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May 15, 2003 (2:30PM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

May 15, 2003

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
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Attention: Docketing and Services Branch

Please note that, on behalf of Cherokee Nation and represented citizens, pursuant to the Federal Register notice of April 15, 2003, Vol. 68 No. 72, 18268, I am submitting the attached "Request for Hearing," on Sequoyah Fuels Corporation's January 28, 2003, application to amend materials license SUB-1010.

Please contact me if you have any questions or concerns.

Sincerely,

John E. Parris  
Oklahoma Bar Association #18969  
Staff Attorney  
Cherokee Nation Department of Justice  
PO Box 948  
Tahlequah, Oklahoma 74465-0948  
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May 15, 2003 (2:30PM)

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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

REQUEST FOR HEARING

The Cherokee Nation, in its capacity as a Federally recognized Indian tribe and on behalf of its members in the vicinity of the subject site, (hereinafter the "Nation"), by and through General Counsel Julian Fite, Assistant General Counsel Jeannine Hale and Staff Attorney John E. Parris, hereby requests a hearing pursuant to 10 CFR §2.1205 regarding Sequoyah Fuels Corporation's (hereinafter "SFC") Request to Amend Source Material License No. SUB-1010 to address reclamation of its site near Gore, Oklahoma. In support thereof, the Nation states as follows:

FACTS AND HISTORY OF THE SFC SITE

The SFC site is a former uranium conversion facility located near the confluence of the Illinois and Arkansas Rivers in Oklahoma. SFC commenced operations at the "Site" under Source Material License No. SUB-1010, which was originally issued to Kerr-McGee Corporation in 1969 for the storage of uranium ore concentrate. Source Material License No. SUB-1010 was amended in 1970 to permit conversion of uranium oxide (yellowcake) to uranium hexafluoride (UF<sub>6</sub>). In 1987, Source Material License No. SUB-1010 was amended to authorize reduction

of depleted uranium hexafluoride ( $\text{UF}_6$ ) to uranium tetrafluoride ( $\text{UF}_4$ ).

In 1988, the SFC site was transferred from Kerr-McGee Corporation to General Atomics, the third-tiered parent company of SFC. In September of 1990, Source Material License No. SUB-1010 expired. A license renewal application was submitted to the Nuclear Regulatory Commission, (the "NRC"), which, by rule, permitted the continued operation of the SFC site.

The SFC site became the subject of increasing public and regulatory scrutiny, triggered by a 1986 accident which released a cloud of hydrogen fluoride and uranyl fluoride and resulted in one death and injuries to many other SFC employees and members of the public. An NRC-ordered environmental investigation of the SFC site was completed in July of 1991 and it revealed high levels of uranium in the soil and groundwater at the SFC site, as well as other contaminants such as nitrate and arsenic. NRC ordered the SFC site to shut down in October of 1991 due to ongoing problems and the SFC site remained shut down until April of 1992 when a planned phased start-up was initiated. Then, on November 17, 1992, another accident at the SFC site generated a large cloud of toxic nitrogen dioxide ( $\text{NO}_2$ ) that traveled offsite, injuring SFC employees and the public. After that, SFC and General Atomics decided not to restart the uranium hexafluoride ( $\text{UF}_6$ ) process. See Bradley v. Sequoyah Fuels Corp., 847 F. Supp. 63, 866-67 (E.D. Okla. 1994).

On November 23, 1992, a partnership named Converdyn was formed to service SFC's contracts for uranium hexafluoride production in Metropolis, Illinois. SFC notified the NRC in 1993 that it intended to cease activities and decommission

the SFC site, and to terminate Source Material License No. SUB-1010, which required decommissioning of the site for unrestricted release. Approximately December 15, 1998, SFC submitted its First Revised Decommissioning Plan for the SFC site to the NRC, requesting an amendment to Source Material License No. SUB-1010 to decommission the SFC site for restricted release pursuant to 10 CFR §20.1403. The decommissioning plan proposed utilizing an on-site, above-grade disposal cell for the permanent disposal of waste, including long-lived radioactive materials such as uranium, thorium and radium. The disposal cell would have a volume of between 5,000,000 and 11,000,000 cubic feet, a foot print of approximately ten (10) acres, and a height of approximately 40 feet above grade. It would be located less than one-quarter of a mile from the Illinois River and less than one (1) mile from the Arkansas River. This First Revised Decommissioning Plan was rejected by NRC on February, 11, 1999 for failure to meet the minimum criteria for technical review.

