UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 12/23/03

ATOMIC SAFETY AND LICENSING BOARD PANEL

SERVED 12/23/03

Before Administrative Judges:

Alan S. Rosenthal, Presiding Officer
Dr. Anthony J. Baratta, Special Assistant

In the Matter of	Docket No. 40-8027-MLA-6
SEQUOYAH FUELS CORPORATION	ASLBP No. 03-812-03-MLA
(Gore, Oklahoma Site)	December 23, 2003

MEMORANDUM AND ORDER
(Granting Two Hearing Requests and Denying a Third)

On April 15, 2003, the NRC published in the Federal Register a notice concerning an application by the Sequoyah Fuels Corporation (Licensee) for an amendment to its outstanding source materials license (SUB-1010). According to the notice, the Licensee sought approval of a plan for the reclamation of a site near Gore, Oklahoma on which, between 1970 and 1993, the Licensee had operated a facility that had produced uranium hexaflouride from yellow cake (a uranium oxide) and converted depleted uranium hexaflouride to uranium tetraflouride. 68 Fed Reg. 18,268.

The notice recited that the Commission had determined in July 2002 that some of the waste material from the yellow cake solvent extraction process could be classified as byproduct material as defined in section 11e.(2) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2014(e)(2). In the wake of that determination, and in response to the Licensee's request, in December 2002 the NRC Staff had amended the materials license to allow the possession of that waste as section 11e.(2) byproduct material. Consequently, according to the notice, in its reclamation plan the Licensee proposed to build a disposal cell on the Gore site designed to

meet the requirements set forth in 10 C.F.R. Part 40, Appendix A, for disposal of such byproduct material. The radioactive waste would be then placed in that cell. Permission was also sought to dispose of source material wastes in the cell. Ibid.

In response to the opportunity to seek a hearing contained in the notice, and in accordance therewith, hearing requests were submitted by the State of Oklahoma, the Cherokee Nation and an individual, Ed Henshaw. The Licensee and NRC Staff responded to each request.

Action on the requests was deferred, however, to await the outcome of a companion proceeding in which Oklahoma sought to challenge the classification of the waste as section 11e.(2) byproduct material. Sequoyah Fuels Corporation (Gore, Oklahoma Site), Docket No. 40-8027-MLA-5. In CLI-03-15, 58 NRC__ (November 13, 2003), the Commission rejected the challenge and, accordingly, on November 21, 2003, that proceeding was terminated. See LBP-03-25, 58 NRC __ (appeal to the Commission pending).

Disposition of the hearing requests in the present proceeding is therefore now in order. More specifically, the proceeding being governed by the provisions of Subpart L of the Commission's Rules of Practice pertaining to the adjudication of materials licensing matters, the question is whether the requests meet the tests imposed by 10 C.F.R. §§ 2.1205 (e) and (h). In a nutshell, in the case of each hearing request, it must be determined that the request is timely; that the requester has standing to challenge the license amendment application in issue; and that the request presents at least one area of concern that is germane to the subject matter of the proceeding.

With respect to the standing requirement, section 2.1205(h) stipulates that the hearing requester must meet the "judicial standard for standing." The Commission has observed in

connection with an earlier proceeding involving the decommissioning of the Gore site, that this means there must be a showing of

> (1) an actual or threatened, concrete and particularized injury, that (2) is fairly traceable to the challenged action, (3) falls among the general interests protected by the Atomic Energy Act (or other applicable statute, such as the National Environmental Policy Act), and (4) is likely to be redressed by a favorable decision.

Sequoyah Fuels Corp. (Gore, Oklahoma Site Decommissioning), CLI-01-02, 53 NRC 9, 13 (2001).

For the reasons that follows, Judge Baratta and I have concluded, in agreement with the NRC Staff, that the Oklahoma and Cherokee Nation hearing requests satisfy each of the tests imposed by the Rules of Practice and are therefore to be granted. The same cannot be said for the Henshaw request, however, and it therefore requires denial and dismissal.

