



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

NRC Central File
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40-8027
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AUG 14 1991

MEMORANDUM FOR: Robert M. Bernero, Director
Office of Nuclear Materials Safety
and Safeguards

FROM: Jack R. Goldberg
Deputy Assistant General Counsel
for Enforcement
Office of the General Counsel

SUBJECT: PETITION TO INTERVENE TREATED UNDER 10 C.F.R.
§ 2.1205(K)(2) AS A 2.206 PETITION FILED BY
CITIZENS' ACTION FOR A SAFE ENVIRONMENT
REGARDING SEQUOYAH FUELS CORPORATION

Enclosed is a copy of an August 2, 1991, Memorandum and Order of the Atomic Safety and Licensing Board issued in the license renewal proceeding, which, pursuant to 10 C.F.R. § 2.1205(k)(2), refers the Citizens' Action for a Safe Environment (CASE) "Limited Appearance Intervention and Objection to Renewal" (Petition), dated July 1, 1991, to the NRC Staff for consideration as a petition under 10 C.F.R. § 2.206. Kathy Carter-White, Esq., submitted the Petition to the Licensing Board on behalf of CASE. The Petition requests that the Nuclear Regulatory deny Sequoyah Fuels Corporation's (SFC) application to renew its license to operate the Sequoyah Fuels facility (facility) because of "the radionuclides and chemical toxics discharged by Sequoyah Fuels Facility[,] . . . the health affects [sic] to the general public," violations of regulatory requirements, and environmental and external cost concerns.

CASE alleges the following bases for its request:

1) The SFC documentation purporting to meet a \$750,000 decommissioning funding requirement is inadequate because a) the SFC letter of credit and Citibank authorization do not match, in that Citibank's assistant secretary states that Joseph Jaklitsch is a Services Officer, but does not state that a Services Officer may sign and authenticate documents, and does not state whether the letter of credit is a trust certificate or any other instrument which may be authenticated and signed by the specified officers, or

CONTACT: Bob Weisman
492-21696

DESIGNATED ORIGINAL

Certified By 3B

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6/27

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whether the letter of credit is held in trust, b) the instrument submitted 1/4/91 and dated 7/27/90 is not *prima facie* binding, and c) a decommissioning funding plan as per 10 CFR Part 40 Section 40.36 was to have been submitted at the time of the renewal application request;

2) SFC is in violation of the license in that on three days in 1988 and 1989, measurements of water effluents were either not made or showed that certain measures fell outside ranges allowed by applicable environmental standards;

3) SFC promised to retrofit autoclaves on the main process building as a result of the 1986 offsite occurrence shutdown hearings, and has not installed them;

4) since the last license renewal, licensing amendments have been made which adversely affect and impair the safety and efficiency of the facility¹;

5) renewal for a term of ten years is twice as long as is statutorily permitted;

6) SFC is spreading about 270,000 gallons per day of Barium-treated Uranium Raffinate Solvent Extract as "Fertilizer" on approximately 10,000 acres with cumulative loading Maximum Permissible Concentrations set so very high that fatal toxicity would result; in addition, this practice is antithetical to the 12/15/88 NRC "Review of Sequoyah Fuels Corporation 11/14/88 Report Entitled: The Behavior of Five Monitor Wells to Repetitive Evacuation," and soil farming should be halted under the Clean Water Act; and,

7) the License fails to internalize the social and economic costs of the proposed activity onto the licensee; in 1986, CASE requested the NRC to prepare an Environmental Impact Statement for the facility, and this request was never ruled upon by NRC and remains pending.

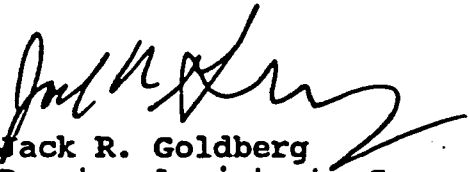
Some of these issues are not under NRC's jurisdiction. OGC will work closely with your staff in identifying and appropriately responding to such issues. I have enclosed a draft of a letter of acknowledgement to CASE for your signature and a draft Notice of Receipt of the Petition for publication in the Federal Register. The OGC attorney assigned to this matter is Robert Weisman (x21696).

