
21 provision made to them -- yes, I realize that if it's
22 unrestricted, all the contaminants supposedly have
23 been removed, however, I'm concerned about migration.

24 Under CRCLA, would Sequoyah Fuels, since
25 the DOE has taken responsibility and ownership of the

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1 cell but there's migration, does Sequoyah Fuels
2 totally get off the hook here of being a PRP if
3 there's found any contamination migrating? Will the
4 Government go back on them or is part of their deal
5 that they get off, period, and that the taxpayer would
6 be stuck with whatever cleanup would have to occur?

7 I'm very concerned about the unrestricted
8 use of the area, whatever that happens to be, because
9 of the proximity to the cell.

10 And I want to go on record that I do want
11 to have all of the questions that I asked at the other
12 meeting a few years ago for the original EIS for the
13 processing classification answered, and I would like
14 to have a copy of those answers and the questions sent
15 to me at the address that I mentioned at the beginning
16 of my statement.

17 That's the conclusion of my comments, and
18 I'm going to say may God watch out for all of us and
19 our children. Thank you.

20 MR. TADESSE: Thank you very much.

21 MR. LASTER: I'd like to add one thing to
22 the record on this, that December 1984, the then
23 manager of Sequoyah Fuels, Kerr McGee, made a
24 statement to the Sequoyah County Times Record,
25 published in the December 9, 1984 newspaper. His

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1 statement was that Sequoyah is a solely owned
2 subsidiary of Kerr McGee; Kerr McGee is ultimately
3 responsible for any liabilities on anything that we do
4 wrong here. So not Sequoyah Fuels so much will be
5 liable under your terms of your civil laws and all the
6 regulations. When a person that is speaking for a
7 company, whether a head of a department, whatever,
8 doing it on company time, he's working for the
9 company, he speaks for the company, anything he says
10 is binding for the company.

11 So it's not just Sequoyah Fuels, it goes
12 all the way back to Kerr McGee, those statements there
13 as it was a written record made before the public that
14 holds Kerr McGee ultimately responsible for the
15 cleanup, not just Sequoyah Fuels. What Kerr McGee has
16 tried to do, they've tried to wash the papers clean,
17 but you cannot do that, you cannot launder and wash
18 things clean and do away with your liability or your
19 responsibilities.

20 I just wanted to make sure that was on
21 record and that Sequoyah Fuels is not the only one
22 responsible, Kerr McGee is still responsible due to
23 that statement that the then-manager made before
24 Sequoyah County Times, December 9, 1984.

25 MR. TADESSE: Thank you.

1 MR. HENSHAW: Ed Henshaw again. I'd like
2 to commend Ms. Barton for her comments. I agree with
3 several of them and have several of them listed on my
4 list also.

5 One of the items that I strongly recommend
6 that you look at in your reclamation plan is multiple
7 retrievable cells in the main cell to where when we
8 have problems with this cell leaking -- which we will
9 eventually, and I think everybody here probably knows
10 that -- then you can at least go into the cell,
11 retrieve areas from the cell, retrieve the parts that
12 are leaking, remove them from the cell, get them to a
13 place out of this groundwater table.

14 Also, I strongly recommend a lower
15 groundwater sampling system to where we can know when
16 there is leakage from this cell. I recommend a liner,
17 a good liner of some kind other than the compacted
18 clay which has leaked in pond 2 at this cell for many,
19 many years and they knew it. They used compacted clay
20 as the pond liner; it cracked and leaked for years and
21 it's still leaking. That's the source of a lot of the
22 nitrates down near the river. They know that, they've
23 known it for years, and they're planning this new cell
24 with the same plans.

25 The close proximity to the groundwater

1 table is one of my chief concerns. I don't think the
2 site has been properly characterized. The injection
3 well was used in spite of the NRC denying use of that
4 well. They had problems with the injection well;
5 their deeper groundwater monitor wells showed
6 contamination several places on this site; when they
7 became contaminated, they plugged them. Most of the
8 monitor wells now are very shallow water wells that
9 don't have the contamination that they saw at the
10 lower levels.

11 Another concern I have is the imported
12 wastes. They propose to bring in a fly-ash waste to
13 mix with their waste on-site to solidify it, they say.
14 It's just another waste product and they've made a
15 deal with some power plants to get rid of their waste
16 is what it amounts to. My chief concern here is not
17 only the waste that would be brought in but what will
18 be bootlegged in. You people aren't here to monitor,
19 you're not here to inspect, you never have been. This
20 place wouldn't be contaminated like it is had you
21 actually been here monitoring this site like it should
22 have been monitored.