On or about March 26, 1999, SFC submitted its Second Revised Decommissioning Plan for the SFC site to the NRC. The second plan requested restricted release and contained an identical plan for construction of a disposal cell. On May 20, 1999, the NRC notified SFC that the Second Revised Decommissioning Plan contained sufficient information to begin technical review.

On January 5, 2001, SFC requested a determination by NRC that certain waste material from the solvent extraction portion of its uranium hexafluoride (UF<sub>6</sub>) conversion process could be classified as Atomic Energy Act, 11(e)(2)

byproduct material. On September 30, 2002, SFC submitted an application requesting that Source Material License SUB-1010 be amended to “possess 11(e)(2) byproduct material.” On November 14, 2002, NRC published a Notice of Consideration of Amendment Request for Sequoyah Fuels Corp., Gore, OK and Opportunity for Hearing in the Federal Register. Several timely requests for hearing were filed by interested parties pursuant to 10 CFR §2.1205. On December 11, 2002, NRC Staff approved SFC’s request for a license amendment to “possess” 11(e)(2) byproduct material and notified SFC that the facility would be regulated as a “uranium recovery facility” under 10 CFR Part 40. That proceeding is currently pending.

The newly amended License No. SUB-1010 Condition 48 requires SFC to submit a reclamation plan to the NRC by March 15, 2003. SFC submitted a Reclamation Plan (RP) with a letter to NRC dated January 28, 2003, in which proposes the construction of an onsite disposal cell with a capacity of between 5 to 12 million cubic feet to permanently dispose of wastes classified as 11(e)(2) by NRC staff and non-11(e)(2) wastes at the Site. Reclamation Plan Sequoyah Facility, page 1-5 (January 2003). On April 15, 2003 the NRC published its Notice of Receipt of Amendment Request and Opportunity to Request a Hearing on the cleanup and reclamation plan.

## REQUEST FOR HEARING

### A. Requirements for Requests for Hearing under 10 CFR §2.1205.

The provisions of 10 CFR Part 2, Subpart L govern any adjudication initiated by a request for hearing in a proceeding for the amendment of a materials license subject to 10 CFR Part 40. This request for hearing relates to SFC's request to amend its license to address cleanup and reclamation of the SFC site.

In Subpart L adjudicative proceedings, a request for hearing by a person other than an applicant must describe in detail (1) the interest of the requestor in the proceeding; (2) how those interests may be affected by the results of the proceeding; (3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and (4) the circumstances establishing the timeliness of the hearing request. 10 CFR § 2.1205(e)(1)-(4).

Additionally the requestor must demonstrate standing, taking into consideration (1) the nature of the requestor's right under the Atomic Energy Act to be made a party to the proceeding; (2) the nature and extent of the requestor's property, financial or other interests in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding upon the requestor's interest. 10 CFR § 2.1205(h). In determining whether a requestor's interest may be affected by a licensing proceeding, NRC looks to judicial concepts of standing. Thus, a requestor's injury must arguably fall within the zone of interests sought to be protected by the statutes governing the proceeding (*e.g.* the Atomic Energy Act, 42 U.S.C. 2011 *et seq.*). *Atlas Corporation* (Moab, Utah Facility), LBP-97-9, 45 N.R.C. 414, 423 (1997). A request for hearing must allege injury-in-fact; the injury must be fairly traceable to the challenged action; and the injury must be redressable by the

Commission. *Id.*, *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *In the Matter of Sequoyah Fuels Corporation* (Gore, Oklahoma Site Decommissioning) CLI-01-02, 53 N.R.C. 9 (2001).

While the person requesting the hearing has the burden of establishing standing, the Presiding Officer must construe the petition in favor of the person requesting the hearing. *Georgia Institute of Technology* (Georgia Tech Research Reactor), CLI-95-12, 42 N.R.C. 111, 115 (1995).

The Presiding Officer must also determine whether the areas of concern specified by the requestor are germane to the subject matter of the proceeding. 10 CFR § 2.1205(h). An area of concern is germane if it is relevant to whether the license should be denied or conditioned. *In the Matter of Hydro Resources, Inc.*, LBP-98-9, 47 N.R.C. 261, 280 (1998). Areas of concern must fall generally within the range of matters that are properly subject to challenge in the proceeding and must be rational. *Babcock v. Wilson Company* (Pennsylvania Nuclear Services Operations, Parks Township, Pennsylvania), LBP-94-12, 39 N.R.C. 215, 217 (1994).