If you want Sequoyah Fuels Corporation to respond to this matter,

¹ CASE claims that this concern can only be thoroughly presented in an evidentiary hearing; the Petition itself gives no specifics relating to such concern.

we will assist your staff in soliciting such additional information from Sequoyah Fuels pursuant to 10 C.F.R. § 40.31(b) and Section 182 of the Atomic Energy Act.

Because this Petition relates to the ongoing license renewal proceeding, we must coordinate our treatment of this Petition with the technical and legal staff involved in that proceeding. Please inform my staff which technical staff member will prepare a response to the Petition. Also, please provide me with copies of all correspondence related to the Petition and please send all staff correspondence to me for concurrence.



Jack R. Goldberg
Deputy Assistant General Counsel
for Enforcement
Office of the General Counsel

Enclosures:

1. Copy of Petition
2. Draft Letter of Acknowledgment
3. Draft Federal Register Notice

cc: w/encl:

J. Scinto, OGC
L. Chandler, OGC
J. Lieberman, OE
R. Martin, RIV
W. Brown, RIV



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
EDO Principal Correspondence Control

ACTION

FROM: DUE: 08/19/91 EDO CONTROL: 0006832
DOC DT: 07/01/91
FINAL REPLY:

SUSAN FERRELL
CITIZENS' ACTION FOR A SAFE ENVIRONMENT (CASE)

TO:

NRC

FOR SIGNATURE OF: ** GRN ** CRC NO:

DESC: ROUTING:

2.206 PETITION TO DENY LICENSE RENEWAL OF NEW
SEQUOYAH FUELS FACILITY

TAYLOR
SNIEZEK
THOMPSON
BLAHA
BERNERO
RMARTIN

DATE: 08/05/91

ASSIGNED TO: OGC CONTACT: SCINTO

SPECIAL INSTRUCTIONS OR REMARKS:

REFERRED TO EDO FROM ASLBP PURSUANT TO
20 CFR 2.1205(K)(2) TO TREAT AS A 2.206 PETITION.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judge:

James P. Gleason, Presiding Officer

In the Matter of

SEQUOYAH FUELS CORPORATION

(Source Material License
No. SUB-1010)

Docket No. 40-080-27-MLA

ASLBP No. 91-623-01-MLA

August 2, 1991

MEMORANDUM AND ORDER
(Petition for Hearing or Leave to Intervene)

The Citizens' Action For a Safe Environment (CASE), a non-profit Corporation in Oklahoma, filed a petition in this proceeding which was designated as a Limited Appearance Intervention and Objection to Renewal. Submitted on July 1, 1991, the petition states CASE has members residing and owning property in close proximity to the Sequoyah Fuels Corporation (SFC) facility, who derive economic livelihood from businesses in the area and recreate in and consume water and food supplies from places impacted by the facility's radionuclides and toxic discharges. Claiming it is entitled to a hearing on SFC's concerns and also to address the health effects to the general public, CASE sets forth a number of objections to SFC's license renewal. These range from allegations of deficiencies in SFC's

2.1205(j) for petitions to intervene. Both provisions establish an obligation on the petitioner to describe in detail that the request(s) are timely filed. The petitioner is also responsible for establishing that any delay in filing is excusable and also that granting the petitioner's request will not result in undue prejudice or injury to other participants in the proceeding. See 10 CFR 2.1205(k)(1)(i). Here, no explanation has been provided for the three month delay in filing and the petition is silent on the question of possible prejudice or injury to other parties. Under these circumstances, no alternative exists except to deny the request to participate as a party. The petitioner is granted an opportunity to make a limited appearance pursuant to 10 CFR 2.1211. Inasmuch as a hearing has not been granted, the petition will be referred to the Staff as provided in 10 CFR 2.1205(k)(2).

