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May 6, 1996 JSMRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'96 MAY -6 P3:59

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of )

SEQUOYAH FUELS CORPORATION )  
GENERAL ATOMICS )

Docket No. 40-8027-EA

(Gore, Oklahoma Site )  
Decontamination and )  
Decommissioning Funding) )

Source Material License  
No. SUB-1010

NRC STAFF'S AND GENERAL ATOMICS' JOINT MOTION FOR  
EXTENSION OF STAY OF DISCOVERY THROUGH JUNE 14, 1996

In connection with the ongoing settlement discussions taking place between the NRC Staff (Staff) and General Atomics (GA), the Staff and GA hereby file this Joint Motion for Additional Extension of Stay of Discovery Through June 14, 1996, in order to permit the Staff and GA to conclude final details of a settlement of this proceeding.

BACKGROUND

The Atomic Safety and Licensing Board's (Board) most recent Order (Granting Additional Stay of Discovery) (April 10, 1996) (Order), suspended all discovery activities in this proceeding through May 15, 1996, to permit the Staff and GA to devote full attention to resolving this proceeding through settlement. Order at 1. The Order also provided that if the Staff and GA needed an additional stay of discovery beyond May 15, 1996, they should file on or before May 6, 1996, a motion addressing the "significant progress" and "substantial prejudice" concepts set forth in the Board's Memorandum and

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Order (Extending Discovery Stay Pending Submission of Additional Settlement Status Information) (Nov. 13, 1995), and Memorandum and Order (Granting Additional Stay of Discovery) (Dec. 8, 1995). *Id.* at 2.

### DISCUSSION

During the last month, the Staff and GA have exchanged draft settlement agreements reflecting in detail the fundamental concepts that have been agreed upon by the highest levels of management for both parties, and adding specific provisions to account for various contingencies that might arise during any effective period covered by the settlement. The most recent drafts were exchanged last Friday, May 3, during a meeting between counsel for the parties, covering in excess of twelve pages not including attachments. There remain a limited number of questions to be resolved in connection with some mechanical matters, as well as a provision regarding future Staff actions. The parties remain very optimistic that continued negotiations will result in a final signed settlement agreement in the very near term that will resolve this proceeding in its entirety.

As has been discussed in earlier pleadings before the Board, the resolution of this litigation may have a spillover effect on matters which are outside the scope of this proceeding and which are outside the jurisdiction of this Board. To reiterate, GA holds NRC licenses for a number of facilities in San Diego, California, including two TRIGA reactors, and hot cell and fuel fabrication facilities, for which GA has uncontested decommissioning liabilities. Any commitment of funds by GA to the Gore facility in settlement of this proceeding may impact GA's responsibilities for its San Diego facilities. Any such impact must be weighed and considered by Staff not involved in the instant

litigation, including Staff in the Office of Nuclear Reactor Regulation, as well as the Office of Nuclear Material Safety and Safeguards. Ensuring that the agency as a whole is aware of the larger picture involving GA has required, and continues to require, a significant amount of resources and, consequently, time. Thus, in addition to devoting energies to drafting settlement documents and negotiating final points, the Staff has been involved in focusing the agency as a whole on the various broader issues that the agency faces by reason of a settlement on the Sequoyah Fuels litigation. In particular, the agency must decide what may be appropriate courses of action if GA's voluntary contribution of resources to settle this litigation reduces its ability to comply fully with the regulations on financial assurance regarding the San Diego facilities.

Given that the Staff and GA are in the final stages of drafting and negotiating the final points of a settlement, the four "significant progress" concepts<sup>1</sup> from the Board's November 13, 1995 Memorandum and Order are only relevant to the extent an estimate of time to complete negotiations is to be provided. At this stage, the bulk of the work on the settlement documents has been completed. Only several specific issues remain to be addressed. In addition, within the agency, additional matters need to be resolved regarding the ramifications any settlement regarding the Gore site may have on matters outside of this litigation. The Staff's and GA's best estimate is that an additional thirty days would

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<sup>1</sup> These concepts are: (1) that in addition to litigation counsel, senior management and policy staff for both GA and the Staff are involved in developing respective internal strategy as well as negotiations, as appropriate; (2) that the parties have identified the type and number of major issues in dispute; (3) that there is a schedule for internal strategy meetings as well as negotiation sessions on a regular basis that will ensure resolution of the issues in an orderly manner; and (4) that there is a reasonable estimate of time that negotiations will take.

allow sufficient time to enable the parties to move forward with the filing of a settlement before the Board.

With respect to the factor of "substantial prejudice," GA incorporates here the several factors which it has previously described<sup>2</sup> and which together constitute compelling reasons why substantial prejudice to the anticipated settlement will occur if the stay of discovery is vacated and GA is required to engage in discovery efforts and disputes with the intervenors in this proceeding. GA further notes that it would make even less sense now than it would have just one month ago, to divert the time and attention of GA's counsel and management from constructive efforts to resolve the dispute, to time-consuming and costly discovery efforts that will be made moot by the execution of a settlement agreement.

The Staff reaffirms its position regarding "substantial prejudice" stated in its pleading filed on November 27, 1995,<sup>3</sup> and incorporated by reference in the March 4, 1996, Joint Motion for Extension of Stay of Discovery Through April 10, 1996. In summary, the Staff is concerned that any resumption of discovery against GA by the intervenors in this proceeding is likely to consume a very substantial amount of resources in terms of litigating discovery disputes and responding to discovery requests, particularly given the number of outstanding discovery disputes pending between GA and the

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<sup>2</sup> See NRC Staff's and General Atomics' Joint Motion for Extension of Stay of Discovery Through May 15, 1996 (Apr. 1, 1996); Supplemental Status Report on Settlement Negotiations and Motion for Extension of Stay of Discovery Beyond December 8, 1995 (Nov. 27, 1995) at 5-8.

<sup>3</sup> See NRC Staff's Additional Information in Support of Stay of Proceedings (Nov. 27, 1995) at 6-7.

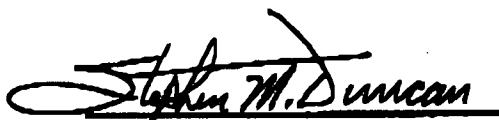
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Intervenors. Accordingly, the Staff would anticipate a substantial impact on the completion of the settlement process with GA if discovery was permitted to resume. Also, since the intervenors appear to be principally seeking documents and have noticed no depositions, no prejudice in terms of fading memories or witnesses becoming unavailable is likely to occur, particularly in light of the limited additional period of time the Staff and GA anticipate it will take to file the final settlement papers. Therefore, the Staff believes that substantial prejudice to the settlement process will occur if discovery is permitted to resume.


### CONCLUSION

The Staff and GA continue to do all that is reasonably possible to resolve this proceeding through a mutually acceptable settlement in the public interest. In consideration of the foregoing, the Staff and GA respectfully request that this motion to stay all discovery in this proceeding through June 15, 1996, be granted.

Respectfully submitted,

  
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Dated at Rockville, Maryland  
this 6th day of May 1996

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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No. SUB-1010

OFFICE OF SECRETARY  
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BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S AND GENERAL ATOMICS' JOINT MOTION FOR EXTENSION OF STAY THROUGH JUNE 14, 1996" in the above-captioned matter have been served on the following by deposit in the United States mail, first class; or as indicated by single asterisk through deposit in the Nuclear Regulatory Commission's internal mail system; or as indicated by double asterisk via facsimile transmission; or as indicated by triple asterisk by hand delivery this 6th day of May 1996.

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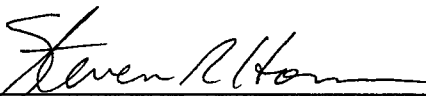
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )

SEQUOYAH FUELS CORPORATION )

(Source Material  
License No. SUB-1010) )

Docket No. 40-08027-MLA

(Administrative  
Organizational Changes)

August 22, 1995

AFFIDAVIT OF JOHN H. ELLIS ON ADMINISTRATIVE  
ORGANIZATION AMENDMENT

I. Introduction

1. My name is John H. Ellis. I am President of the Sequoyah Fuels Corporation ("SFC" or "licensee"). My business address is P.O. Box 610, Gore, Oklahoma, 74435.
2. Since 1968, I have been employed in the nuclear industry, holding increasingly responsible positions within several companies. I have over 26 years of process engineering, operations, maintenance, waste management, and other related experience in both Department of Energy and private nuclear chemical processing facilities, with over 20 of those years in supervision and management. I received an undergraduate degree in Chemical Engineering at the University of Washington in 1968. My resume is attached. (Att. 1)
3. Since 1992, I have been employed by SFC. From 1992 until June of 1993, I was the Senior Vice President of Operations with responsibility for all operations, maintenance, engineering, and waste management at SFC's uranium processing facility. From June of 1993 until the present, I have held the position of President of SFC, responsible for the stabilization of the site and the overall decontamination and decommissioning of the Sequoyah Facility. Thus, I am fully familiar with SFC's management structure, plans for the facility, and the projected workload associated with these plans.
4. SFC applied for an amendment to the License SUB-1010 on May 6, 1994 seeking to change the management structure at its Sequoyah Facility. Native Americans for a Clean Environment (NACE) and the Cherokee Nation (the "Intervenors") filed a request for hearing on the amendment application on July 19,



1994, and were admitted by Memorandum and Order dated October 14, 1994. In granting the hearing request, the Presiding Officer accepted as issues for hearing: a) SFC relies on contractor assistance without adequate contractor management, b) SFC has changed reporting requirements on safety and environmental work without proper oversight, c) SFC has inappropriately reduced the qualifications of health and environmental protection positions, and d) SFC has provided incomplete and unclear descriptions of critical safety and environmental functions. On November 23, 1994, SFC revised its amendment application to address comments made by the NRC Staff. On March 3, 1995, SFC again revised the amendment request. The Intervenor moved to amend their original statement of concerns on May 15, 1995. By Memorandum and Order dated June 16, 1995, the Presiding Officer accepted two additional issues for hearing: 1) the proposed license amendment does not provide reasonable assurance that SFC can comply with the decommissioning deadlines in 10 CFR 40.42 (d), and 2) the license amendment does not provide for an adequate Quality Assurance program.