B. The Nation's Interests in the Proceeding and the Effect of the Proceeding on those Interests.

SFC is requesting that Materials License SUB-1010 be amended to allow for cleanup and reclamation of the SFC site under a Reclamation Plan. SFC's basic plan for the decommissioning of the Site is to construct a large, partially lined cell adjacent to the confluence of the Illinois and Arkansas Rivers in Oklahoma for permanent disposal of all site wastes, including long-lived radioactive and

hazardous wastes. The RP contains unclear and inadequate descriptions of proposed cell design, cleanup levels, groundwater monitoring, waste preparation, waste characterization, and site characterization. The RP as currently written, is not protective of human health and the environment. Members of the Cherokee Nation would be subjected to unacceptable health risks under the proposed RP. The interests of the Nation in natural resources owned by the tribe and its members in the vicinity of the SFC site will be adversely impacted under the proposed RP.

Under 10 CFR 2.1205(a), any person whose interests may be affected by the NRC's approval of SFC's Reclamation may file a request for a hearing. The Nation is a federally recognized tribe and exercises governmental authority over fourteen counties in eastern Oklahoma, including the county in which the SFC site is located. The Nation has numerous property, financial, sovereignty, regulatory, public trust, and other interests that will be affected by approval of this RP. The Nation is concerned with protecting the environment, as well as the public health, safety, and welfare of its tribal members, including those living in the vicinity of the SFC site.

The Nation owns or has property interests related to the streambed and banks of the Arkansas River and other waters affected by the SFC site, including but not limited to the Illinois River, Lake Tenkiller, Robert S. Kerr Lake and groundwater resources. The Nation's tribal members and/or the Nation own adjacent property and groundwater rights associated therewith. These surface and groundwaters are used by the Nation's members for recreation, water supply,



irrigation, fish and wildlife propagation and subsistence. If the RP is inadequate and results in contamination of these waters, this will directly result in adverse health effects and other losses to the Nation's members. The Nation's natural resources, including native flora and fauna important to Cherokee culture, will be affected by any plan for reclaiming or managing the SFC site.

Decisions affecting the manner of reclamation and management of the SFC site will affect values of nearby properties, industries and businesses owned or operated by the Nation or tribal members. Inappropriate disposal methods and pollution will decrease these values and result in adverse economic impacts to tribal members and the Nation.

C. The Nation has Standing to Request a Hearing.

Pursuant to the Cherokee Nation Constitution, Article VI, Section 10, the Chief of the Cherokee Nation has authority to conduct all business of the Nation. The General Counsel is a Cabinet position authorized by the Cherokee Nation Constitution, Article VIII, pursuant to which Julian Fite was appointed by the Principal Chief and was approved by the Tribal Council. A copy of the Cherokee Nation Constitution is available on our website, <[www.cherokee.org](http://www.cherokee.org)>. The General Counsel has authority to handle all legal matters for the Nation and is filing this Request pursuant to the direction of the Chief to take all appropriate steps in matters involving the SFC facility or other sources of pollution, to protect the interests, resources and health of the Nation and its members.

The SFC facility is located within the original boundaries of the Nation and

the RP, if approved in its current form, will result in pollution and damage to the land, air, waters, environment, natural resources, and citizens of the Nation. A presumption of standing based on geographic proximity may be applied in cases involving non power reactors where there is a determination that the proposed action involves a significant source of radioactivity producing an obvious potential for offsite consequences. *In the Matter Georgia Inst. of Technology* (Georgia Tech Research Reactor), CLI-95-12, 42 N.R.C. 111, 116 (1995). Waste materials at the SFC have been demonstrated to be a significant source of radioactivity with an obvious potential for offsite consequences.

The Nation is presumed to have standing in this matter due to ownership interests in waters, industries, businesses and property in the immediate vicinity of the SFC Site. For instance, the Nation owns and exercises governmental jurisdiction over the bed and banks of the Arkansas river where it passes the SFC Site. *See Choctaw Nation vs. Oklahoma*, 396 U.S. 620 (1970). Potential groundwater and runoff contamination will certainly affect this property. The Nation also has standing due to its interest in protecting tribal members from injuries associated with pollution at the SFC site. Many Tribal members live, work, recreate, and travel in the vicinity of the SFC site. *See e.g. Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Organization)*, CLI-98-13, 48 NRC 26, 33 (1998) (holding "the strong interest that a governmental body ... has in protecting the individuals and territory that fall under its sovereign guardianship establishes an organizational interest for standing purposes.") Affidavits of several Tribal

members authorizing Cherokee Nation to represent their interests are attached.