ORDER

1. The petition of the Citizens' Action for a Safe Environment to participate as a party in this proceeding is denied.
2. At the time of the hearing (to be announced), the petitioner will be permitted to make a limited appearance.
3. The petition will be referred to the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY & LICENSING BOARD

Before Administrative Judge
James P. Gleason, Presiding Officer

In the Matter of
**NEW
SEQUOYAH
FUELS
CORPORATION**
(Source Materials License
No. SUB-1010)

Docket #40-8027-MLA
ASLBP #91-623-01-MLA

**Limited Appearance Intervention
-and-
Objection to Renewal**

Comes now Citizens' Action for a Safe Environment and moves for a hearing on its Objection to Renewal of the Source Material License of Sequoyah Fuels Corporation, stating:

Standing

Petitioner has standing to intervene under the provisions of 10 C.F.R. section 2.1205(g).

Petitioner is an Oklahoma nonprofit corporation, whose members includes, among others, residents of the Illinois River and Arkansas River Basin Watersheds. Its members include, among others, persons who derive their economic livelihood from tourist-based business and business from local residents in the Gore, Oklahoma area. CASE members include, but are not limited to, persons who own real property proximate to the facility. CASE members' business customers recreate seasonally or reside in or

around the communities of Gore, Carlile, Webbers, and Vian.

In addition to their economic interest in the Agency's decision, CASE members swim, boat, ski, hunt, birdwatch, breathe, drink well water, and eat vegetables and meat produced from the soil within range of the radionuclides and chemical toxics discharged by Sequoyah Fuels Facility. Petitioner is, at minimum, entitled to a hearing wherein NRC would determine the validity and adequacy of proponent licensee's responses to these concerns, and by reason of which community members are suffering demonstrable health consequences. Petitioner is entitled to address the health affects to the general public.

CASE objects to renewal of the Sequoyah Fuels Facility license, presently owned by New Sequoyah Fuels, Inc. If permitted to continue operating, the facility will adversely impact Petitioner's members' constitutionally-protected personal liberties; the reasons are more fully set forth.

OBJECTION TO RENEWAL OF PERMIT

Petitioner opposes renewal of the permit of New Sequoyah Fuels, Inc. for several reasons, each of which is separately set forth and numbered:

1. The License Application cannot be granted. It is incomplete.

Decommissioning Funding

The License requires that adequate assurances of decommissioning be provided. On January 4, 1991 NSFC's Vice President for Regulatory Affairs submitted documentation purporting to meet a \$750,000.00 decommissioning funding requirement. The letter of credit and Citibank authorization do not match.

Citibank's assistant secretary states that Joseph Jaklitsch is a Services Officer. But it does not state that a Services Officer may sign and authenticate documents. It does not state whether the letter of credit is a trust certificate or any other instrument which may be authenticated and signed by the specified officers. Nor does it state whether the letter of credit is held in trust. The instrument submitted 1/4/91 and dated 7/27/90 is not *prima facie* binding.

A decommissioning funding plan as per 10 CFR Part 40 Section 40.36 was to have been submitted at the time of the renewal application request.

2. The Applicant is in violation of the License.

Historical Violations

In addition to current License violations, which may include unresolved matters, the following historical violations show that NSFC lacks the requisite expertise & character to operate the facility:

* On July 30, 1988 Outfall 1 pH samples were not processed. Readings from samples on preceding and following shifts were 7.8 and 7.6 respectively. SFC's Scott Knight says this will never happen again.

* On August 9, 1988 Outfall 1 NPDES Effluent limitation standard for total suspended solids was exceeded by 768/680, up by 765% over the preceding day. The alleged cause for this was algae & sediment in intake water supply. No documentation was offered by NSFC. No documentation was sought by NRC.

* On October 31, 1988 Outfall 01A NPDES effluent total suspended solids was measured at 53 mg/L compared to a maximum permissible concentration of 45 mg/L; On that same date the daily average was 39 mg/L as compared to a permit maximum permissible concentration daily average 30 mg/L. These solids were alleged to be unfiltered backflush solids.

* On May 22, 1989 the Outfall 1 pH limit of 6.0 was violated when pH was measured at 4.3. Lab wastes were pumped into a sump draining to Outfall 1. It is unclear from the record whether this exceedence also violated pretreatment standards. The Licensee proponent responded, "Modifications to prevent recurrence of this incident are being studied."

3. At the time of last renewal, promises were made regarding operating parameters, and which promises to NRC and the public, have not been kept.