5. I have reviewed the presentation filed by the Intervenor on July 17, 1995, including the "Testimony of Clifford J. Earl" (the "Earl Aff.").
6. The purpose of this affidavit is to provide information regarding these issues and to respond to the Intervenor's presentation.

## II. Background

1. It is axiomatic that the organizational structure and staffing level that is needed at the SFC facility is dependent upon the tasks that the organization must accomplish.
2. When SFC was in full operation, the facilities converted uranium ore (yellowcake) to high-purity uranium hexafluoride for the nuclear power industry. In addition, beginning in 1986, depleted uranium hexafluoride was converted to uranium tetrafluoride, primarily for defense applications. A staff of about 350 management, technical, operations, health & safety, and administrative personnel carried out the activities involved in operating the facility. These activities included, but were not limited to, receipt and shipping of radioactive materials and industrial chemicals, process operations involving large quantities of radioactive materials and hazardous chemicals, radiological and environmental control and monitoring, waste management, facility maintenance, marketing and administration. The

size and complexity of these activities required a management organization with six divisions and 18 key positions.

3. In November 1992, SFC decided to terminate  $UF_6$  production and in February 1993, it decided to terminate  $DUF_4$  production. The feed inventory in the  $UF_6$  plant was processed to  $UO_3$  in early 1993 and the last production run in the  $DUF_4$  plant was concluded in early July, 1993. Supervisory and operator staffing was reduced as the operational activities and workload requirements decreased. Staff was reduced to meet the needs.
4. Since July, 1993, and through July 31, 1995, the following actions have been carried out:
  - Hazardous chemicals have been shipped off-site, neutralized, or reduced in quantity to less than threshold levels requiring reporting and special controls (i.e., SARA, Clean Air Act, OSHA Process Hazards).
  - Wherever feasible, process equipment was opened and cleaned out to remove recoverable quantities of uranium, then reclosed to assure containment of the residual material.
  - With the exception of depleted  $DUF_4$  slag, all significant quantities of uranium, including finished product ( $UF_6$  and  $DUF_4$ ), recyclable uranium and yellowcake (feed material) were shipped off-site. This task was completed in late December, 1994.
  - Approximately 80% of the fertilizer backlog was distributed in 1993 and 1994. The storage ponds were then cleaned and taken out of service.
  - The four clarifier ponds were emptied, cleaned, patched, and a second liner installed. The entire raffinate sludge inventory was then transferred into three of the clarifiers for interim storage.
  - A safety assessment was performed on the continued storage of residual  $UF_6$  in ~1000 shipping cylinders remaining on-site. This resulted in the NRC approving a license amendment that removed the requirement for a Contingency Plan and Implementing Procedures, effective February 1, 1995. 24 hour shift coverage was eliminated as a result.

- Drummed soils and other low level contaminated, drummed materials were transferred into the interim soil cell and covered to prevent further spread of contamination.
- Drummed DUF<sub>4</sub> slag was moved inside the DUF<sub>4</sub> building and locked up.
- Drummed low level waste was moved inside the No. 2 Fluorine Cell Room to provide covered and secured storage.
- Contaminated scrap metal was moved from the various storage areas to the South Yellowcake Pad, cleaned of visible uranium and either wrapped with heavy PVC or placed inside abandoned tanks to prevent spread of contamination by wind or rain.
- Building exhausters were shutdown when no longer needed to eliminate potential airborne release points.
- Empty drums were collected and are being stored on the yellowcake pad in a manner that prevents accumulation of rainwater.
- The steam plant, refrigeration systems, compressors and other large service equipment were shut down and prepared for permanent layup.
- Water treatment systems were shut down and rural water was piped in to provide potable water needs.

The SFC staff has been reduced at the completion of each major evolution.

5. Thus, at this time the principal near-term activities at SFC consist of:

- Activities related to decommissioning, such as applying the remainder of the fertilizer, limited removal and sale of equipment, closure and securing of the unused buildings, and limited site stabilization
- Maintenance of the office building, fertilizer distribution equipment, vehicles, monitoring equipment and other equipment used in routine activities at the facility

- Routine monitoring and surveillance required by the license
  - Completing the site investigations
  - Preparing an Environmental Report and Plan for Completion of Decommissioning (PCD)
6. The overall current SFC organization consists of 27 employees. Management personnel consists of the Chief Executive Officer (CEO) and the five individuals who discharge the management responsibilities described in the revised amendment application. Of the remaining 21 employees, nine are involved directly or indirectly in the limited activities related to decommissioning, maintenance and operation of the monitoring systems and equipment mentioned above; nine are involved directly or indirectly in completing the site investigations and preparing related reports, including working with two contractors who are developing the geology and hydrogeology portions of the site investigation and surveying the Facility for map production; and three are administrative personnel, including two secretaries and an accountant. In addition, SFC currently retains under contract four security guards, four seasonal employees who apply the fertilizer, and a janitor. SFC's management personnel are fully sufficient to manage SFC's remaining staff closely and efficiently. The organization will be reevaluated after the final decommissioning option is selected, when it is likely that the on-site decommissioning activities will involve movement of large quantities of soil, construction of an onsite disposal cell and other extensive onsite activities. At that time, the final PCD will describe the proposed SFC organization for those activities, which will be subject to NRC review and approval as part of the license amendment needed to approve the final PCD.
7. Thus, the organization described in the revised amendment application is fully adequate to manage the tasks described above. As discussed below, each of the concerns identified by Intervenor and admitted in this proceeding is without merit.
8. In his discussion of SFC's organization and staffing, Mr. Earl states that "it would be standard practice to assume that each position in SFC's license represents the function of one individual." Earl Aff. at 10. Nothing in SFC's license mandates the number of individuals who must be employed by SFC or who must serve in positions identified in the license. As clearly stated in Mr. Ellis' letter of April 28, 1995, and shown in the enclosure thereto, (Att. 2)

the responsibilities of every position in the current SFC license are being discharged by individuals who satisfy the qualification of those positions. In fact, since some of those positions are no longer needed in light of the cessation of operational activities and since many of the remaining positions do not require an individual's full time services, SFC would be guilty of wasteful dissipation of its assets if it retained on its payroll a full time employee for each of the unneeded positions. In any event, even if the responsibilities of any of these positions under the current license were not being properly discharged, that would be an enforcement matter under the jurisdiction of the NRC Staff and not a matter germane to this proceeding.

### **III. Alleged "Inability to Comply with the Timeliness in Decommissioning Rule"**

1. The Intervenor's express the concern that the proposed organizational changes would undermine SFC's ability to comply with the Timeliness Rule. Earl Aff. at 12-29. The premise of Mr. Earl's many arguments is that SFC must meet Intervenor's interpretation of the Timeliness Rule. Not only is Intervenor's interpretation wrong (see Section II.C of Sequoyah Fuels Corporation's Brief in Response to Intervenor's Brief), but it is irrelevant because the NRC has approved an alternate schedule. 10 CFR 40.42 (f) (2) states:

The Commission may approve an alternate schedule for submittal of a decommissioning plan required pursuant to paragraph (d) of this section if the Commission determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

The NRC has, on more than one occasion, indicated approval of the alternate schedule that SFC is following.

2. When SFC made the decision to cease operations and begin the decommissioning process, SFC submitted to the NRC in February, 1993, a Preliminary Plan for the Completion of Decommissioning (PPCD). The PPCD included a schedule for decommissioning of the SFC Facility which covered an approximately 10-year period. By letter dated August 19, 1993, SFC requested a schedule modification to adjust the decommissioning schedule to coincide with that of the Administrative Order on Consent (AOC) entered into with the U.S. Environmental Protection Agency (EPA) in August, 1993

(Att. 3). By letters from R. M. Bernero to J. H. Ellis dated November 26, 1993 (Att. 4) and November 29, 1993 (Att. 5), the NRC accepted the schedule and the modifications to it that were proposed by SFC. By letter from Malcolm R. Knapp to J. H. Ellis dated February 5, 1995 (Att. 6), the NRC confirmed the date that it expected a draft Site Characterization Report (SCR), which was coincident to the similar report due the EPA pursuant to the AOC. By letter dated February 17, 1995 (Att. 7), SFC submitted a revised PPCD schedule which reflected the date that the NRC expected the SCR. By letter dated July 21, 1995 (Att. 8), the NRC confirmed to SFC that the alternate schedule under which SFC has been working is approved, and that no further action in this regard under the Timeliness Rule is required by SFC. Thus, it is unquestionable that the NRC has approved an alternate schedule for SFC under the Timeliness Rule.