THE HEARING REQUESTS AND RESPONSES THERETO

A. The Hearing Requests

1. Oklahoma request. Oklahoma asserts standing to challenge the adequacy of the reclamation plan (plan) on the basis of the "numerous property, financial, sovereignty, regulatory, public trust, and other interests" that it insists would be affected by approval of the plan. May 14, 2003 Hearing Request at 9. The State proceeds to elaborate on that thesis in considerable detail. Among other things, it maintains that, "[a]s trustee for natural resources, the State is responsible for protecting the environment, as well as the public health, safety, and welfare of its citizens, including those living in the vicinity of the [Gore] site." Ibid. According to the State, if approved, the plan will occasion "pollution and damage to the land, air, waters, environment, natural resources, and citizens of the State of Oklahoma." Id. at 10. On that

score, the hearing request cites an appendix to the plan for the proposition that the Licensee "proposes to remediate approximately 186,000 kg. of uranium while "leaving approximately 74,000 kg unaccounted for." Id. at 10-11.

The Oklahoma hearing request goes on to specify numerous areas of concern. First, the State asserts that, contrary to the Licensee's proposal, the provisions of 10 C.F.R. Part 20 establishing standards for protection against radiation should be applied to the decommissioning of the Gore site. Id. at 16-19. Second, Oklahoma maintains that the provisions of the plan "dealing with soil cleanup and dose criteria are not adequate to protect public health, safety and the environment." Id. at 19-22. The bases for both of these concerns are provided in some detail.

As a third area of concern, Oklahoma notes that the Licensee intends to dispose of all waste at the site in a disposal cell designed for section 11e.(2) byproduct material. It maintains that the Licensee has not demonstrated compliance with RIS-2000-23, Attachment 1, which sets forth the NRC's interim guidance on the disposal of non-section 11e.(2) byproduct material in tailing impoundments. On that score, the State provides the reasons why it believes that the Licensee has not met the requirements of several of the criteria that determine whether such disposal can be made in the contemplated cell. Id. at 22-28.

Oklahoma's fourth area of concern pertains to the adequacy of the disposal cell design. Among other things, the State would have it that the proposed cell does not comply with the technical criteria set forth in 10 C.F.R. Part 40, Appendix A, because its design is insufficient "to prevent migration of contaminants to soils and waters of the State, and will not meet radon release limits." Id. at 28-35.

In its fifth area of concern, Oklahoma insists that the Licensee has failed to characterize fully the waste and contaminated media at the Gore site for radiological and non-radiological

materials. Id. at 35-37. Once again, reasons for this belief are assigned. The sixth area of concern would have it that the Licensee has not demonstrated adequate long-term custodianship, financial assurance, and institutional controls. Id. at 40. And, finally, as a seventh area of concern, the State complains of the failure of the Licensee to have submitted groundwater cleanup and monitoring plans along with the reclamation plan. Id. at 40-41.

2. Cherokee Nation request. The Cherokee Nation is said to be "a federally recognized tribe [that] exercises governmental authority over fourteen counties in eastern Oklahoma, including the county in which the [Gore] site is located." May 15, 2003 Hearing Request at 7. The Nation claims standing to seek a hearing on the reclamation plan based on the asserted fact that the Licensee's facility is located within the original boundaries of the Nation and the further assertion that, if approved in its current form, the plan "will result in pollution and damage to the land, air, waters, environment, natural resources, and citizens of the Nation." Id. at 8-9. In this connection, the Nation maintains, among other things, that it "owns and exercises governmental jurisdiction over the beds and banks of the Arkansas river where it passes the [Gore] site" and that "[p]otential groundwater and runoff contamination will certainly affect this property." Id. at 9. Additionally, the Nation claims standing on the basis of its interest in protecting from pollution-related injury the many tribal members said to live, to work, to recreate, and to travel in the Gore site's vicinity. Ibid. Appended to the hearing request are the affidavits of several citizens of the Nation who aver that they live and/or own property near the Gore site, are concerned about the plan in issue, and wish to have the Nation represent his or her individual interest in a hearing on the plan.[1]

[1] According to the hearing request, under the Cherokee Nation's Constitution the Nation's Chief has the authority to conduct all business of the Nation. The request is said to have been filed by the Nation's General Counsel pursuant to a direction pertaining to the Licensee's facility issued by the Chief, and in the exercise of his asserted authority to handle the Nation's legal matters. Id. at 8.