A. Autoclaves were to be retrofitted on the main process building as a result of the 1986 offsite occurrence shutdown hearings, and pursuant to promises made in the House Subcommittee Hearings (Markey Investigation). Once the Licensee was effectively shielded from public participation, autoclave plans were abandoned and no autoclaves have been installed, although autoclaves were promised.

4. Interim to the last renewal of the Materials License, licensing amendments have been made which adversely affect and impair the safety and efficiency of the Sequoyah Fuels Facility.

A review of the modifications which have taken place over the preceding five years can only be thoroughly presented in an evidentiary hearing. These amendments adversely affect the public health and safety, and have systematically regressed the permittee to pre-accident health and safety procedures.

5. Renewal for a term of ten years is twice as long as is statutorily permitted.

6. Continued application of Barium-treated Uranium Raffinate Solvent Extract as "Fertilizer" is antithetical to the 12/15/88 Review of Sequoyah Fuels Corporation 11/14/88 Report Entitled: The Behavior of Five Monitor Wells to Repetitive Evacuation. It states, "Due to [the formation's transmissivity], recovery of contaminated groundwater is not feasible at this site." It concludes "The recommended course of action for this particular site would be to agressively pursue the elimination of any additional nitrate releases into the groundwater." NRC found that "leaching of the nitrate through the soil profile and into the formation has affected the entire formation in the study area." NRC concluded that "the nitrate problem ... has been created due to the past fertilizer spreading practices." NRC noted that "The nitrates that are currently in the groundwater have created a contamination problem that will have to be remediated by natural dilution," a "mechanism [which] will take many tens of years to accomplish." The Commission position (10 CFR 40, App. A) is to remediate groundwater problems resulting from the disposal of

uranium byproducts as soon as practicable, but in no event, later than 18 months. Stated NRC in 1988, "It would truly be unfortunate to create an additional nitrate plume that is incapable of being rapidly remediated....It is necessary for the site to be adequately regulated from a liquid effluent standpoint to prevent further ground-water contamination from occurring." Continuation of the surface application, (what amounts to soil farming), of Barium-treated Uranium Raffinate Solvent Extract directly violates NRC recommendation. Additionally, the application levels are so high in liquid concentration that runoff impacting public waters is occurring. Under caselaw and according to Oklahoma Water Quality Standards, the facility is not eligible for a permit for such discharges and soil farming should be halted under the Clean Water Act.

Additionally, NSFC is spreading about 270,000 gallons per day of the fertilizer (based upon 1990 documentation) on approximately 10,000 acres with cumulative loading Maximum Permissible Concentrations set so very high that fatal toxicity would result at those levels. Soil farming of Barium-treated Uranium Raffinate Solvent Extract should be halted altogether due to the high potential for severe public health impacts, even if the Clean Water Act and Oklahoma Water Quality Standards does not bar this activity. The facility license should not be renewed, because to do so would perpetuate a contamination problem with no responsible solution in place.

7. The License fails to internalize the cost of the proposed

activity onto the licensee. Those who pay taxes, breathe, drink well water and eat produce and meat produced near the Licensee are bearing the cost. These costs are of two types:

(a) social

(b) economic.

Externalized Social Costs

Social costs are costs which money can't fix.

Social costs are being externalized onto the community, the area, and state and federal taxpayers. These social costs include the higher incidence of cancer and birth defects to area residents. According to reliable objective research, fast-growing cancers are higher among individuals exposed to releases from facilities of this nature which process, reprocess, store and handle source and byproduct material. Overall health consequences increase with exposure to the facility's product and effluent streams. See, NUREG-1391, Chemical Toxicity of Uranium Hexafluoride Compared to Acute Effects of Radiation, Final Report; NUREG/CR-5566, PNL-7328, Evaluation of Health Effects in Sequoyah Fuels Corporation Workers from Accidental Exposure to Uranium Hexafluoride; Mortality Among Workers at Oak Ridge National Laboratory: Evidence of Radiation Effects in Follow-up Through 1984, Journal of the American Medical Association, March 20, 1991, Volume 265, No. 11: Testimony in Support of the Radioactivity Limitations of the Proposed Groundwater Regulations as Amendments to the [New Mexico] Water Quality Control Commission Regulations, Dr. John Rodgers; Potential Health Impact of United Nuclear-Churchrock Spill, Fall 1979, Dr. Jeorg Winterer; Radiation and Malpractice, Oklahoma City University Law Review, Fall 1977, Volume 2, Number 2, pp. 649-673;