23 Another item that I recommend is a buffer
24 zone; instead of just the cell site, the restricted
25 cell site, you restrict an area around this cell site

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1 as a buffer zone for when it does leak you've got a
2 place to extend your restricted area. The more
3 hazardous waste -- I've come to the conclusion that
4 this is going to happen in spite of it being in a poor
5 site. Most of these mill tailing sites are in dry
6 areas; this is not a dry area. But the more
7 contaminated materials, the radium and thorium, the
8 sludges out there, the raffinate sludges, I recommend
9 some type of a vitrification system to where this
10 material cannot leach into the groundwater. And with
11 that, I thank you.

12 MR. TADESSE: Thank you.

13 MR. LASTER: Another question I'd like to
14 bring out. In a 1999 hearing that we had a Webber
15 Falls, a question I asked was how much uranium was
16 missing. The 1999 report showed enriched uranium,
17 finished product, 260,000 kilograms was unaccounted
18 for. This is one-fourth the production; it's not
19 tailings, this is finished product missing. So we're
20 not talking about byproducts or tailings that's
21 missing unaccounted for, we're talking about finished
22 product which contains all the -- like you say, it
23 wouldn't be tailings that we're considering. And what
24 my concern has been all along, high concentrations of
25 uranium products that moves them into high level risk

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1 levels, calls for 20 foot of concrete entombment, not
2 four foot of clay.

3 MR. TADESSE: Thank you.

4 MR. BRUGGE: Doug Brugge again.

5 One of the things that I want to come back
6 that I asked earlier but I want on the record in the
7 scoping is the issue of the financing of the plan, and
8 in the draft decommissioning plan, under the old
9 jurisdiction there were a series of, I think, nine
10 alternatives, something like that, and each of them
11 with an increasing cost. The vitrification, for
12 example, was one of the options; a groundwater plan
13 was one of the options; digging up a larger amount of
14 contaminated soil and placing it under the cell versus
15 a smaller amount of contaminated soil. There were a
16 whole gradation of options that were presented there.

17 I noticed on your slide you had: no
18 action; on-site disposal; and off-site disposal. I
19 really think in your assessment that you should go
20 back and look at a range of on-site options rather
21 than just one on-site option. And I think you will
22 need to assess what is the right thing to do
23 environmentally and what is the limits that are hit up
24 against by the financing that's available to do the
25 reclamation on this site. And I don't know what

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1 you're going to do if you were to conclude that what
2 needs to be done is -- let's just take as an example
3 Ed's suggestion -- if you were to conclude that
4 vitrification was necessary, my assumption from those
5 previous numbers would be that there is not enough
6 money available to do vitrification even if it were
7 concluded by everyone in the room that that would be
8 the best thing to do. And I'm not saying that you
9 would conclude that, but you might conclude something
10 that is above the financial capacity that currently
11 exists.

12 I hope that in the EIS you will in some
13 way address what you would do if what needs to be done
14 on the site exceeds the financing, the private
15 financing that's available currently, whether it's --
16 certainly we don't have CRCLA, the Superfund to go
17 after PRPs, so that's not an availability. I've been
18 told tonight that DOE isn't going to kick in any
19 money, so what we have is Sequoyah Fuels Corporation
20 with a little money from General Atomics and what it
21 has left in its assets.

22 And I wonder maybe in UMTRCA there is some
23 experience with sites that had limited financing and
24 how those were dealt with, but I think that that's
25 something that is going to have to be looked at. And

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1 I hope since I'm raising it here that that will mean
2 you'll have to address it formally in the EIS process.
3 Thank you.

4 MR. TADESSE: Thank you.

5 MR. LASTER: One more question on that.
6 In 1965 Kerr McGee was required to deposit \$200
7 million for cleanup; NRC has already give that back.
8 The money was available to do this with, so that's
9 what I say, the NRC relieved them of their obligation.
10 So the money was available at one time to do this
11 operation.

12 MS. COLLINS: Jessie Collins again.

13 I believe the gentleman is right that RCRA
14 law requires that all identifiable owners of a
15 polluted site must contribute in the cleanup and bear,
16 so I don't think that Kerr McGee can escape their
17 responsibility, nor General Atomics, nor any other
18 subsidiaries that may have been formed that I know of.

19 I'm concerned about the mixing of waste in
20 disposal and I think that the barium and thorium and
21 arsenic and the heavy metals should be in separate
22 cells, as Mr. Henshaw said, and not in with
23 radiological waste, and I think that needs to be
24 looked at if they're, as he said, in separate cells
25 within a larger cell.

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1 Something also, I'm concerned, as he said,
2 that rainfall does exceed evaporation in this area,
3 and therefore, leaving waters open endangers several
4 species, the Gray Bat, the Indiana Bat. There are
5 several endangered species in this area and having
6 open waterways needs to be looked at if cells are open
7 where it could, and I'm not sure what other endangered
8 species exist.