In large measure, the eight areas of concern advanced by the Cherokee Nation track those submitted by Oklahoma. In summary, they are (1) the reclamation plan contains inadequate descriptions of cell design, cleanup levels, groundwater monitoring, waste characterization, and site characterization; (2) the plan might not utilize the appropriate dose and cleanup criteria to ensure protection of the public health and safety and the environment; (3) the requirements of RIS-2000-23, Attachment 1 (see p. 4 supra) have not been met; (4) the disposal cell design does not provide an adequate cover, liner, and leachate collection system; (5) there are potential problems associated with the proposal to place unstabilized materials in the disposal cell; (6) the Licensee had not fully characterized the waste and contaminated media on the site; (7) the Licensee has not demonstrated adequate long-term custodianship, financial assurance, and institutional controls; and (8) neither the license amendment application concerned with the possession of section 11e.(2) byproduct material on the Gore site nor the reclamation plan now in issue provided the required groundwater monitoring and corrective action plans. Id. at 11-19. In the case of each of the specified areas of concern, some explanation of its foundation is provided.

3. Henshaw request. In a one-page May 15, 2003 filing, Mr. Henshaw represents that he owns ten acres of land adjoining the Gore site on which his "home and animals are located." His interest in this proceeding is said to stem from a desire to protect his "health and that of his family;" "home and acreage;" "livestock, and animals;"and "personal property."

Although there are passing assertions of improper disposal cell design and "improper environmental characterization," as well as an equally sparse reference to the proposed inclusion of non-11e.(2) byproduct material in the disposal cell, Mr. Henshaw offers no particularization respecting his bald assertion that the information submitted by the Licensee "does not demonstrate that my interests will be protected or that adequate steps have been

taken to protect the health and safety of the general public in the near future let alone in perpetuity as will be necessary given the long half lives and toxicity of the constituents proposed to be left on site."

B. The Responses to the Hearing Requests

1. Licensee response. In a May 27, 2003 filing, the Licensee responded to the Oklahoma and Cherokee Nation hearing requests. On June 10, it responded separately to the Henshaw request.

Although not contesting Oklahoma's standing to seek a hearing on the reclamation plan (May 27 Response at 2), the Licensee maintains that the same cannot be said for the Cherokee Nation. To begin with, asserting that the Nation lacks organizational standing, the Licensee disputes that the Nation possesses a sovereign or regulatory interest that might provide a basis for such standing. Id. at 8-10. The response then addresses the Nation's assertion of ownership and financial interests in waters and other property in the vicinity of the site and insists that there has been a failure to describe "the nature, location, or extent of these property interests or [to provide] any specific information on how these interests will be adversely impacted by the" reclamation plan. Id. at 10-11. Turning then to the Cherokee Nation's claim of representational standing, the Licensee maintains that claim must also fail. This is because purportedly none of the persons who confirmed by affidavit that they wished the Nation to represent them provided sufficient information to demonstrate the possession of standing in an individual capacity – i.e., that they might suffer direct injury from NRC approval of the reclamation plan. Id. at 12-13.

Moving on to the question as to whether Oklahoma and the Cherokee Nation specified at least one area of concern germane to the subject matter of the proceeding, the Licensee asserts that neither hearing requester satisfied that requirement. Id. at 13 et seq. With respect

to many of the presented concerns, the Licensee would have it that they do not warrant further consideration because, in its view, they are insubstantial and thus not "rational".

In its separate response to the Henshaw hearing request, the Licensee first points out that, contrary to the express direction contained in the Federal Register notice, the request was not served upon the Licensee either personally or by mail. For this reason, according to the Licensee, the request should be denied as untimely. June 10 Response at 3. In addition, the response maintains that the request fails to allege an injury-in-fact sufficient to establish standing to seek a hearing on the reclamation plan. Id. at 7-11. Finally, the Licensee insists that the request does not explicitly identify any areas of concern. Id. at 11-13.

2. NRC Staff response. The Staff responded to all three hearing requests in a November 25 filing. As above noted, it supported the grant of both the Oklahoma and Cherokee Nation requests while urging the denial of the Henshaw request.

The Staff finds the standing of the State to rest in its asserted interest "in protecting the waters it owns, the wildlife refuge it manages, and the roads it owns and maintains." November 25 Response at 5. In addition, the Staff takes note of Oklahoma's "interest in protecting the interests of its citizens." Id. at 5-6. In the Staff's view, the State had met the requirement of alleging a potential concrete injury-in-fact to those interests stemming from an approval of the reclamation plan. Id. at 6.

Insofar as the Cherokee Nation's standing is concerned, the Staff offers a conclusion diametrically opposed to that of the Licensee. As it sees the matter, the governmental and property interests asserted by the Nation, taken in conjunction with its allegations of potential injury to those interests, are enough to carry the day. Ibid. Additionally, the Staff points to the affidavits of the Tribal members authorizing the Nation to represent their interests. Id. at 6-7.