Uranium Mining and Milling: Environmental and Health Effects, Jack Miller, Uranium Information Network, undated. Toxicology: The Basic Science of Poisons, Casarett and Doulls, MacMillan Publishing Company, 1986, "Toxic Effects of Metals," by Robert A. Goyer. Public Comment of Greenpeace Staff Scientist Pat Costner to, "Assessment of the Public Health Impact From the Accidental Release of UF6 at the Sequoyah Fuels Corporation Facility at Gore, Oklahoma," NUREG-1189, Vols. 1 & 2, (Washington, D.C.: U.S. Nuclear Regulatory Commission) March 1986. Biogeochemistry of Uranium Mill Wastes: Program Overview and Conclusions, Los Alamos National Laboratory, LA-8861-UMT, May, 1981. Association of Leukemia With Radium Groundwater Contamination, Lyman, et al., Journal of the American Medical Association, August 2, 1985, Vol. 254, No. 5. Report on Uranium Toxicity, In re: Sequoyah Fuels Corporation, OWRB Application WD-75-074, I.D. No. 68000010, Wrenn.

Social costs also include the foregone use value of converting the facility to nontoxic use. Socially beneficial (sustainable) goods and services could be produced, manufactured or managed on the land. The property could be restored to productive habitat. At no point has the Environmental Impact of this facility been evaluated for its role in formulating an objective, sustainable national energy strategy, despite requests in 1986 for an EIS which were never ruled-upon by NRC, and remain pending. The cumulative impacts of facility operations, nor the incremental impacts have never been evaluated, in violation of both the National Environmental Policy Act and Atomic Energy Act as amended. The facility should not be permitted to further diminish collective

resources under these circumstances.

The Licensee should be required to assume all social costs of the activity which it affirmatively chooses to engage-in. Forcing assumption of social costs for health harms, thru strengthening standards and compliance for airborne effluent releases, is probably not possible for this facility, due to an ongoing, continuing pattern of disregard for regulatory authority and licensee responsibility evidenced by the history of lies, falsifications and misinformation which has continued despite changing facility ownership, management and multiple Onsite regulatory and private supervisory teams. CASE requests the opportunity to put on evidence regarding the nature, breadth, extent and severity of this problem.

Finally, taxpayers are entitled to decommissioning which is timely, quickly, efficiently and fully. No adequate assurance exists to insure that a mechanism has not been put into place to rest ultimate cleanup responsibility with the State of Oklahoma. Oklahomans, rather than taxpayers using nuclear power, should not ultimately bear the cost of cleanup. At present, Oklahoma is incapable of initiating meaningful cleanups at other sites, and lacks matching funds to benefit from federal matching fund programs for cleanups, here and elsewhere. Cleanup is at a standstill at two abandoned sites which have been historically affiliated with Sequoyah Facility- Cushing Facility (a radium, thorium and uranium facility); and Crescent Facility (a plutonium processing facility). Other of the licensee's former affiliated operations have remained hot & leaky for decades as the licensee fought cleanup demands.

The Kress Creek-West Chicago site is but one example. Counsel would welcome the opportunity to address this pattern of Licensee irresponsibility in great detail if permitted.

Externalized Economic Costs

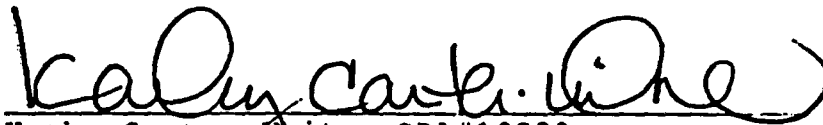
Economic costs are costs which can be fixed by money.

One economic cost which is being externalized is the cost of regulation. So long as this facility's license is renewed, taxpayers will continue to subsidize the danger factor-- thru taxation for regulatory oversight and monitoring. In a free market system, industry should have to pay for all the costs of its income-producing activity, and this includes regulatory cost-effectiveness in the licensing and administration cost. The licensee does not have a vested right to a license if it is unwilling to assume the regulatory costs created by its activity.