The actual and threatened injuries to the Nation's interests and its citizens that will be caused by approval of SFC's Reclamation Plan are likely to be redressed by a favorable decision in this matter because a hearing on the issues should result in modifications of SFC's Reclamation Plan and other conditions or orders that will assure protection of the health of tribal members and protection of valuable tribal resources. The Presiding Officer has the authority to approve, deny, or condition any licensing action that comes under his or her jurisdiction, so the Nation's injuries are capable of being remedied in this proceeding and the redressability element of constitutional standing is satisfied. *See e.g. In the Matter of Int'l Uranium (USA) Corp.* (Receipt of Material from Tonawanda, New York), LBP-98-21, 48 N.R.C. 137, 148 fn. 6 (1998).

D. The Nation's Areas of Concern Are Germane to the Proceeding.

All of the issues and concerns raised herein by the Nation are germane to the proceeding because they relate to compliance with the statutes, regulations and guidance governing issuance of licenses and license amendments under the AEA, and are relevant to whether the SFC's license amendment should be denied, conditioned or modified. The issues and concerns stem from the fact that SFC's RP, as proposed, is inadequate to protect human health and the environment from the hazards associated with the cleanup and permanent disposal of radiological and non-radiological contaminants at the Site.

As set forth in detail below, the Nation's Areas of Concern relate to SFC's

compliance with the AEA and implementing requirements in 10 CFR Part 40 Appendix A, 10 CFR Part 20, NUREG 1620, and RIS-2000-23. Areas of concern related to SFC's plan for managing both radiological and non-radiological contamination of the air, land and water at the Site are germane to this proceeding under 42 U.S.C. Section 2114.

Pursuant to Subpart L, the Nation must only present its areas of concern with enough specificity that the Presiding Officer may determine whether the concerns are truly relevant or "germane" to the license amendment at issue. *See e.g., Babcock and Wilcox Co.* (Pennsylvania Nuclear Services Operations, Parks Township, Pennsylvania), LBP-94-4, 39 NRC 47, 52 (1994). The Nation is not expected to set forth all concerns or substantiate its concerns exhaustively before it has access to the hearing file. *In the Matter of Sequoyah Fuels Corporation*, 53 N.R.C. at 16.

#### E. The Nation's Areas of Concern

1) SFC's proposed plan contains inadequate descriptions of cell design, cleanup levels, groundwater monitoring, waste preparation, waste characterization, and site characterization. It does not contain the level of detail necessary to demonstrate that the RP will protect human health and the environment. The Nation is extremely concerned that SFC plans to put inappropriate materials such as raffinate sludge in its proposed disposal cell. The Nation is also concerned that the disposal cell may not be designed to adequately contain contaminants due to inadequate liners and cover. If the cell is improperly designed, groundwater and

surface waters may be contaminated, affecting the interests of the Nation and tribal members.

2) Even if some material at the SFC site qualifies as 11(e)(2) byproduct material, it is not clear that NUREG 1620 and 10 CFR Part 40, Appendix A are the requirements that apply to non-11(e)(2) waste and portions of the site which are contaminated by non-11(e)(2) waste. The Nation is concerned that, regardless of classification, the RP does not adequately provide for complete remediation and corrective action. The Nation shares the concerns of the State of Oklahoma that SFC may not be utilizing the appropriate dose and cleanup criteria necessary to protect public health and safety and the environment.

3) The Nation is concerned that SFC has not satisfied the requirements of RIS-2000-23, Attachment 1 which sets forth NRC's Interim Guidance on Disposal of Non-Atomic Energy Act of 1954, Section 11e.(2) Byproduct Material in Tailings Impoundments. The guidance contains eight factors which an applicant must meet in order for NRC to approve disposal of non-11(e)(2) material in a tailings impoundment.