The Staff also disagrees with the Licensee's assessment respecting Mr. Henshaw's standing. It believes that his request alleges an injury to his interests that comes within the zone of interests protected by an applicable statute and that the injury might be addressed by a favorable decision. Id. at 7.

Moving on to the areas of concern specified by Oklahoma and the Cherokee Nation, with limited exceptions the Staff finds them germane to the subject matter of the proceeding and thus, in this regard as well, parts company with the Licensee. Id. at 8-19. It agrees with the Licensee, however, that the Henshaw request does not present a cognizable area of concern. Id. at 19.

ANALYSIS

A. Oklahoma Hearing Request

Oklahoma's hearing request is clearly timely and the State's standing is understandably not in dispute. Apart from the fact that it was held to have standing to challenge aspects of a prior proposed decommissioning plan for this very site (see Sequoyah Fuels Corp., CLI-01-02, supra), what was recently said with respect to Oklahoma's standing to seek a hearing in the Fansteel proceeding applies with equal force here: "[I]n its sovereign capacity the State has both the responsibility to protect the welfare of its citizenry and a proprietary interest in the natural resources within its boundaries." Fansteel, Inc. (Muskogee, Oklahoma Facility), LBP-03-22, 58 NRC__, __ (slip op. at 6) (November 3, 2003). Moreover, as in Fansteel (ibid.), Oklahoma has sufficiently identified "the injury-in-fact-that assertedly will be suffered by the interests that it has a duty to protect should the proposed plan receive NRC approval."

Turning now to the question of the admissibility of the areas of concern specified by the State, and more specifically to whether (contrary to the Licensee's assertion) at least one of them qualifies as "germane to the subject matter of the proceeding," a few preliminary

observations are in order to put the inquiry in proper context. As the Commission has recognized, the pleading burden imposed upon the hearing requester in a Subpart L proceeding is "modest." All that it need do is "state [its] areas of concern with enough specificity so that the Presiding Officer may determine whether the concerns are truly relevant – i.e., 'germane' – to the license amendment at issue." Sequoyah Fuels Corp., CLI-01-02, supra, 53 NRC at 16. See also, Statement of Considerations, "Informal Hearing Procedures for Materials Licensing Adjudications," 54 Fed. Reg. 8,269, 8,272 (1989).

In the recent Fansteel decision, LBP-03-22, this presiding officer found it necessary to stress both the Commission's characterization of the burden imposed upon the Subpart L hearing requester and, by way of contrast, the much greater obligation that must be assumed by a petitioner for intervention in a reactor licensing proceeding subject to the provisions of Subpart G of the Rules of Practice. 10 C.F.R. § 2.700 et seq. Unlike a Subpart L hearing requester, a Subpart G petitioner must supplement its petition with a list of the contentions that are sought to be litigated. With respect to each contention, the petitioner must illuminate the bases of the contention; disclose the alleged facts or expert opinion upon which the contention is founded with reference to the specific sources and documents relied upon; and provide sufficient information to show the existence of a genuine dispute on a material issue of law or fact. 10 C.F.R. § 2.714(b)(2).

The necessity for emphasizing in Fansteel this difference in burdens stemmed from the fact that the licensee there had opposed the admissibility of most of the areas of concern advanced by the hearing requester (as here, the State of Oklahoma) essentially on the ground that a convincing basis had not been supplied for them – in other words, because they had not been demonstrated to have possible merit. In granting the hearing request, and accepting the

vast majority of the specified areas of concern as germane to the subject matter of the proceeding, that approach was firmly rejected. 58 NRC at __ (slip op. pp.8-10).

In the proceeding at bar, the Licensee's assertion that none of the Oklahoma areas of concern satisfies the germaneness test rests upon the same faulty concept of the burden that the State was required to assume. For it is apparent that, in common with the Fansteel licensee, the Licensee here has founded its objection to virtually all the areas of concern put forth by Oklahoma on the claim that they lack substance and, as such, are not "rational" and thus not germane.[2]

For example, as noted above, one of Oklahoma's concerns relates to the Licensee's asserted failure to establish proper dose and cleanup criteria. On that score, Oklahoma maintains, among other things, that the Licensee applied solely the requirements of 10 C.F.R. Part 40 to determine the total effective dose equivalent (TEDE) from residual radioactivity and to select the soil cleanup criteria. In Oklahoma's view, the Licensee should also have applied the requirements of 10 C.F.R. Part 20. In addition, the State insists that the use of the radium benchmark approach under Part 40 is inappropriate here by reason of the unusually high concentrations of uranium and thorium and relatively low levels of radium on the Gore site as compared to a typical uranium mill site. Still further, Oklahoma would have it that, in any event, the Licensee misapplied the radium benchmark dose calculation and the resident farmer scenario as described in NUREG-1620 Appendix H. Oklahoma Hearing Request 19-20.