3. Moreover, in a recent public meeting held by the NRC in which the Director of NACE was a participant, the NRC presented a schedule for the NRC decommissioning review process for the Sequoyah Facility. See enclosed NRC slides from June 27, 1995 public meeting (Att. 8). As shown on the slides, SFC will submit a Site Characterization Report (SCR) in January 1996, and NRC will provide comments in July 1996. SFC will submit the final PCD thereafter. This sequence is consistent with the NRC's Action Plan to Ensure Timely Cleanup of Site Decommissioning Management Plan Sites (57 Fed. Reg. 13389 (April 16, 1992)), that calls for submittal of a site decommissioning plan within six months after NRC approval of a site characterization report, and with SFC's revised PPCD (Feb. 17, 1995) that estimated initial submittal of the final PCD in late 1996 based upon expected NRC review of the results of SFC's site characterization efforts.
4. Thus, although SFC maintains that the schedule for its activities is not pertinent to this proceeding, the relevant schedule, if any, is the one that has been approved by the NRC. SFC's site characterization activities are progressing in accordance with its estimates, and SFC has every expectation of meeting the schedules approved by both the NRC and EPA. These agencies have had a frequent presence at the site and neither has indicated any concern over the timing and progress of SFC's activities.
5. Mr. Earl then misunderstands or mischaracterizes the scope of the current amendment request. It deals with organization, not staffing. The pertinent questions are whether SFC's proposed organizational structure satisfies NRC regulatory requirements and whether the qualifications of managers performing safety-related functions are

appropriately specified. The number of individuals who are being or will be employed to perform tasks (either on SFC's payroll or as contractors) is not specified in the license and is not being changed under the requested amendment. NRC inspection, not licensing, determines whether tasks are being accomplished satisfactorily. The NRC evaluated SFC's organization and staffing in the first quarter of 1995, and concluded that, "Based upon the activities ongoing at the site and the planned upcoming activities, the organization appeared adequate to reasonably assure worker and public health and safety." Inspection Report 95-01 at 3. Further, the inspector concluded in the same inspection report that, "The manpower appeared sufficient for the limited ongoing activities." Id. at 5.

6. As mentioned in paragraph II.5 above, there are five principal near-term activities at SFC. Three are within the responsibility of the Director, D&D and two (completing the site investigations and routine monitoring and surveillance) are within the responsibility of the Environmental Manager. The remaining field activities under the Director, D&D are well defined, routine, and have qualified personnel performing the work by procedures which were developed by a much larger operating staff with a broad range of experience, and were refined by actual performance in the field. The preparation of a final PCD is a long-term project with reasonably well developed guidance and industry experience to draw from. Thus, these activities are easily manageable by one individual. In the case of the Environmental Manager, the entire work effort is focused narrowly on the characterization and monitoring of the site environment. SFC has been performing these same types of activities in the environmental area since the Facility Environmental Investigation (FEI) was begun in 1990 with the same basic organizational structure and staffing level. The Environmental Manager has managed and continues to manage these activities effectively. In either case, where the workload increases or demands qualifications that do not exist at the Facility, contract support is used. However, as discussed later, SFC is not relying extensively on contractors.
7. Mr. Earl asserts that the workload associated with decommissioning would be too great for the proposed organization to accomplish, and questions whether SFC has done an adequate evaluation of organizational needs in order to accomplish the work in a timely fashion. Earl Aff. at 6. He contends that "part-time" managers are not capable of keeping up with the demands upon SFC. To the contrary, SFC has carefully reviewed its ongoing activities, including the limited field activities, the site characterization effort

and the decommissioning planning and has proposed an organizational structure that explicitly addresses those activities. Positions have been assigned additional responsibilities or have incorporated functions previously assigned to several individuals after determining that such responsibilities and functions could effectively be performed by a single individual. Thus, the organization proposed in the amendment request, which is the subject of this hearing, is adequate to carry out all the functions important to the protection of health and safety for the scope of ongoing activities, or activities that are planned for the foreseeable future. The final decommissioning effort will include activities that are not currently underway, some of which are not authorized by the current license. When the scope of the decommissioning effort is fully defined and the activities required to complete it are determined, SFC will re-evaluate the organizational needs and propose changes as part of the final PCD.

8. Further, Mr. Earl asserts that SFC lacks sufficient resources to carry the workload associated with decommissioning planning and implementation. Earl Aff. at 17. Although, as discussed in paragraph III.5 above, the adequacy of SFC's staffing is not an issue in this proceeding, the record should be made clear as to a basic part of Mr. Earl's assertion. In his statement he relies upon a NRC inspector's evaluation of one particular project documented in IR 94-02 to conclude that resources were deficient. The project involved the movement of several drums, some of which had visibly deteriorated. The inspector did not raise this situation to the attention of SFC, rather SFC had been aware of this problem for some time and had developed a plan to deal with it. The priority of completing this task was lower than other ongoing projects, partly due to the low environmental risk associated with any delay. The inspector reviewed environmental data and concluded in his report that "it appeared that the licensee's lower priority of 'leaking drum project' appeared justified, ... ." IR 94-02 at 5. No violations were cited as a result of the inspector's findings. This project was completed successfully as part of a site stabilization project that included a far larger scope than just the drums identified in IR 94-02. In Inspection Report 95-01, Enclosure at 4, the inspector wrote:

"... the licensee focused on getting the facility "stabilized" until final disposition of material could be determined. Stabilization activities included moving, off the ground and onto a storage pad, anything that could potentially contribute to more soil contamination. Examples of stabilizing the plant



included: Moving barrels of leaking material from the south burial area to the soil storage cell, and moving contaminated equipment from the bone yards to the yellowcake storage pad. The soil storage cell was covered with a tarp and appeared to be full. The inspectors also noted that the barrels of yellowcake, which had been stored on the yellowcake storage pad, had been shipped out. SFC's actions to stabilize the plant were responsive to previous NRC inspections... The licensee's stabilization activities were intended to minimize further soil contamination until the final disposition of material could be determined. This licensee appeared to have accomplished its intent."

Thus, contrary to Mr. Earl's conclusion, this event reflects SFC's appropriate utilization of resources to achieve its overall goals.

9. Mr. Earl states that attrition has left managers without sufficient qualified and experienced resources to perform the tasks associated with decommissioning. Earl Aff. at 18. He extracts excerpts from several Sequoyah Oversight Team (SOT) reports concerning staff reductions and NRC Inspection Report 93-07 concerning a backlog in responding to Condition Reports (CR), and concludes that the license amendment should be rejected in favor of an amendment that would, in his opinion, strengthen management and training.
10. To put Mr. Earl's criticisms in context, it should first be pointed out that the SOT was an oversight group that had been established as a result of the 1990-91 problems at SFC, and that the SOT reports referred to by Mr. Earl are more than two years old and were issued when SFC was transitioning from an operational mode to its present status. The concerns expressed in the SOT reports boil down to a call for strengthening the training program and the project planning program. The concerns expressed in those reports have long since been addressed. As noted in IR 94-04, "Training and retraining of licensee personnel exceeded requirements and were considered a programmatic strength." Appendix B at 1. As to project planning, an NRC inspector reviewed a project conducted at SFC and wrote in IR 94-03:

"Licensee Staff reviewed the activities associated with the removal and clean-out of cold trap No. 6. Procedures and memoranda were modified to improve the process. In some cases, health and safety precautions were increased. During the inspection, the inspector observed some of the activities associated with cutting lines on cold trap No. 5. No problems were noted.

Workers were wearing prescribed protective clothing and respiratory protection, and the coordination between all the appropriate Sequoyah Fuels Corporation's organizations appeared appropriate." Appendix at 4.