The Licensee should be required to assume all economic costs of the activity which it affirmatively chooses to engage-in. This includes compensating affected individuals who are no longer able to maintain human productivity as before exposure, due to health consequences of past facility operations. Diminution in ability to produce income should be born as the licensee's responsibility. SFC's neighbors at present always have to sue in order to be compensated for obvious causally-related losses. These battles are very expensive to wage, and often individuals give up rather than fighting for compensation. Money is a weak substitute for unimpaired health and the security of not being forced to relocate, giving up close friendships, neighbors and relatives. At present,

the policy of 42 USC 2012 (i) is to protect the public, but in actuality 42 USC 2210 is not being enforced against this licensee, and individuals with valid serious claims and health consequences were "bargained-out" of the 1986 accident by contest. Almost all Plaintiffs in the approximately \$213 million of civil suits following the January 1986 offsite emergency caused by Sequoyah Fuels Facility settled for a mere token of the value of their claims, complete with releases in contravention of the provisions of 42 USC 2210 (n).

For the foregoing reasons, Petitioner respectfully requests that the Nuclear Regulatory Commission deny renewal of the license of New Sequoyah Fuels Facility.



Kathy Carter-White, OBA#10233
ecoLaw institute, inc.
Attorney for Petitioner
P.O. Box 124
Welling, OK 74471
918/456-3235

VERIFICATION

State of Oklahoma)
)
County of Rogers) ss.

Comes now Susan Ferrell, President of Citizens' Action for a Safe Environment, and states upon Oath, that she has read the foregoing Objection for Renewal and hearing request, and the matters therein contained are true and correct.



Susan Ferrell, for CASE
323 East 6th
Claremore, OK 74017
918/342-4671

Affidavit

State of Oklahoma)
) ss.
County of Sequoyah)

Comes now Sheri Johnson, after first having been duly sworn upon her oath, and deposes and states:

1. I am a member of Citizens' Action for a Safe Environment, bringing this objection to nonrenewal of the license of Sequoyah Fuels Facility.
2. I reside at HC 68, Box 336, Cookson, Oklahoma 74427 and own a business just outside the city limit of Gore, Oklahoma.
3. I do business in the Gore, Oklahoma community and derive my economic livelihood or a significant portion thereof from the Gore Area.
4. I reside less than fifteen miles from Gore.
5. We personally swim, boat, ski, hunt, birdwatch, breathe, drink well water, and eat vegetables and meat produced from the soil within the range of the radionuclide and chemically toxic "footprint" discharged by Sequoyah Fuels Facility. By reason of the fact that Gore is a small isolated tourism-based community, we consume locally-produced foods, engage in outdoor activities associated with the Illinois River and Lake Tenkiller, and breathe the air and drink the water.

Further affiant sayeth not this 24th day of June, 1991.

Sheri Johnson
Sheri Johnson, CASE MEMBER
HC68, Box 336
Cookson, OK 74427

STATE OF OKLAHOMA)
)
COUNTY OF CHEROKEE) ss.

Subscribed and sworn-to before me this 24th day of June, 1991, by Sheri Johnson.

My Commission Expires:
February 26, 1993

Kathy Carter-Wheeler
Notary Public

Certificate of Service

I certify that upon the 1 day of July, 1991, true and correct copies of the foregoing were served of the following entities by first class mail:

Administrative Judge
James P. Gleason
513 Gilmore Drive
Silver Spring, MD 20901

NACE
P.O. Box 1671
Tahlequah, OK 74465

Administrative Judge
Glenn O. Bright
6009 McFinley Street
Bethesda, MD 20817

Diane Curran, Esq.
Harmon. Curran, Gallagher &
Spielberg
2001 "S" Street, N.W., Suite 430
Washington DC 20009-1125

Atomic Safety & Licensing
Board Panel
US Nuclear Regulatory Commission
Washington, DC 20555

Office of the Secretary ✓
Docketing & Service Branch
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Washington, DC 20555

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3000 Center, Suite 308
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Susan Ferrell, CASE President
323 East 6th
Claremore, OK 74017

