

April 5, 2004

Mr. John H. Ellis  
President  
Sequoyah Fuels Corporation  
P.O. Box 610  
Gore, OK 74435

SUBJECT: SEQUOYAH FUELS CORPORATION - MATERIALS LICENSE NO. SUB-1010 -  
DISPOSAL OF NON-11e.(2) BYPRODUCT MATERIAL

Dear Mr. Ellis:

The U.S. Nuclear Regulatory Commission (NRC) staff is in the process of reviewing Sequoyah Fuels Corporation's (SFC's) proposed reclamation plan for your site in Gore, Oklahoma. The reclamation plan was last updated by your submittal of February 17, 2004. SFC proposes to use the cell to dispose of material that does not meet the definition of byproduct material in section 11e.(2) of the Atomic Energy Act of 1954, as amended. Regulatory Issues Summary (RIS) 2000-23, issued November 30, 2000, identifies 8 criteria that must be met in order for the NRC to approve disposal of non-11e.(2) byproduct material in an 11e.(2) cell. Criterion 3 requires the licensee to "provide documentation showing necessary approvals of other affected regulators (e.g., the U.S. Environmental Protection Agency (EPA) or State) for material containing listed hazardous wastes or other material regulated by another Federal Agency or State because of environmental or safety considerations." SFC's reclamation plan (in Appendix A) addresses Criterion 3 by stating that no approvals of other regulators are needed for the non-11e.(2) byproduct material and provides justification to support that statement. However, in order for us to conclude that no EPA or State permit is required for the non-11e.(2) byproduct material, you will need to provide us with statements from EPA and the State of Oklahoma to that effect. Please provide us copies of letters from the appropriate EPA and Oklahoma officials verifying that permits are not needed to dispose of the non-11e.(2) byproduct material in the proposed 11e.(2) cell.

If you have any questions concerning this letter please contact me at (301) 415-6629 or by e-mail at [mhf1@nrc.gov](mailto:mhf1@nrc.gov).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

**/RA/**

Myron Fliegel, Senior Project Manager  
Fuel Cycle Facilities Branch  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

Docket No. 40-8027  
License No. SUB-1010

cc: William Andrews, USGS  
Patricia Ballard, NRMNC  
Michael Broderick, OK DEQ  
Will Focht, OSU  
Alvin Gutterman, Esq., Morgan Lewis & Bockius  
Pat Gwin, Cherokee Nation  
Jeannine Hale, Esq., Cherokee Nation  
Craig Harlin, SFC  
Jim Harris, USACE  
Sarah Penn, Esq., OK AG  
Kathy Peter, USGS  
Troy Poteete, Cherokee Nation  
Charles Scott, USFWS  
David Smit, OK DEQ  
Merritt Youngdeer, BIA  
Rita Ware, EPA

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| <b>OFC</b>  | FCFB      |  | FCFB      |  | OGC         |  | FCFB     |  |
| <b>NAME</b> | M.Fliegel |  | B.Garrett |  | M. Schwartz |  | R.Nelson |  |
| <b>DATE</b> | 04/5/04   |  | 04/5/04   |  | 04/5/04     |  | 04/5/04  |  |

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4/5/04-----this page is part concurrence

Mike,

As revised in the attachment to your April 5, 2004 email, the letter to Mr. Ellis of the SFC has OGC's NLO. Please enter this email into ADAMS.

Maria

>>> Myron Fliegel 04/05/04 09:17AM >>>

Maria:

Attached is the version that is going through concurrence. I made your suggested revision. I am requesting OGC NLO.

Mike

>>> Maria Schwartz 03/29/04 09:26AM >>>

Mike,

The letter looks like it satisfies OGC's concern. I would propose a change in the sentence (in bold) as follows (but this is a suggestion and has no bearing on the legal aspects of this letter):

SFC proposes to **use the cell to dispose of** material that does not meet the definition of byproduct material in section 11e.(2) of the Atomic Energy Act of 1954, as amended.

I still have to run this by Stuart but I don't see any problems with the letter. I will get back to you shortly.

Maria