9 And I also want to know that Cherokee
10 Nation and I believe they would be the only tribe that
11 would have jurisdiction in the direction that the
12 scoping process is going, and I don't know if they're
13 filing their scoping issues separately or if they
14 intend to bring them up tonight. Do you know that?

15 MR. TADESSE: I'm not sure but I know
16 Cherokee Nation is part of the cooperating agencies,
17 so they have opportunities to review the document
18 prior to being released and provide comments, and I
19 don't know if tonight if anybody is planning to make
20 any comment.

21 MS. COLLINS: Is there someone here from
22 Cherokee Nation that could address that?

23 MR. PARRIS: I'm John Parris with Cherokee
24 Nation and we're not planning any comments tonight,
25 and I haven't heard anything so far that we need to

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1 respond to.

2 MS. COLLINS: Well, I mean will you be
3 setting forth issues that you want the scoping process
4 to look at, the direction to go, and things that you
5 want covered in the environmental impact statement,
6 contamination of the riverbed, for example,
7 contamination of Cherokee people living in the area,
8 health effects? I mean, will you be setting forth at
9 some point the things you want addressed?

10 MR. PARRIS: We're very involved and we
11 keep in touch with all the parties involved and we'll
12 be addressing our concerns at the right time, I'm
13 sure.

14 MR. GWIN: Pat Gwin with the Cherokee
15 Nation.

16 As a cooperating agency, we were involved
17 in the drafting of the first EIS -- excuse me -- the
18 first DEIS, the draft environmental impact statement
19 which I guess came out in July of last year. Is that
20 correct?

21 MR. TADESSE: Yes. It was never published
22 because there were changes.

23 MR. GWIN: Right. And I guess -- well,
24 no, I won't guess -- we were very pleased with the
25 scope of that document and the comments that were in

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1 it, and have had several meetings with the NRC and
2 actually have more planned in the future.

3 MS. COLLINS: I just want to be clear, are
4 you saying that you're not going to bring up anything,
5 or that you're going to trust the NRC with Cherokee
6 property and people?

7 MR. GWIN: According to what we saw in the
8 first DEIS, we were pleased with the scoping that was
9 involved in that. Of course, that scoping goes all
10 the way back to 1992, maybe even previous to that, but
11 I became involved in the scoping process in '92 and we
12 believe that the major environmental and socioeconomic
13 concerns are addressed in the DEIS that Ms. Tadesse --
14 that document will be a building block for this
15 document. We've addressed our concerns in writing to
16 the NRC on the first document, and with the change in
17 scope of the material from source material to 11e.(2)
18 material, we've already addressed those concerns to
19 the NRC in writing also.

20 MR. TADESSE: Thank you. Any other
21 comments?

22 MR. HENSHAW: I said this earlier -- Ed
23 Henshaw again -- I said this earlier but I'd like to
24 repeat it in this scoping process, is that I think the
25 site needs a full characterization, environmental

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1 characterization for the deep groundwater and I don't
2 think that has been addressed yet and I wanted to make
3 sure I got that in as part of the scoping process.

4 MR. TADESSE: Thank you.

5 MR. LASTER: You need to get a copy of the
6 December 9, 1984 newspaper. It showed that they had
7 what they call the Carlisle Fault within one mile of
8 the site here and then Warner Fault was also within
9 half a mile of the site. The newspaper also showed a
10 diagram and showed a draft drawing of the injection
11 well, the layout of the formations, the Spiro, Conway
12 and Arbuckle Foundation and shift points on that.
13 Because what we're going to be concerned with later
14 will be earthquakes which we're in the Meridian Fault
15 line. Also those fault lines, like you say, they've
16 documented at least 26 million gallons was injected in
17 that deep injection well under 5,000 pound pressure,
18 and as John said in a meeting we had in 1999, the
19 pressure dropped so it went somewhere.

20 MR. TADESSE: Thank you very much.

21 We have public comment for both the public
22 meeting as well as for scoping. If you think of
23 anything, you can send those to us.

24 MR. BRUGGE: This is not for the scoping
25 for just for tonight, could you clarify what the

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1 deadline for turning in written comments is because I
2 heard a couple of different things and I ended up
3 being unsure.

4 MR. TADESSE: June 30. Thank you very
5 much.

6 MR. FLIEGEL: That concludes our meeting.
7 Once again, we have forms for comments for the scoping
8 and we have separate forms if you want to comment just
9 on the meeting in general, and those can be mailed
10 back to NRC. I thank you for coming out here, for
11 your interest in the project, and I think we're done.

12 (Whereupon, at 9:15 p.m., the meeting was
13 concluded.)
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CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of:

Name of Proceeding: Sequoyah Fuels Corporation

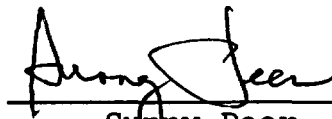
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