11. Second, the backlog in CRs referred to by Mr. Earl was a holdover from the abrupt shutdown SFC experienced in late 1992. The majority of the CRs were written for conditions that existed on systems or components that were no longer in operation after the shutdown, and left no residual safety issues unanswered. In the concluding remarks that follow the citation made by Mr. Earl, the inspector writes, "SFC appeared to be reducing the backlog of CRs, while addressing new CRs." Further, the NRC followed up on this issue and concluded in IR 94-04 that SFC's system to identify and resolve identified issues was functional, that identified issues appeared to be resolved in a timely manner, and resolution appeared appropriate for the circumstances. Appendix B at 4. Thus, Mr. Earl's statement relies upon a non-existent problem.
12. Mr. Earl also calls into question the combining of the H&S Manager and Training Coordinator positions due to his perception of the workload. Earl Aff. at 24-25. He cites the monthly inspections performed by the Manager H&S, and the "high turnover and high reliance on contractors who must be trained and qualified in the SFC procedures" as a basis for such a concern. With the cessation of operations and production activities, the responsibility for inspecting the activities involving radioactive materials is minimal requiring less than two days per month to complete. This can hardly be considered a significant workload. The training needs have also changed. Operators who once controlled complex systems containing large quantities of chemicals and source material required a high level of training to ensure that they would respond properly to system demands and upsets. Such operations are no longer conducted at the Facility, nor will they be conducted in the future. The activities that are currently ongoing and that lead to the submittal and approval of the PCD do not involve the direct handling or management of large quantities of chemicals and source material and thus do not require the same level of training for the safe performance of those activities. In addition, the Facility staff has been reduced from a high of about 350 at the peak of operations, to the current staff of less than 30. The total number of contractor personnel trained in 1995 is 16. The current training needs are focused on the radiation protection and safety aspects of work at the Facility. The Manager, Health and Safety played a significant role in developing the current training program. As stated earlier, the NRC has

inspected the training program and documented its findings in Inspection Report 94-04. The report states that "Training and retraining of licensee personnel exceeded the requirements and were considered a programmatic strength." Appendix B at 1, 10. This same training program remains in effect today. As activities have been completed and staff reduced, the Training Coordinator was not fully applied to the training program. This position could no longer be justified based upon the level of training work required. Thus, the demands on the training program have been reduced to the point where it can be effectively incorporated into the responsibilities of the Manager, H&S.

13. Finally, Mr. Earl asserts that some NRC inspections conducted during 1994 and 1995 show management weaknesses that are likely to be exacerbated rather than improved by the proposed amendment to the organization. Earl Aff. at 26-29. He mischaracterizes the content of the referenced inspection reports and arrives at a wrong conclusion.
14. Inspection Report 94-01 contains three violations. The first violation was cited for the failure to submit a license amendment request involving changes to the SFC organization that deviated from that organization structure described in the license. The NRC did not require SFC to respond to this violation because the license amendment was under development at the time of the inspection, and no formal response was offered. However, SFC did state for the record in its letter responding to the other two violations that the duties and responsibilities of the management positions described in the license have continued to be fulfilled by qualified, experienced personnel, despite the changes in title or lines of reporting. See also paragraph V.11 below. This violation was not related to the qualifications of individuals serving in licensed positions, since the individuals assigned those responsibilities were qualified. The second violation, which is discussed in more detail in paragraph V.15 below, involved a failure to follow procedures which was identified by SFC and reported to the NRC. The follow-up actions taken by SFC management were satisfactory to the NRC and were not called into question by the inspectors. The third violation was a failure to remove contamination from a component inside a controlled access area within the plant in a timely manner. The condition that existed in this case was recognized by the SFC staff, was lumped together with other projects intended to mitigate potential environmental impacts, and was of less consequence than other activities that were ongoing, giving it a lower priority. Appropriate consideration was not given to this condition as it relates to contamination control, and a re-prioritization of planned projects was conducted.

15. Inspection Report 94-02 contains no violations. Mr. Earl states that the inspector expressed concern over the length of time one particular job had taken. Earl Aff. at 27. As discussed in paragraph III.8 above, the inspector reviewed the environmental data and concluded in his report that the lower priority of this project appeared justified. No violations were cited and the project was completed successfully as part of a site stabilization project which included a larger scope than just the project identified here.
16. Inspection Report 94-03 contains no cited violations. Although one apparent violation of regulations was noted, it was not cited because SFC took prompt and effective actions to mitigate the event, the event was an isolated occurrence, and the corrective actions taken by SFC to prevent recurrence were appropriate. See paragraph V.15 below. Mr. Earl expresses concern over the comment made by the inspector that no condition report (CR) had been written at the time of his inspection. This was an oversight by those involved in the event recovery who, although they realized that a CR was required, had not taken the time to initiate the paperwork. However, the investigation, reporting and follow-up actions described by the inspector were already underway according to the procedure governing the disposition of CRs, and his conclusion was that the event was managed well. Thus, the inspector's assertion that this was an "important oversight" (Earl Aff. at 27), is an overstatement and the potential for an incomplete investigation was not realized. See also paragraph III.11 above, regarding SFC's system to identify and resolve deficiencies.
17. Inspection Report 94-04 contains two violations. The first violation involved the overposting of the clarifier area. By procedure, all areas where radioactive materials are stored should be surveyed routinely to ensure the posting is correct. In this instance, the area was posted as a radiation area when, in fact, the radiation levels had been reduced due to the cessation of production activities. Thus, the area was conservatively posted. In the second violation, the inspector found that the personnel contamination monitors had been calibrated by a different source than the procedure called for. The calibration source used was a new source which was traceable to the National Institute of Standards and Testing (NIST). The procedure describing the calibration had not been changed to incorporate the new source at the time of the inspection, but has since been changed. No problems were found with the calibration itself.

18. Inspection Report 95-01 contains no violations. The inspector reviewed the organization at SFC and found that the organization had not changed significantly from the previous inspection, that the positions described in the current license had been assigned to qualified individuals on the SFC staff, and that the organization appeared adequate to reasonably assure worker and public health and safety. See IR 95-01 at 1, 3 and 4. See also paragraphs V.11 and V.16 below. Mr. Earl mentions that the inspector found a bag labeled as containing contaminated materials in the unrestricted area. Earl Aff. at 29. The bag was found to contain no radioactive materials, and the inspector concluded that SFC management reacted appropriately by investigating who had left the bag there and by taking actions to instruct its workers not to use those labeled bags unless materials were indeed contaminated.
19. Thus, these inspection reports fail to support Mr. Earl's assertion that the proposed organization and management structure fails to provide sufficient resources to carry out the workload which decommissioning responsibilities will entail.

#### **IV. Alleged "Inadequate Contract Management and Supervision of Contract Personnel"**

1. The Intervenor's concern relative to the management of contract personnel hinges upon the argument that the Director, D&D is overloaded (Earl Aff. at 31), and that SFC's project management system is weak. Id. at 29-30. The workload issue has been addressed generally in paragraph III.6-7 above. With respect to the specific position of Director, D&D, I can personally attest that one individual can effectively fulfill the responsibilities of both that position and the President of SFC, since I am presently serving in both positions. This is not a problem because, in view of the limited SFC activities described above, neither position requires the services of a full time individual. As mentioned above, this will be reevaluated as part of the final PCD when the activities required to complete decommissioning are determined.
2. As to the project management system, the Intervenor acknowledges that SFC has taken some steps toward strengthening contractor management (Earl Aff. at 30), but characterizes them as weak and fails to recognize the fruits resulting from these steps. In IR 94-03 as noted in paragraph III.10. above, the inspector found that the planning for the cold trap removal activities was appropriate, that the activities were coordinated among the

engineering, maintenance, operations, and health & safety organizations, and that the Plant Review Committee had approved the plans with some required changes. Thus, recent experience, as evidenced by this NRC inspection report, shows a strong project planning capability. Mr. Earl attempts to divert attention away from this success by asserting that "SFC has shown a chronic failure to obtain compliance with or even to keep up to date with revisions to its procedures." Earl Aff. at 30. He refers to earlier events documented in IR 93-03 which discusses a deviation from a commitment to update certain procedures, and to IR 94-01 which dealt with procedure adherence. In the first instance, SFC failed to complete procedure revisions within the time frame to which it had earlier committed. However, all of the procedures in question were not in routine use during that time, and the procedures that were used routinely had been revised prior to use. In the second instance, a condition in one of SFC's procedures which is more restrictive than NRC limits was not fully adhered to. SFC recognized this condition, notified the NRC of the circumstances surrounding the incident, and took the proper actions to rectify the situation. In neither case was the management or supervision of contractors at issue. Thus, Mr. Earl fails to demonstrate that SFC is unable to manage or supervise contractors.

3. The Intervenor mistakenly believe that "SFC is relying to a significant extent on private contractors to plan, administer, and conduct D&D functions" that are currently ongoing. Earl Aff. at 30. At this time, contractors are being used only in a consulting role in areas such as hydrogeology and geology for site characterization, and to perform specific limited activities such as land surveying, well drilling, and fertilizer distribution. Contractors have traditionally been used in all of these roles at the Facility. The work products of these contractors have been fully reviewed by the NRC, including NRC oversight during the conduct of some of these activities, and no problems have been identified.
4. Finally, references to alleged DOE mismanagement (Earl Aff. at 31) has no bearing on this proceeding. Intervenor have not shown any similarities between SFC's management of its current licensed activities and the alleged problems at DOE, and no such similarity exists.

#### **V. Alleged "Inadequate Quality Assurance Program"**

1. SFC is no longer routinely handling large quantities of radioactive or hazardous materials, as alleged by

Intervenors. Earl Aff. at 33. Mr. Earl has apparently misread the PPCD Schedule, Revision 1. Shipment of yellowcake is 100% complete and no further activity in this regard is expected. The ponds are not being emptied and disposed of as Mr. Earl indicated in his statement. The schedule shows that the remainder of this activity has been deferred until the final PCD is approved and implementation begins. SFC is not currently shipping empty cylinders, but may resume this activity if a buyer is found. However, this activity does not involve large quantities of hazardous or radioactive materials. All bulk chemicals have been removed from the site as indicated by the schedule which shows that this activity is 100% complete. Thus, any arguments relating to QA based upon these activities continuing are no longer valid. As to site characterization activities, both the NRC and the EPA and their respective contractors have confirmed the technical adequacy of SFC's on-site effort through inspections and sample splits. No adverse findings have been registered by either agency.