- a. Criterion 1 states that in reviewing licensee requests for the disposal of wastes that have radiological characteristics comparable to those of Atomic Energy Act of 1954, Section 11e.(2) byproduct material in tailings impoundments, the NRC staff will follow the guidance set forth below. The Nation is concerned that all wastes at the SFC site do not have such characteristics. SFC asserts that it meets the

requirements of Criterion 1 because the non-11(e)(2) materials have radiological characteristics similar to 11(e)(2) byproduct material and has designated all of the most contaminated material at the Site as 11(e)(2) material which was generated as a result of its “front end process,” including 90 percent of the soils, 100 percent of the raffinate sludge, 50 % of the solid waste burials, and 100 percent of the sanitary sewage sludge, as well as the sludge and liners in the majority of the other lagoons at the facility. SFC asserts that only 23 percent of the contamination at the Site is due to the actual conversion and reduction processes at the Site and that waste contains only 8% of the radioactivity. The RP does not contain adequate support or justification for SFC’s waste characterizations.

The Nation is concerned that not all of the waste claimed by SFC to be 11(e)(2) waste should be disposed of in the same manner. The radiological concentrations of uranium and thorium in some of the SFC waste are significantly higher than those found in typical mill tailings. Placing this type of waste in a tailings impoundment, under regulations designed to address much lower radiological concentrations, poses a serious threat to human health and the environment. The Nation specifically objects to the disposal of raffinate sludge in the proposed cell. This sludge should be removed and disposed of offsite in a state with more appropriate locations.

- b. Criterion 3 requires that the 11e.(2) licensee provide documentation showing necessary approvals of other affected regulators (e.g., the U.S. Environmental Protection Agency or State) for material containing listed hazardous wastes or any other material regulated by another Federal agency or State because of environmental or safety considerations. The Nation is concerned that SFC may not have obtained all of the necessary approvals from the U.S. Environmental Protection Agency and the Oklahoma Department of Environmental, as alleged in the State's Request for Hearing filed in this proceeding. All approvals must be documented by SFC prior to any approval of disposal of non-11(e)(2) material in the proposed cell.
- c. Criterion 4 states that the 11e.(2) licensee must demonstrate that there will be no significant environmental impact from disposing of this material. SFC claims that because the materials are similar in nature to the materials it classifies at 11(e)(2), there will be no negative environmental impact from the disposal except for an approximate 20 percent increase in volume. SFC ignores the fact that the waste at the facility has a radiological content much higher than typical mill tailings and that the waste contains non-radiological contaminants such as hazardous constituents subject to a RCRA 3008(h) Administrative Order on Consent. SFC has not adequately evaluated potential impacts to surface and groundwater from

disposing of this material in an impoundment designed to contain tailings..

- d. Criterion 5 requires that the 11e.(2) licensee must demonstrate that the proposed disposal will not compromise the reclamation of the tailings impoundment by demonstrating compliance with the reclamation and closure criteria of Appendix A of 10 CFR Part 40. SFC states that Sections 3 and 4 of the Reclamation Plan demonstrate that disposal will not compromise compliance with Appendix A but neither of these sections do so. The Nation is concerned that the cell design set forth in Section 3 does not comply with Appendix A. Much more is required in order for SFC to demonstrate that disposal will not compromise compliance.
- e. Criterion 7 requires that the U.S. Department of Energy (DOE) and the State in which the tailings impoundment is located, should be informed of the U.S. Nuclear Regulatory Commission findings and proposed action, with a request to concur within 120 days. A concurrence and commitment from either DOE or the State to take title to the tailings impoundment after closure must be received before granting the license amendment to the 11e.(2) licensee. SFC has not resolved its approach to the non-11(e)(2) material and has not received any of the required approvals.



4) Several problems with the siting of the proposed cell are exacerbated by SFC's failure to design an adequate cover, liner and leachate collection system for the disposal cell in compliance with Appendix A Criterion 5 and Criterion 6. For example, Criterion 5A requires the disposal cell to have a liner that prevents migration of wastes out of the impoundment into the surrounding soil, groundwater and surface water. It further requires that the liner be installed to cover all areas likely to be in contact with wastes or leachate. SFC only proposes to install a clay liner at the very bottom of the disposal cell to the edge of Layer B. Hence, when Layers A and B are saturated, contaminated water will flow over the edge of the liner and directly to the groundwater system. The RP fails to provide adequate detail to demonstrate that the liner will have the appropriate chemical properties, sufficient strength and thickness, and be placed on adequate foundation to prevent failure as required by Criterion 5A(2)(a) and (b).