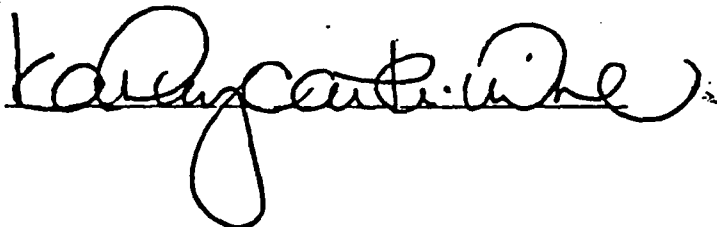
Edward O. Lammers, Chair
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Sher i Johnson
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Harold W. Salisbury, Esq.
3029 Boston Place
Tulsa, OK 74114

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Winthrop, Stimson, Putnam &
Roberts
1133 Connecticut Ave., NW
Washington, DC 20036



Docket No. 40-080-27-MLA
(10 C.F.R. § 2.206)

Kathy Carter-White, Esq.
Attorney for Petitioner
ecoLaw institute, inc.
P.O. Box 124
Welling, OK 74471

Dear Ms. Carter-White:

On August 2, 1991, pursuant to 10 C.F.R. § 2.1205(k)(2), the Atomic Safety and Licensing Board presiding over the Sequoyah Fuels Corporation license renewal proceeding (ASLBP No. 91-623-01-MLS) referred your "Limited Appearance Intervention and Objection to Renewal" (Petition), dated July 1, 1991, filed on behalf of Citizens' Action for a Safe Environment (CASE), to the Nuclear Regulatory Commission Staff (Staff) for consideration as a petition under 10 C.F.R. § 2.206. This letter acknowledges the Staff's receipt of your petition. Your Petition requests the Nuclear Regulatory Commission to deny Sequoyah Fuels Corporation's (SFC) application to renew its license to operate the Sequoyah Fuels facility (facility) because of "the radionuclides and chemical toxics discharged by Sequoyah Fuels Facility[,] . . . the health affects [sic] to the general public," violations of regulatory requirements, and environmental and external cost concerns.

You seek relief based on allegations that:

1) The SFC documentation purporting to meet a \$750,000 decommissioning funding requirement is inadequate because a) the SFC letter of credit and Citibank authorization do not match, in that Citibank's assistant secretary states that Joseph Jaklitsch is a Services Officer, but does not state that a Services Officer may sign and authenticate documents, and does not state whether the letter of credit is a trust certificate or any other instrument which may be authenticated and signed by the specified officers, or whether the letter of credit is held in trust, b) the instrument submitted 1/4/91 and dated 7/27/90 is not *prima facie* binding, and c) a decommissioning funding plan as per 10 CFR Part 40 Section 40.36 was to have been submitted at the time of the renewal application request;

2) SFC is in violation of the license in that on three days in 1988 and 1989, measurements of water effluents were either not made or showed that certain measures fell outside ranges allowed by applicable environmental standards;

3) SFC promised to retrofit autoclaves on the main process building as a result of the 1986 offsite occurrence shutdown hearings, and has not installed them;

4) since the last license renewal, licensing amendments have been made which adversely affect and impair the safety and efficiency of the facility¹;

5) renewal for a term of ten years is twice as long as is statutorily permitted;

6) SFC is spreading about 270,000 gallons per day of Barium-treated Uranium Raffinate Solvent Extract as "Fertilizer" on approximately 10,000 acres with cumulative loading Maximum Permissible Concentrations set so very high that fatal toxicity would result; in addition, this practice is antithetical to the 12/15/88 NRC "Review of Sequoyah Fuels Corporation 11/14/88 Report Entitled: The Behavior of Five Monitor Wells to Repetitive Evacuation," and soil farming should be halted under the Clean Water Act; and,

7) the License fails to internalize the social and economic costs of the proposed activity onto the licensee; in 1986, CASE requested the NRC to prepare an Environmental Impact Statement for the facility, and this request was never ruled on by NRC and remains pending.

The NRC will review the Petition in accordance with 10 C.F.R. § 2.206 and I will issue a final decision with regard to it within a reasonable time. A copy of the notice that is being filed for publication with the Office of the Federal Register is enclosed for your information.