2. Unlike 10 CFR Part 50, 10 CFR Part 40 does not explicitly require a QA program. In fact, there is no clear guidance from the NRC in the area of QA for a source materials licensee in the decommissioning mode. Regulatory Guide 3.55, Standard Format and Content for the Health and Safety Sections of License Renewal Applications for Uranium Hexafluoride Production, was issued to "provide more specific guidance for the preparation of the health and safety sections of renewal applications". RG 3.55, Introduction at v. Not only does this document not relate to decommissioning, but it merely provides guidance and does not prescribe specific requirements. Nevertheless, it does indicate an acceptable approach to license commitments. When describing internal audits and inspections, Regulatory Guide 3.55 states that,

"Audits and inspections ... should be performed according to a written plan. Qualified personnel without direct responsibility for the function and area being audited should be used for audits. Inspections should be performed routinely by qualified staff personnel that are not responsible for production activities."

Correspondingly, SFC's QA program is designed to provide independent review of all activities conducted at the facility in accordance with a written plan. QA audits or additional independent audits obtained by SFC satisfy this requirement for SFC where internal resources are not available or objective.

3. In arguing for the maintenance of an effective QA program during decommissioning, Mr. Earl refers to 10 C.F.R. 40.36 in his testimony implying that it has specific auditing requirements, and cites Inspection Report 93-09 as an indication of the significant task involved. Earl Aff. at 33. First of all, 10 C.F.R. 40.36 contains no reference, explicit or implicit, to specific QA or auditing requirements. It contains only the requirement to maintain certain records that the NRC deems appropriate and necessary for decommissioning of a site. The inspection report contained a detailed review of the decommissioning files at SFC, but did not find any violations or deviations as a result of the inspection. No problems were found in this inspection or any that followed which were attributed to ineffective Quality Assurance. Mr. Earl then quotes from a letter from James L. Milhoan to James J. Sheppard dated March 21, 1993, which emphasizes the responsibility for ensuring, "through audit programs," that employees are following health and safety requirements "notwithstanding the reduction of operations at the site." Earl Aff. at 33. Mr. Earl is quoting from an unrelated letter which deals with the findings of an OI investigation conducted a couple of years ago, at a time when the Facility was in full operation. The letter was written while SFC was continuing to process depleted uranium tails and the focus of the letter was on employee integrity in the conduct of licensed activities. The Intervenor has taken Mr. Milhoan's letter out of context in an inappropriate effort to shore up their arguments. Moreover, SFC is complying fully with the letter and spirit of Mr. Milhoan's remarks. As described throughout this Affidavit, SFC is implementing an effective QA program appropriately tailored to the ongoing activities.
4. Mr. Earl asserts that the Quality Assurance function as proposed in the license amendment request is not independent. Earl Aff. at 34-41. After referring to several sources to develop his concept of independence, Mr. Earl concedes that the current SFC license contains all the essential elements of independence. He concludes, however, that the independence of the program will be negated because he claims that "the proposed revision would effectively eliminate SFC's independent internal audit function and substitute a discretionary program under an individual who is also responsible for operations." Id. at 39.
5. Mr. Earl's conclusion is basically flawed. The proposed modified QA provisions of the license retain the essential elements of independence. The license will still contain the requirement to maintain a QA plan and procedures from which audits and other quality assurance functions are derived. The license will still contain the requirement



that a responsible official ensure that audits of operations and safety-related activities are conducted. The license will still contain the requirement that GA perform periodic audits of the SFC Facility including specific reference to areas under the responsibility of the Director, Regulatory Affairs. Mr. Earl's principal complaint appears to be that the proposed amendment will eliminate the requirement of mandatory internal audits every 12 months and relies instead on the external audits performed by GA plus such additional audits as the Director, Regulatory Affairs may determine to be needed. Mr. Earl cites no regulatory requirement that would mandate the performance by a licensee of both external and internal QA audits, and no such requirement exists. In fact, such requirement would be incredible since many small licensees neither would need nor could afford to maintain a QA auditor on staff. The present situation at SFC is typical. The level of activities is such as not to warrant maintaining an internal auditing function on staff. The bulk of the needed QA audits are being performed by GA. As the Director, Regulatory Affairs determines is needed, additional audits are arranged. For example, Mr. Billy Reid, SFC's former Manager, Quality Assurance and Laboratory Support, has been contractually retained to perform a QA audit on the fertilizer distribution program. Mr. Earl did not, of course, and could not identify any needed QA audit that is not being performed. The NRC staff recently conducted an onsite inspection, including review of the QA program and, in its exit interview on August 9, 1995, the inspector described oversight of SFC activities as adequate as evidenced by the surveillance, audits and other reviews under the program that is currently in place.

6. Mr. Earl's inference that the Director, Regulatory Affairs, is responsible for "operations" is a bald over-exaggeration. Earl Aff. at 40. It is true that the Health and Safety Department and Environmental Department report to him. However, the Health and Safety Department has only supporting functions, and the Environmental Department is responsible only for monitoring and site investigation activities. In any event, the auditing of those two departments will be performed by GA and, if additional audits are needed, by another independent auditor. Thus, the independence of the audits will be assured.
7. Although Mr. Earl first approvingly refers to SFC's license as providing for "checks and balances" by "an external and independent entity, GA" (Earl Aff. at 37), he then calls into question the independence of the GA QA organization "from financial and operating pressures in GA's own organization." Id. at 41. Since, as Mr. Earl acknowledges, the GA manager responsible for GA's QA audits at SFC has no

operational responsibilities, his concern as to the potential responsibilities of the GA corporate officer to whom he reports are irrelevant. In every organizational structure, the QA function must ultimately report to some level of management that may have operational responsibilities.

8. Mr. Earl then complains about the comprehensiveness of the QA program. Earl Aff. at 43-46. He contends that the proposed license amendment application would substitute the QA program maintained by GA for SFC's QA program which he believes would degrade the SFC QA effort unacceptably. However, as discussed above, no request has been made to substitute the GA QA program for the SFC QA program has not been made. As stated in paragraph V.5 above, the proposed license amendment request retains the requirement for a QA Plan and procedures just as the current license requires, as well as other basic elements. Somehow, Mr. Earl seems to believe that the proposed amendment will affect the performance of QA surveillance activities, apparently out of a belief that such activities would be GA's responsibility and that GA has not committed to a daily presence at the site. Mr. Earl is totally mistaken, and the proposed amendment has no such effect. Mr. Earl quotes from IR 94-02 which highlights the emphasis that SFC places upon quality control of activities that have some safety significance. Earl Aff. at 43. The activity discussed in IR 94-02 was a non-routine activity which has been completed successfully with no residual need for continued quality control. Activities such as this are not currently ongoing, and there are no plans under development to begin such activities in the foreseeable future. However, just as was the case in the example cited by Mr. Earl, other day-to-day activities requiring quality control inspections will be handled as they have been in the past, with SFC resources and not GA personnel. Thus, Mr. Earl's concern about GA not being available on a day-to-day basis is irrelevant.
10. The GA audit program which has been required since the purchase of SFC in 1988 was inspected by the NRC in 1994 and the results reported in section 3 of Inspection Report 94-02, General Atomics Audits of Health & Safety Activities. The inspector noted that, "Section 2.8 of SFC's license requires that General Atomics (GA) ... ensure that quarterly audits are conducted to evaluate and verify compliance with applicable regulations, NRC license conditions, corporate policies, and facility procedures." IR 94-02 at 5. The inspector reviewed an audit conducted in the fourth quarter of 1993 and states, "The audit plan and the audit appeared to be very comprehensive... ." Id. at 6. The inspector

concluded that the GA audits met the intent of the license, and was satisfied that they were generally useful to SFC.