5) The Nation is very concerned with SFC's decision to place unstabilized materials in the disposal cell. In particular, SFC plans to place partially dewatered raffinate sludge containing high levels of radioactive and hazardous contaminants at the bottom of the cell. The State alleges in its Request for Hearing in this proceeding that, at 40 percent solids, the raffinate sludge would contain greater than 3 million gallons of free water that will be exuded into the clay liner and soils under the pressure of 25 feet of overburden and heavy equipment used to complete waste emplacement. The water released from wastes in the cell and contributed by the lack of a proper infiltration barrier could cause

contamination of the groundwater and compromise the clay liner. Despite the obvious potential for release of contaminated water from the disposal cell, SFC does not propose installation of a leachate collection system as required by Criterion 5A and E. For this and other reasons, the Nation opposes onsite disposal of the raffinate sludge.

SFC's plan for placing waste in the cell is also not clear. According to the RP, the exact placement sequences and criteria will be developed during the disposal cell detailed design phase. Reclamation Plan, at 3-6. It is unclear how materials will be prepared for inclusion, and SFC also fails to provide a plan for disposal of wastes from several sources of contamination, including but not limited to site drainage systems and soils from the CaF Pond, Clarifier, Pond 2, Raffinate Ponds, and Fertilizer Ponds.

6) SFC did not fully characterize the waste and contaminated media at the Site as required by Appendix A, Criteria 5. Some information on the site is available from the RCRA Facility Investigation Report and Draft Corrective Measures Study completed for EPA, but it is not included or evaluated in the RP. In addition to the radiological contaminants, those reports demonstrate that the soils, sediments, wastes and water at SFC site are likely contaminated with hazardous wastes, heavy metals, nitrates, fluorides, certain solvents, and PCB's. The RCRA Facility Investigation Report for the SFC Site also indicates that soils and groundwater is significantly impacted relative to background by As, Ba, Be,

Co, Cu, Cr, Mo, Mn, Ni, Pb, Se, V and Zn. SFC wholly failed to address any of these contaminants in the RP.

SFC is currently requesting that the EPA defer to the NRC's regulations governing non-radiological contaminants at the Site. The RP, however, fails to address the proper treatment, management, remediation, or disposal of these materials. .

7) SFC has not demonstrated adequate longterm custodianship, financial Assurance and institutional controls. Despite the fact that SFC intends to permanently dispose of large volumes of long-lived radioactive and non-radioactive waste at the Site, SFC's entire plan for institutional controls is contained in two paragraphs. The plan consists of fencing a portion of the site and transferring ownership of the site to DOE. This plan is wholly inadequate to protect public, health, safety and the environment from contaminant releases and radiation.

SFC also fails to demonstrate that DOE will take custody of the Site upon completion of the proposed RP. Because SFC intends to place non-11(e)(2) material in the disposal cell, the DOE has discretion to reject long term custodianship for the Site. SFC fails to set forth a contingency plan for another long term custodian in the event DOE declines or for offsite disposal of the non-11(e)(2) waste. SFC's plan for DOE custodianship is further jeopardized by the lack of adequate funds for long term maintenance and surveillance. According to Table 7-1 of the Reclamation Plan, SFC is only making \$21,866 available annually for long term maintenance and surveillance over a period of approximately 50 years. This

amount includes only \$500 per year for maintenance and only provides funding for sampling three contaminants in the groundwater.

8) Appendix A requires SFC to develop a groundwater monitoring and corrective action plan for the SFC Site. Neither plan, however, was provided in the license application for 11(e)(2) waste or in the RP. Although the NRC provided SFC with additional time to submit a monitoring and corrective action plan, the activities addressed in the RP and CAP overlap and should be evaluated together to determine whether the RP is protective of human health, safety and environment.

#### E. The Nation's Request For Hearing Is Timely.

As set forth above, the Notice was published in the Federal Register on April 15, 2003. Pursuant to 10 CFR § 2.1205(d), a person, other than an applicant, shall file a request for a hearing within thirty days of the agency's publication in the Federal Register of a notice referring or relating to an application or the licensing action requested by an application. According to this rule and the provisions of 10 CFR § 2.710, the deadline for filing a Request for Hearing in this matter is May 15, 2003. As set forth in the Certificate of Service below, this Request for Hearing was transmitted by facsimile, e-mail, and deposited in the United States mail on May 15, 2003. Pursuant to 10 CFR § 2.1203(b)(2), filing by facsimile is complete upon transmission, and filing by mail is complete as of the time of deposit in the mail.

Pursuant to 10 CFR § 2.1203(c), service of all pleadings, documents and

correspondence relating to the Proceeding may be served upon Julian Fite, General Counsel, Cherokee Nation, at P.O. Box 948, Tahlequah, OK 74465-0948.