Sincerely,

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

cc: Sequoyah Fuels Corporation

¹ You claim that this concern can only be thoroughly presented in an evidentiary hearing; the Petition itself gives no specifics relating to such concern. You may set forth the specifics of your concern by submitting a supplementary Petition.

UNITED STATES NUCLEAR REGULATORY COMMISSION

Docket No. 40-8027-MLA

SEQUOYAH FUELS CORPORATION

(Source Materials License No. SUB-1010)

RECEIPT OF PETITION FOR DIRECTOR'S
DECISION UNDER 10 CFR § 2.206

Notice is hereby given that by Memorandum and Order dated August 2, 1991, the Atomic Safety and Licensing Board presiding over the Sequoyah Fuels Corporation license renewal proceeding (ASLBP No. 91-623-01-MLS), pursuant to 10 C.F.R. § 2.1205(k)(2), referred the Citizens' Action for a Safe Environment (CASE) "Limited Appearance Intervention and Objection to Renewal" (Petition), dated July 1, 1991, to the NRC Staff for consideration as a petition under 10 C.F.R. § 2.206. Kathy Carter-White, Esq., submitted the Petition to the Licensing Board on behalf of CASE. The Petition requests that the Nuclear Regulatory Commission deny Sequoyah Fuels Corporation's (SFC) application to renew its license to operate the Sequoyah Fuels facility (facility) because of "the radionuclides and chemical toxics discharged by Sequoyah Fuels Facility[,] . . . the health affects [sic] to the general public," violations of regulatory requirements, and environmental and external cost concerns.

CASE alleges the following bases for its request:

- 1) The SFC documentation purporting to meet a \$750,000 decommissioning funding requirement is inadequate because a) the

SFC letter of credit and Citibank authorization do not match, in that Citibank's assistant secretary states that Joseph Jaklitsch is a Services Officer, but does not state that a Services Officer may sign and authenticate documents, and does not state whether the letter of credit is a trust certificate or any other instrument which may be authenticated and signed by the specified officers, or whether the letter of credit is held in trust, b) the instrument submitted 1/4/91 and dated 7/27/90 is not *prima facie* binding, and c) a decommissioning funding plan as per 10 CFR Part 40 Section 40.36 was to have been submitted at the time of the renewal application request;

2) SFC is in violation of the license in that on three days in 1988 and 1989, measurements of water effluents were either not made or showed that certain measures fell outside ranges allowed by applicable environmental standards;

3) SFC promised to retrofit autoclaves on the main process building as a result of the 1986 offsite occurrence shutdown hearings, and has not installed them;

4) since the last license renewal, licensing amendments have been made which adversely affect and impair the safety and efficiency of the facility¹;

¹ CASE claims that this concern can only be thoroughly presented in an evidentiary hearing; the Petition itself gives no specifics relating such concern.

5) renewal for a term of ten years is twice as long as is statutorily permitted;

6) SFC is spreading about 270,000 gallons per day of Barium-treated Uranium Raffinate Solvent Extract as "Fertilizer" on approximately 10,000 acres with cumulative loading Maximum Permissible Concentrations set so very high that fatal toxicity would result; in addition, this practice is antithetical to the 12/15/88 NRC "Review of Sequoyah Fuels Corporation 11/14/88 Report Entitled: The Behavior of Five Monitor Wells to Repetitive Evacuation," and soil farming should be halted under the Clean Water Act; and,

7) the License fails to internalize the social and economic costs of the proposed activity onto the licensee; in 1986, CASE requested the NRC to prepare an Environmental Impact Statement for the facility, and this request was never ruled upon by NRC and remains pending.

Petitioner's request is being treated pursuant to 10 CFR Section 2.206 of the Commission's regulations. The NRC will take appropriate action on this request within a reasonable time.

A copy of the Petition is available for inspection and copying in the Commission's Public Document Room, 2120 L Street, N.W., Washington, D.C. 20555 [AND AT LOCAL PDR--NMSS TO SUPPLY]

Dated at Rockville, Maryland
this day of August, 1991.

FOR THE NUCLEAR REGULATORY COMMISSION

Robert M. Bernero, Director
Office of Nuclear Materials Safety
and Safeguards