The Licensee regards these claims (as well as the others advanced in connection with this area of concern, id. at 21-22) to be without merit. Licensee Response at 17-23. That might

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[2] The Licensee cites (May 27 Response at 14) Sequoyah Fuels Corp., (Gore, Oklahoma Site Decommissioning), LBP-99-46, 50 NRC 386, 395 (1999), for the proposition that the specified area of concern must be "rational" in addition to "truly relevant." Contrary to its seeming belief, however, a concern's rationality does not depend on its being meritorious.

ultimately prove to be the case. As the Staff rightly concludes (Response at 10), however, it is scarcely open to serious doubt that the claims regarding the radium benchmark dose calculation and the residual farmer scenario – and thus the area of concern embracing them – have relevance on the ultimate question of the acceptability of the reclamation plan. Accordingly, they suffice to satisfy the requirement that the hearing request offer at least one area of concern germane to the subject of the proceeding – which is that plan.

With regard to the other assigned areas of concern, although finding most of them germane the Staff maintains that some of the State's claims are not litigable. This is because, according to the Staff, they (1) constitute impermissible attacks upon Commission regulations; (2) seek to challenge the Commission's determination regarding the classification of some of the waste as Section 11e.(2) material; (3) are moot; or (4) are concerned with groundwater monitoring and corrective plans that were the subject of a separate proceeding that has been terminated (see Sequoyah Fuels Corporation (Gore, Oklahoma), LBP-03-24, 58 NRC __ (November 19, 2003) (appeal to the Commission pending)). It is not clear, however, whether those objections go to the matter of relevance or, rather, pertain essentially to the merits of the claims in question. This being so, it will be left to the Licensee and the Staff to respond to the claims in their written presentations should they be renewed in Oklahoma's presentation.

B. Cherokee Nation Hearing Request

As noted above, in its timely hearing request, the Cherokee Nation bases the assertion of organizational standing on its claimed status as a federally recognized tribe possessing governmental authority, and its property interests with regard to areas in the vicinity of the site that purportedly will be adversely impacted should the reclamation plan receive NRC approval. As the Staff also sees it, the claimed status would appear to be enough to establish the Nation's standing, given that its request sufficiently identifies the perceived threat of injury to the

interests it seeks to protect – interests that plainly come within the zone of interests protected by the Atomic Energy Act or the National Environmental Policy Act. Although the Licensee seemingly would have it that the Nation was obliged to supply factual or legal proof in support of its claimed status, no foundation for that insistence has been supplied or is evident. To the contrary, because on its face the claim does not appear of doubtful credibility, it was incumbent upon the Licensee to demonstrate that it nonetheless was lacking in substance. No such demonstration having even been attempted, the conclusion is required that the Cherokee Nation has organizational standing for essentially the same reason that Oklahoma possesses such standing. That being so, there is no need to consider the Licensee's further insistence that the affidavits appended to the hearing request are insufficient to confer representational standing upon the Nation.

As earlier seen, the Cherokee Nation's assigned areas of concern substantially mirror those of Oklahoma. Thus what has been concluded with respect to the acceptability of the latter applies equally to the former. Specifically, for the purposes of determining whether a grant of the Nation's hearing request is warranted, it is enough that that request raises (at 12) essentially the same concerns regarding the utilized dose and cleanup criteria that have been found to be germane in the instance of the Oklahoma hearing request.

C. Henshaw Hearing Request

It is not necessary to pass upon whether, as urged by the Licensee, this hearing request is subject to dismissal as untimely because of Mr. Henshaw's failure to have served it upon the Licensee as specifically directed by the Federal Register notice of opportunity for hearing. Nor need it be now decided whether, as the Licensee (but not the Staff) disputes, Mr. Henshaw has demonstrated his standing to seek a hearing. For, in any event, the Licensee and Staff are clearly correct in their insistence that the hearing request does not set forth what might be considered as the adequate specification of a germane area of concern.