WHEREFORE, premises considered, the Nation hereby prays that this Request for Hearing be granted, and that a hearing be scheduled on all issues relating to this Proceeding and Sequoyah Fuels Corporation's request for an amendment approving the Reclamation Plan for Source Materials License NO. SUB-101.

Respectfully submitted on behalf of the Cherokee Nation and represented citizens,

A handwritten signature in cursive script, reading "John E. Parris", is written over a horizontal line.

Julian Fite, General Counsel  
Jeannine Hale, Assistant General Counsel  
John E. Parris, Staff Attorney  
PO Box 948  
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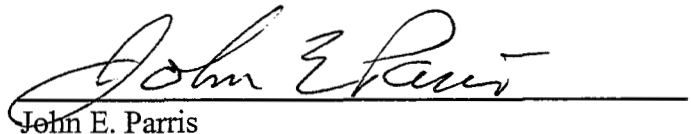
## CERTIFICATE OF MAILING

The undersigned certifies that on May 15, 2003, this document was sent via facsimile, e-mail, and U.S. mail, postage prepaid, to:

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
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Attention: Docketing and Services Branch

Sequoyah Fuels Corporation  
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Gore, Oklahoma 74435  
Attn: Mr. John Ellis  
e-mail to Al Gutterman, Esq.

Angela B. Coggins, Esq.  
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John E. Parris

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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

Affidavit

Comes now TROY WAYNE POTEET. I am a citizen of the Cherokee Nation. I live and/or own property near the Sequoyah Fuels Corporation (SFC) site near Gore, Oklahoma. I am concerned about the Reclamation Plan submitted by SFC. I wish to have the Cherokee Nation represent my individual interest in the Hearing on the reclamation plan.

Signed: Troy Wayne Poteet

Printed: TROY WAYNE POTEET

Address: P.O. Box 359  
Webbers Falls, OK 74470

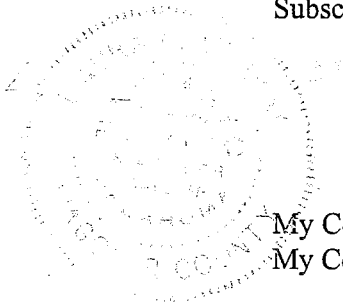
State of Oklahoma )  
 ) ss.  
County )

I the undersigned, of lawful age, and being first duly sworn states the I have read the above and foregoing Affidavit and that the statements contained therein are true and correct.

Subscribe and sworn to before me this 15<sup>th</sup> day of May, 2003.

[Signature]  
Notary Public

My Commission Expires: 5/8/05  
My Commission Number: 01007792



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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License No. SUB-1010) )

Affidavit

Comes now Brandon Tyler. I am a citizen of the Cherokee Nation. I live and/or own property near the Sequoyah Fuels Corporation (SFC) site near Gore, Oklahoma. I am concerned about the Reclamation Plan submitted by SFC. I wish to have the Cherokee Nation represent my individual interest in the Hearing on the reclamation plan.

Signed: Brandon Tyler

Printed: Brandon Tyler

Address: \_\_\_\_\_

State of Oklahoma )  
 ) ss.  
County )

I the undersigned, of lawful age, and being first duly sworn states the I have read the above and foregoing Affidavit and that the statements contained therein are true and correct.

Brandon Tyler

Subscribe and sworn to before me this 15<sup>th</sup> day of May, 2003.

Neda Payton  
Notary Public

My Commission Expires: \_\_\_\_\_

My Commission Number: \_\_\_\_\_





**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

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

Affidavit

Comes now JANICE TYLER. I am a citizen of the Cherokee Nation. I live and/or own property near the Sequoyah Fuels Corporation (SFC) site near Gore, Oklahoma. I am concerned about the Reclamation Plan submitted by SFC. I wish to have the Cherokee Nation represent my individual interest in the Hearing on the reclamation plan.

Signed: JANICE TYLER

Printed: JANICE TYLER

Address: PO 333  
GORE, OKLA. 74435

State of Oklahoma )  
 ) ss.  
County )

I the undersigned, of lawful age, and being first duly sworn states the I have read the above and foregoing Affidavit and that the statements contained therein are true and correct.

JANICE TYLER  
Subscribe and sworn to before me this 15<sup>th</sup> day of May, 2003.