11. Mr. Earl also argues that the QA program is inadequate because SFC has allegedly made changes to its licensed organizational and management structure without obtaining NRC approval. Earl Aff. at 45. However, as explained in my letter to the NRC of April 28, 1995 (Att. 2 at page 2), the basic organizational structure has preserved the lines of reporting (although the intent of the May 6, 1994 amendment request was unclear on the lines of reporting and was subsequently revised by the November 23, 1994 request). Titles have been changed and the number of individuals reduced, but the functions and responsibilities remain basically unchanged. My internal memorandum of February 23, 1995 (see enclosure to Att. 2) confirmed that the activities and responsibilities for all positions identified in the present license are assigned to SFC personnel meeting license qualifications. Responsibilities for functions under the present license have always been discharged by individuals who satisfy license qualifications. Thus, these SFC actions do not reflect any inadequacy in its QA program.
12. Mr. Earl makes a convoluted argument that placing the entire responsibility for mandatory QA functions in GA's hands would create a conflict of interest for GA because of its involvement in another NRC proceeding relating to decommissioning funding responsibility. Earl Aff. at 46. The short answer is that his basic premise is mistaken. The proposed amendment does not place "the entire responsibility for mandatory QA functions in GA's hands." The amendment will continue GA's QA responsibilities as they presently exist under SFC's license, and therefore will not affect GA's position in another unrelated proceeding.
13. Mr. Earl then speculates that the workload associated with audits and oversight is too great to be handled by the organization in the current license, much less the organization proposed by the new amendment request. Earl Aff. at 46-49. Again, his basic errors are that he does not understand the limited activities currently taking place and he wrongly assumes that all of the QA functions at the site must be performed internally by an SFC manager or member of the SFC staff. As described above, SFC can properly rely on a combination of external audits and internal activities, and the workload can be, and is being, effectively managed by the Director, Regulatory Affairs.
14. As a basis for his arguments, Mr. Earl cites a "concern" reported in IR 93-06 by a NRC inspector regarding incomplete QA Manual and department procedures (Earl Aff. at 48), and

speculates that the SFC QA staff was augmented to finish this work.<sup>1</sup> The QA Manual and implementing procedures referred to in IR 93-06 were developed for an operating facility as part of a QA improvement effort, and went beyond the requirements and guidance for a materials licensee. When the decision was made to cease operations, the procedures were no longer applicable to the activities SFC planned for the future and SFC decided not to complete these procedures. SFC never increased its staff to complete the procedures, contrary to the speculative conclusion drawn by the Intervenor. Worthy of note is the fact that the "concern" over the unfinished procedures was not given a tracking number nor was it ever discussed by the NRC in subsequent inspection reports, attesting to the fact that no safety significance was attached to it. SFC was never cited by the NRC for lack of appropriate procedures in the QA Department as a result of this "concern". Additionally, as stated earlier, a recent NRC inspection found the quality assurance and oversight measures currently in place at the Facility adequate.

15. Mr Earl also refers to two inspection reports, IR 94-01 and IR 94-03, as proof that the QA function is understaffed and unable to keep up with its responsibility. Earl Aff. at 47-48. A review of IR 94-01 finds one instance of material released for unrestricted use where the applicable limit was exceeded slightly. In this instance, a rather large tank was found to have small spots (less than 100 cm<sup>2</sup>) of radioactive material in excess of facility procedures. The failure in this case was in the survey technique which could not be attributed to poor QA. The inspector did not assign QA any responsibility for this event, nor did he imply that QA was the answer. IR 94-03 also does not discuss QA, and one can only assume that Mr. Earl is referring to the non-cited violation discussed in the report. That event involved the release of a shipping container that did not meet the definition of strong, tight container required by regulations. This event did not result in the release of contaminated material to the public or environment as alleged by Mr. Earl. Additionally, the violation was not

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<sup>1</sup> The Intervenor mistakenly believe that NRC Inspection Report 95-01 supports their theory that "the revision of the audit procedures [cited in IR 93-06] remained incomplete." Earl Aff. at 48. The revisions to QA procedures discussed in IR 95-01 obviously refer to revisions intended to implement the organizational changes contemplated by the March 3, 1995 changes in the amendment application, not those former revisions. Thus, Mr. Earl's lingering workload is purely imaginary.

cited because prompt and appropriate actions were taken by SFC, and the fact that no cause was definitively identified that could be attributed to the licensee. Thus, the Intervenor's inference that these two inspection reports indicate that the QA staff is incapable of keeping up with its responsibility is baseless.

16. Finally, Mr. Earl hypothesizes that SFC does not have adequate QA procedures to ensure that effective audits are conducted. Earl Aff. at 49-50. Further, he expresses the concern that SFC has contemplated increasing the scope of GA's audit without broadening the scope in the language of the license. Inadequate procedures or inadequate implementation of procedures would clearly be an enforcement issue that would have been identified by the numerous inspections performed by the NRC where the QA program has been reviewed. IR 95-01 and the letter from Samuel J. Collins to John H. Ellis dated May 12, 1995 (Att. 10) make clear that no determination was made, positive or negative, on the adequacy of QA procedures. Thus, IR 95-01 provides no support for Mr. Earl's allegations that inadequate procedures exist and he has provided no other basis for that allegation. To the contrary, as discussed above, SFC has maintained the necessary QA procedures to cover activities that have been performed at the Facility, and the NRC has not cited SFC for any violation of its license commitments relative to QA procedures. In regard to the language in the license describing GA's role, the current language is sufficiently broad to encompass the audit by GA of any and all activities conducted at the Sequoyah Facility. Thus, no changes were needed, and none were proposed.

#### **VI. Alleged "Inadequately Defined Reporting Requirements on Safety and Environmental Work"**

1. Mr. Earl asserts that the Director of Regulatory Affairs would now assume the responsibility for the QA function under the proposed amendment, and then concludes that this position would audit the functions reporting to him, setting up a conflict of interest. Earl Aff. at 50-51. First, the position of Director of Regulatory Affairs and its predecessor, Vice President of Technical Services, have been responsible for the QA function prior to this amendment request. Thus, the request does not change the basic lines of authority as the Intervenor's claim. Second, the amendment request was carefully worded such that the Director of Regulatory Affairs is not placed in the position of auditing its own areas of responsibility. Section 2.8 of the license provides for the performance by GA of audits of activities that include all areas under the responsibility

of the Director, Regulatory Affairs. The GA audits are sufficiently independent from SFC as discussed above, and satisfy the SFC QA Plan requirements in these areas. In addition, Section 2.8 of the revised amendment application states that "The Director, Regulatory Affairs shall ensure that additional audits . . . are conducted in accordance with the QA Plan and Procedures." (Emphasis added.) This language provides that, if additional audits are needed of functions under the supervision of the Director, Regulatory Affairs, he can arrange to have them performed by an independent source, thus avoiding any requirement that the position audit its own functions. SFC will rely on the audits performed by GA which are comprehensive and satisfy the QA needs for the Facility in its current condition, plus any needed additional independent audits. Thus, there are no conflicts of interest set up by the proposed changes.

#### **VII. Alleged "Improper Reduction of Qualifications of Health and Environmental Protection Positions"**

1. Although Intervenor expressed a broad concern about SFC's alleged reduction in "the qualifications of health and environmental protection positions," Mr. Earl's statement discusses only the transfer of training responsibilities from the Technical Training Coordinator to the Manager, H&S. Earl Aff. at 51-52. His basic premise, that training at the Facility has assumed greater importance because of the alleged "high turnover in SFC's permanent staff, and the increasing reliance on contractors," is flatly wrong. There have been reductions in SFC's permanent staff but no "turnover;" no new staff has been employed. And, as discussed above, there is limited use of contractors. Thus, Mr. Earl fails to appreciate that, as described in Paragraph III.12 above, training demands have been greatly reduced by the reduction in force resulting from the completion of many of the planned activities.
2. The education and experience requirement of the Technical Training Coordinator in the current license were originally established for a manager level position with a broad role in the management of employee qualifications. This responsibility included the development of training for operators who controlled complex systems containing large quantities of process chemicals and radioactive materials, the release of which could have public health and safety consequences. The current training needs, as mentioned above, include primarily basic radiation protection and industrial safety training for a handful of employees and contractors. Thus, the need for vast training experience is not necessary to conduct the training program that SFC now

needs. The Manager, Health and Safety has a MS degree in Health Physics with eight years of industry experience in the field. He has completed a "Train the Trainer" course, and has developed and presented several training courses at the Facility. He assisted the Technical Training Coordinator in developing the training program and implementing procedures, which the NRC recently classified as a programmatic strength. See paragraph III.12 above and IR 94-04, Appendix B, at 1, 10. In each case, the requirements were derived from relevant industry guidance such as NUREG-1127, Radiation Protection Training at Uranium Hexafluoride and Fuel Fabrication Plants. Thus, he is familiar with the program and procedures, he is familiar with the regulations and industry guidance, he has conducted training under the program, and he has the technical background to provide oversight of this function. Adding specific training experience in the qualifications statement was not considered appropriate since the training function for current activities can readily be fulfilled by an individual who satisfies the present license requirements for the position of Manager, H&S.

3. Mr. Earl also argues that the Technical Training Coordinator position "managed" and "certified", two concepts dropped in the amendment request. Since the responsibilities under the proposed license amendment of the Manager, Health and Safety, include the training program, it is clear that he is required to "manage" those programs. Similarly, his responsibility to document that adequate training has been conducted requires that he satisfy himself that such training has been conducted, and his documentation attests to the fact that it has been conducted. Mr. Earl's focus upon the word "certify" is misplaced. There is no regulatory requirement that a licensee's internal documentation of satisfaction of a training requirement be in the form of a certificate.

#### **VIII. Alleged "Incomplete and Unclear Descriptions of Critical Safety and Environmental Functions"**

1. Mr. Earl states that the "position(s) with responsibility for managing the D&D projects should be clearly identified and the exact nature and scope of their authority and responsibility should be stated. Earl Aff. at 53. In essence, he repeats his argument that the overall responsibilities constitute "an unreasonable workload for one position" and suggests that the license specify a number of managers under the Director, D&D, with their qualifications. As I have shown in paragraphs III.6-7 and IV.1 above, in view of the limited authorized activities

under the license, one individual is fully capable of satisfying the responsibilities of the Director, D&D. Not only is the establishment of additional managers unnecessary, but the establishment and staffing of such unnecessary positions would represent a waste of funds of SFC that should be devoted to proper completion of decommissioning of the facility.