For the reasons stated, Oklahoma's May 14, 2003 and Cherokee Nation's May 15, 2003 hearing requests are hereby granted. The May 15, 2003 hearing request of Ed Henshaw is denied for want of a sufficiently stated area of concern. As mandated by 10 C.F.R. § 2.1231(a), within thirty (30) days of the date of this order, the Staff shall file a hearing file in the manner prescribed in that section.[3] Following the receipt of the hearing file, Judge Baratta and I will

[3] In accord with 10 C.F.R. § 2.1231, in creating and providing the hearing file for this proceeding within thirty days of the date of entry of this order, the NRC staff can utilize one of two options:

1. Hard copy file. The hearing file that is submitted to the Presiding Officer and the parties in hard copy must contain a chronologically numbered index of each item contained in it and each file item shall be separately tabbed in accordance with the index and be separated from the other file items by a substantial colored sheet of paper that contains the tab(s) for the immediately following item. Additionally, the items shall be housed in hole-punched three ring binders of no more than four inches in thickness.

2. Electronic file. For an electronic hearing file, the staff shall make available to the parties and the Presiding Officer a list that contains the ADAMS accession number, date and title of each item so as to make the item readily retrievable from the agency's web site, www.nrc.gov., using the ADAMS "Find" function. Additionally, the staff should create a separate folder in the agency's ADAMS system, which it should label "Sequoyah Fuels - 40-8027-MLA-6 Hearing File," and give James Cutchin of ASLBP and the SECY group (Office of the Secretary) viewer rights to that folder. Once created, the staff should place in that folder copies of the ADAMS files for all the Hearing Docket materials. For documents in ADAMS packages a subfolder should be created into which the package content should be placed. The subfolder should have a title that comports with the title of the package. Thereafter, as part of its notice to the parties and the Presiding Officer regarding the availability of the Hearing File materials in ADAMS, the staff should advise the Presiding Officer that this process is complete and the "Hearing File" folder is available for viewing. (As an information matter for the parties, once this notice is received, the contents of the folder will be copied so as to make its contents available to an ASLBP-created ADAMS folder that will be accessible to ASLBP personnel only and into a folder that will be accessible by the parties from the NRC web site.) If the staff thereafter provides any updates to the hearing file, it should place a copy of those items in the "Sequoyah Fuels - 40-8027-MLA-6 Hearing File" ADAMS folder and indicate it has done so in the notification regarding the update that is the sent to the Presiding Officer and the parties. If at any juncture the staff anticipates placing any non-public documents into the hearing file for the proceeding, it should notify the Presiding Officer of that intent prior to placing those documents into the "Sequoyah Fuels - 40-8027-MLA-6 Hearing File" and await further instructions regarding those documents from the Presiding Officer. (Questions regarding the electronic hearing file creation process should be addressed to James Cutchin at 301-415-7397 or jmc3@nrc.gov.)

(continued...)

conduct a telephone conference with the parties for the purpose of scheduling the filing and service of the written presentations called for by 10 C.F.R. § 2.1233.

If so inclined, within ten (10) days of the service of this order, the Licensee and Mr. Henshaw may appeal to the Commission in accordance with the provisions of 10 C.F.R. § 2.1205(o). Other parties to the proceeding may respond to the appeal within fifteen (15) days of the service of the appeal brief. Unless the Commission should direct otherwise, the filing of an appeal shall have no effect upon the further progress of the proceeding.

It is so ORDERED.

BY THE PRESIDING OFFICER[4]

/RA/

Alan S. Rosenthal
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 23, 2003

[3](...continued)
If the staff decides to utilize option two, within seven days from the date of this order it shall give notice to the Presiding Officer and the parties of that election. If any party objects to this method of providing the hearing file, it shall file a response within seven days outlining the reasons why access to an electronic hearing file will place an undue burden on that party's ability to participate in this proceeding.

[4] Copies of this memorandum and order were sent this date by e-mail transmission to counsel for the parties.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
SEQUOYAH FUELS CORP.	)	Docket No. 40-8027-MLA-6
GORE, OKLAHOMA	)	
	)	
(Materials License Amendment)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (GRANTING TWO HEARING REQUESTS AND DENYING A THIRD) (LBP-03-29) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 40-8027-MLA-6
LB MEMORANDUM AND ORDER
(GRANTING TWO HEARING REQUESTS
AND DENYING A THIRD) (LBP-03-29)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 23rd day of December 2003