Neda Payton  
Notary Public

My Commission Expires: \_\_\_\_\_  
My Commission Number: \_\_\_\_\_



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

In the Matter of )

SEQUOYAH FUELS CORPORATION, )

Docket No. 40-8027

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

## Affidavit

Comes now Tracy Ross. I am a citizen of the Cherokee Nation. I live and/or own property near the Sequoyah Fuels Corporation (SFC) site near Gore, Oklahoma. I am concerned about the Reclamation Plan submitted by SFC. I wish to have the Cherokee Nation represent my individual interest in the Hearing on the reclamation plan.

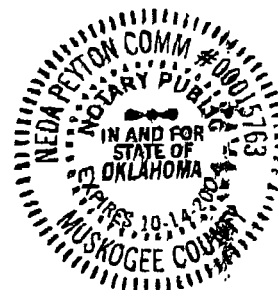
Signed: Tracy RossPrinted: Tracy RossAddress: P.O. Box 112  
Webberville Falls Ok 74470

State of Oklahoma )  
                          ) ss.  
County                )

I the undersigned, of lawful age, and being first duly sworn states the I have read the above and foregoing Affidavit and that the statements contained therein are true and correct.

Tracy RossSubscribe and sworn to before me this 15<sup>th</sup> day of May, 2003.Neda Payton  
Notary Public

My Commission Expires: \_\_\_\_\_  
My Commission Number: \_\_\_\_\_



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

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

Affidavit

Comes now Frankie Sue Gilliam am a citizen of the Cherokee Nation. I live  
and/or own property near the Sequoyah Fuels Corporation (SFC) site near Gore, Oklahoma. I am  
concerned about the Reclamation Plan submitted by SFC. I wish to have the Cherokee Nation  
represent my individual interest in the Hearing on the reclamation plan.

Signed: Frankie Sue Gilliam  
Printed: Frankie Sue Gilliam  
Address: Rt 2 Bx 37-1  
GORE OK 74435 9414

State of Oklahoma )  
 ) ss.  
County )

I the undersigned, of lawful age, and being first duly sworn states the I have read the  
above and foregoing Affidavit and that the statements contained therein are true and correct.

Frankie Sue Gilliam

Subscribe and sworn to before me this 15<sup>th</sup> day of May, 2003.

Neda Peyton  
Notary Public

My Commission Expires: \_\_\_\_\_  
My Commission Number: \_\_\_\_\_



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

In the Matter of )

SEQUOYAH FUELS CORPORATION, )

Docket No. 40-8027

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

## Affidavit

Comes now Frederick A. Kiddie I am a citizen of the Cherokee Nation. I live and/or own property near the Sequoyah Fuels Corporation (SFC) site near Gore, Oklahoma. I am concerned about the Reclamation Plan submitted by SFC. I wish to have the Cherokee Nation represent my individual interest in the Hearing on the reclamation plan.

Signed: F. KiddiePrinted: Frederick KiddieAddress: Rt 2 Bx 37-1  
Gore OK 74435

State of Oklahoma )

) ss.

County )

I the undersigned, of lawful age, and being first duly sworn states the I have read the above and foregoing Affidavit and that the statements contained therein are true and correct.

F. Kiddie

Subscribe and sworn to before me this 15<sup>th</sup> day of May, 2003.

Neda Peyton  
Notary Public

 My Commission Expires: \_\_\_\_\_  
My Commission Number: \_\_\_\_\_


**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

In the Matter of )

SEQUOYAH FUELS CORPORATION, )

Docket No. 40-8027

(Request to Amend Source Material )

License No. SUB-1010) )

Affidavit

Comes now Julie Kiddie I am a citizen of the Cherokee Nation. I live and/or own property near the Sequoyah Fuels Corporation (SFC) site near Gore, Oklahoma. I am concerned about the Reclamation Plan submitted by SFC. I wish to have the Cherokee Nation represent my individual interest in the Hearing on the reclamation plan.

Signed: Julie KiddiePrinted: Julie KiddieAddress: Rt 2 Box 37-1  
Gore, OK 74735

State of Oklahoma )

) ss.

County )

I the undersigned, of lawful age, and being first duly sworn states the I have read the above and foregoing Affidavit and that the statements contained therein are true and correct.

Julie Kiddie

Subscribe and sworn to before me this 15<sup>th</sup> day of May, 2003.

Neda Peyton  
Notary Public

My Commission Expires: \_\_\_\_\_

My Commission Number: \_\_\_\_\_