2. Mr. Earl also discusses changes in membership of the Plant Review Committee (PRC) presented by SFC and is "very concerned that this open-ended provision for the unspecified number of members with unspecified qualifications to this important committee could result in the addition of members whose interests and qualifications are not consistent with the safety related purpose of the committee." Earl Aff. at 54. To justify his position, he refers to Regulatory Guide 3.55 which, as stated before, is guidance only, and is written for operating facilities pursuing license renewal. Mr. Earl's concerns are unwarranted. Section 2.3 of the license amendment specifies that the PRC be composed of "senior facility managers having key roles in ensuring that facility operations are conducted safely." This language, which does not specifically limit the membership to these individuals, is unchanged from the current license. Mr. Earl refers instead to the informational chapters of the license, the safety demonstration, where SFC has described how it intends to meet the commitment contained in section 2.3. Earl Aff. at 54. In order to add flexibility to the PRC to deal with unforeseen situations where a resident expert might be helpful to the PRC in performing its functions, language was added to make clear that the President can make additional assignments to the committee. The overall responsibility for the safe operation of the Sequoyah Facility rests with the President (Section 2.2), and the license assigns the final authority for the selection of personnel to fill safety related positions to the President (Section 2.4). It follows that the President has the authority to place additional members on the PRC in cases where the additional members might enhance the committee's ability to complete its mission. Thus, there is no basis for the Intervenor's concern about the unspecified members of the PRC.
3. Mr. Earl refers to the terms "designee" and "includes" (Earl Aff. at 54), assigning to them some special significance and leaving the impression that these are changes to the current license which degrade previous commitments. This is not the case. The term "includes" is in the current license and remains unchanged in the proposed amendment. The term "designee" was added in the proposed amendment to clarify a provision in the current license which states that "The



Plant Review Committee is normally chaired by . . . ." (Section 11.3). The current language was intended to reflect that, on occasion, the committee will need to meet in the absence of the committee chair, and that someone else will fulfill the role of the Chairman. To explicitly state that a "designee" will be appointed for such duty is not a departure from the current license, but rather an enhancement in the language.

4. Mr. Earl asserts that "It remains clear from the license amendment application that the Project Supervisor has a safety role, because he or she is 'responsible for determining when a HWP [Hazardous Work Permit] is required and for issuing it.'" Earl Aff. at 55. Mr. Earl is mistaken. Determining the need for and issuing a HWP does not equate to a safety role. This basic responsibility for recognition that one's work may involve radioactive materials or chemicals, and to follow the steps in the procedure to initiate a HWP, are part of the General Employee Training which all radiation workers receive. An explicit procedure is written to guide this activity. It is the H&S Department that has the responsibility for completing the health and safety portions of the HWP under the procedure, not the initiator of the HWP. Thus, the function of initiating an HWP does not constitute a safety related position.
5. To shore up his argument, Mr. Earl tries to link the position of Project Supervisor to the position of Operations Shift Supervisor which clearly was a position with safety responsibilities. The position of Operation Shift Supervisor had a much broader scope, that included operation of complex systems containing large quantities of process chemicals and radioactive materials, the release of which could have public health and safety consequences. The Project Supervisor does not have any responsibility that approaches this. The Operations Shift Supervisor was the senior management member on site during off-hours, weekends and holidays putting him in a position of responsibility that the Project Supervisor, who is here only on normal work days, does not share. In summary, the Operations Shift Supervisor had a much more dynamic work environment, and had health and safety responsibilities which have no counterpart in the functions of a Project Supervisor.

## **IX. Conclusion**

1. As the preceding portions of this Affidavit have demonstrated, the activities at the Sequoyah Facility authorized under License No. SUB-1010 have drastically

declined since the organizational structure in the license was last revised more than two years ago. The organizational structure proposed in the current amendment is fully effective to manage the current activities. That structure will be reevaluated when a license amendment is considered to approve a final PCD that defines the activities needed onsite to complete the decommissioning of the facility.

2. Intervenors have failed to identify either any instance in which the proposed organizational structure does not satisfy applicable regulatory requirements or any other deficiency in the proposed organizational structure. They rely upon irrelevant information or mistaken characterization of relevant information. Their numerous suggestions for additional positions, additional responsibilities and program changes lack any basis and result from their failure to understand or ignorance of the limited activities conducted onsite. Their suggestions would result in unnecessary and wasteful expenditures of SFC resources that should be devoted to completion of decommissioning.
3. Accordingly, SFC's proposed license amendment should be approved as requested.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
)

SEQUOYAH FUELS CORPORATION )

(Source Material )  
License No. SUB-1010 )

Docket No. 40-08027-MLA

(Administrative )  
Organizational Changes)

August 22<sup>nd</sup>, 1995

AFFIDAVIT OF JOHN H. ELLIS

JOHN H. ELLIS, being duly sworn, hereby deposes, says and affirms that he is President of Sequoyah Fuels Corporation; that he has read and is familiar with the contents of "Affidavit of John H. Ellis on Administrative Organization Amendment"; and that the facts set forth therein are true and correct to the best of his knowledge, information, and belief.

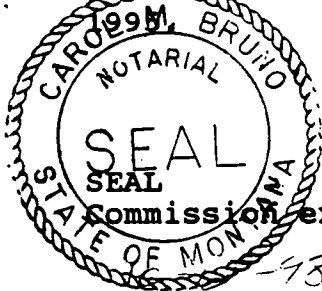
John H. Ellis  
John H. Ellis, President

ACKNOWLEDGEMENT

STATE OF Montana )

COUNTY OF Lewis & Clark )

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public in and for the State of Montana on the 22<sup>nd</sup> day of August,



Curtis M. Bruno  
Notary Public

**LIST OF ATTACHMENTS TO "AFFIDAVIT OF JOHN J. ELLIS  
ON ADMINISTRATIVE ORGANIZATION AMENDMENT"**

1. Resume of John H. Ellis
2. Letter from John H. Ellis (SFC) to Samuel J. Collins (NRC)  
(Apr. 28, 1995)
3. Letter from John H. Ellis (SFC) to Robert M. Bernero (NRC)  
(Aug. 19, 1993)
4. Letter from Robert M. Bernero (NRC) to John H. Ellis (SFC)  
(Nov. 26, 1993)
5. Letter from Robert M. Bernero (NRC) to John H. Ellis (SFC)  
(Nov. 29, 1993)
6. Letter from Malcolm R. Knapp (NRC) to John H. Ellis (SFC)  
(Feb. 5, 1995)
7. Letter from John H. Ellis (SFC) to Robert M. Bernero (NRC)  
(Feb. 17, 1995)
8. Letter from Michael F. Weber (NRC) to John H. Ellis (SFC)  
(July 21, 1995)
9. Slides from NRC Presentation at Public Meeting on June 27,  
1995
10. Letter from Samuel J. Collins (NRC) to John H. Ellis (SFC)  
(May 12, 1995)

# **ATTACHMENT 1**

## **Resume of John H. Ellis**

### **PRESENT POSITION:**

President of Sequoyah Fuels Corporation

### **CLEARANCES:**

DOE-Q HA-47775-TN (Deactivated in April, 1992)  
DOD-Secret (Inactive)

### **EDUCATION:**

B. S., Chemical Engineering, University of Washington, 1968

### **EXPERIENCE:**

Mr. Ellis has over twenty-six years of process engineering, operations, and other related experience in both Department of Energy and private nuclear chemical processing facilities, with over 20 years in supervision and management. He has a strong working knowledge of DOE Orders and NRC, EPA and OSHA regulations and has implemented conduct of operations and regulatory compliance programs in both DOE and NRC regulated facilities.

#### **April 1992 to Present: Sequoyah Fuels Corporation**

Prior to assuming the position of President in June, 1993, he was Senior Vice President, Operations. In this position he was responsible for operations, maintenance, engineering, and waste management at SFC's uranium hexafluoride processing facilities. Prior to the commencement of facility shutdown in November, 1992, he managed a staff of approximately 185 personnel with an annual budget in excess of \$20 million per year.

#### **June 1991 to April 1992: Science Applications International Corporation**

Mr. Ellis was Manager of the Radiochemical and Safety Analysis Division in Richland, Washington. In addition to directing the activities of 10 - 20 engineers and consultants, he prepared and

managed the division budget, scoped, costed and prepared project proposals and was project manager on numerous private and government contracts. He was also an individual contributor for numerous projects, including Department of Energy Order compliance reviews, Hanford site RI/FS tasks and analytical systems studies. Specific SAIC projects

#### Order compliance reviews

- \* 200 Area TRU Waste Retrieval Pilot Program
- \* N-Reactor Decommissioning Program Plan
- \* K-Basin Fuel Encapsulation Program Plan

#### RI/FS Tasks

- \* Technical Review of Remedial Investigation Plans for Hanford Operable Units in the 100 Areas.

#### Analytical Systems Studies

- \* Assessment of Hanford Analytical Systems Capacity to Characterize Greater than 10 MR/HR Waste Materials
- \* Assessment of Sampling Systems for Hanford High Level Waste Tanks

#### **1990 to 1991: Westinghouse Hanford Company**

As manager, Irradiated Fuels Disposition Program, Mr. Ellis was responsible for identifying, planning, scheduling, and issuing engineering studies required to support an EIS on irradiated fuels disposition alternatives for the Hanford site. He authored the draft Notice of Intent to perform the fuels disposition EIS and prepared a detailed technical support document defining the scope of the fuels disposition alternatives. He was also involved in preparation of other NEPA documentation for activities such as N - Reactor fuel encapsulation and modifications to the Hanford Plutonium Finishing Plant for storage of unirradiated FTF fuel.

#### **1987 to 1990: Westinghouse Hanford Company**

PUREX/UF<sub>6</sub> Process Operations Manager: Mr. Ellis had direct line responsibility for day-to-day operation and maintenance of the PUREX and UF<sub>6</sub> Facilities. He managed a staff of over 150 operations and process engineering personnel and an annual budget in excess of 10 million dollars. While in this position, he directed a major overhaul of the PUREX FSAR and OSRs and the plant procedures that implemented the OSRs. Mr. Ellis developed a comprehensive OSR surveillance program for PUREX that assured continuous compliance with the requirements. His staff also brought the operation into compliance with state and federal environmental regulations and developed a waste management program for low level, TRU, and mixed wastes that became the model for

other Hanford facilities. This program included establishing and maintaining WIPP certification for PUREX generated TRU wastes and provided for collection, segregation, documentation, and packaging of low-level, hazardous, and mixed wastes.

#### **1984 to 1987: Rockwell Hanford Operations**

PUREX Assistant Plant Manager: Mr. Ellis was responsible for assisting the PUREX Plant manager in day-to-day operation and maintenance of the Hanford PUREX Reprocessing Facility, providing technical and operational leadership and direction to an organization of over 600 people.

#### **1983 to 1984: B. E. Incorporated**

Mr. Ellis was a founding partner in BEI, an engineering consulting firm specializing in spent fuel handling, waste management, remote mechanical systems, reprocessing technology, and safeguards. He was a member, Board of Directors and Vice-President, Fuel Cycle Services. Among the many tasks he performed while with BEI, Mr. Ellis provided expert witness testimony on decommissioning costs for the West Valley Fuel Storage Pool and assisted Rockwell-Hanford in planning and implementing the restart of the PUREX in 1983.

#### **1973 to 1983: Allied-General Nuclear Services**

Director of Operations: Mr. Ellis was responsible for the overall operation and maintenance of the Barnwell Nuclear Fuel Plant (BNFP), including spent fuel receiving systems, fuel storage and handling, headend mechanical systems, solvent extraction, and liquid waste storage. He was also responsible for the analytical laboratory and for plant engineering and maintenance. Following the corporate decision to shutdown the BNFP, directed the decontamination and decommissioning activities, including disposition of TRU wastes, natural uranium, used process solvent, and salvageable equipment.

Manager, Nuclear Materials Control: Mr. Ellis was responsible for accountability for source and special nuclear materials in the facility. He directed development, testing, and implementation of an advanced, high precision nuclear materials control and accounting system in the Separations Facility which included a computerized near-real-time accountability and process monitoring system. This system utilized plant process control instrumentation data, on-line analyses, and direct laboratory data base interface to track the movement of nuclear materials through the plant.

Project Manager for Special R&D Programs: His projects included development of safeguards criteria for ONWI, BNFP containment and surveillance assessments for Sandia Laboratory, in-plant testing of

safeguards concepts and software with LANL and ORNL personnel, and PUREX Restart Assistance for Rockwell - Hanford.

Supervisor, Separations Production Engineering Department: Mr. Ellis was responsible for development and direction of the BNFP Separations Facility checkout and startup program. Department duties included preparation of pre-operational test plans and procedures, standard operating procedure, administrative procedures, process calibrations, and cold testing of the facility using natural uranium. Assessed equipment and test performance and provided conceptual designs and project supervision for corrective modifications shown to be necessary during the test program.

#### **1968 to 1973: Atlantic-Richfield Hanford Company**

As Process control engineer in the Hanford PUREX Facility, Mr. Ellis was responsible for on-shift process evaluation and test procedure preparation. He developed plans and procedures for the PUREX Plant Shutdown/Standby Program and served as process control team leader and shift supervisor during initial testing of the Hanford Cesium-Strontium Encapsulation Facility. He also participated in 200 Area procedure audits and on the 106-T waste tank leak investigation task force.

#### **PROFESSIONAL DATA:**

Author or co-author of more than 20 papers and reports on Operational Testing and Nuclear Materials control at the Barnwell Nuclear Fuel Plant and operation of the Hanford PUREX plant.

Past Member ANS, INMM, INMM Safeguards Standards Committee, Current member, ANS Committee on Site Decommissioning Criteria

#### **AWARDS:**

INMM Meritorious Service Award - 1982



RE: 9558-N

April 28, 1995

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Mr. Samuel J. Collins, Director  
Division of Radiation Safety  
and Safeguards  
U.S. Nuclear Regulatory Commission  
Region IV  
611 Ryan Plaza Drive, Suite 400  
Arlington, TX 76011-8064

Subject: Response to Inspection Report 40-8027/95-01

References: 1. Letter, SFC to NRC, May 6, 1994, License amendment request  
2. Letter, SFC to NRC, November 23, 1994, same subject  
3. Letter, SFC to NRC, March 3, 1995, same subject

Dear Mr. Collins:

Sequoyah Fuels Corporation (SFC) would like to provide information clarifying two statements in Inspection Report 40-8027/95-01. The Inspection Report acknowledged that SFC planned to lay off two individuals filling license positions by March 3, 1995 and that a revision of SFC's organization was submitted with a letter dated March 3, 1995 (the amendment request of that date). However, the Inspection Report additionally states that "the licensee originally planned to implement its new organizational structure on March 6; however after discussions with the inspector (and the NRC Project Manager) the licensee decided to wait for NRC approval before changing its organizational structure again". The organizational structure and reporting lines described in the November 23, 1994 submittal were not changed by the March 3 revision. The changes planned on March 6 were to reassign the responsibilities for two positions contained in the November 3, 1994 submittal to other qualified members of the SFC staff as a result of staff reductions which have occurred. The inspector reviewed the re-assignment of responsibilities during his inspection and determined that the assignments were appropriate. As described below, the position requirements of SFC's current license are being satisfied by qualified personnel.

Samuel J. Collins  
April 28, 1995  
Page 2

SFC originally submitted a request to amend its organizational structure, as described in license SUB-1010, on May 6, 1994. Based on comments from the NRC staff concerning the line of reporting for the operational portion of the organization, the amendment request was revised on November 23, 1994. The amendment request was revised again by SFC on March 3, 1995 to more accurately reflect current staffing levels and facility activities.

As can be seen on the attached organization charts from the present approved license (revision dated 01/27/93) and the above identified amendment requests, the basic organizational structure has preserved the lines of reporting (although the intent of the May 6, 1994 amendment request was unclear on the lines of reporting and was subsequently revised by the November 23, 1994 request). Titles have been changed and the numbers of individuals actually identified in the license have been reduced, however the functions and responsibilities remain basically unchanged from the present license.

On February 23, 1995, I issued an internal memorandum (attached) confirming that the activities and responsibilities for all the positions identified in the present license (01/27/93 version) were assigned to SFC personnel meeting the qualifications defined in the license. This memorandum identified the current administrative titles of the personnel as well as the license position titles for which they are assigned responsibility. I did not and do not intend to deviate from the lines of reporting or personnel qualifications that are currently required by the present approved version of SFC's license.

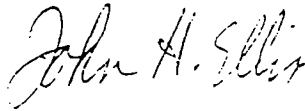
Secondly, the referenced inspection report goes on to state "SFC's implementation of its organization, as well as its proposed organization (in letter dated March 3, 1995), assigned the responsibilities for QA to the Director, Regulatory Affairs. This individual also had the environmental and health & safety managers reporting to him. Having the same individual responsible for QA oversight, as well as environmental and health & safety oversight, appeared to be a conflict of interest".

I wish to point out that the assignment of these responsibilities to a management-level position (the Director, Regulatory Affairs) does not deviate from the approach in the current license. In the 01/27/93 version of SUB-1010, Environmental, Licensing/Health Physics (i.e., health & safety) and Quality Assurance managers all report to the Vice President, Technical Services, whose functions have been assumed by the Director, Regulatory Affairs. Furthermore, I do not see this arrangement as a conflict of interest as these functions all provide oversight of the facility activities that are carried out on a day-to-day basis by the operational side of SFC's organization (D&D Projects).

Samuel J. Collins  
April 28, 1995  
Page 3

Should you have any questions concerning this letter, please call me at (918) 489-3390.

Sincerely,

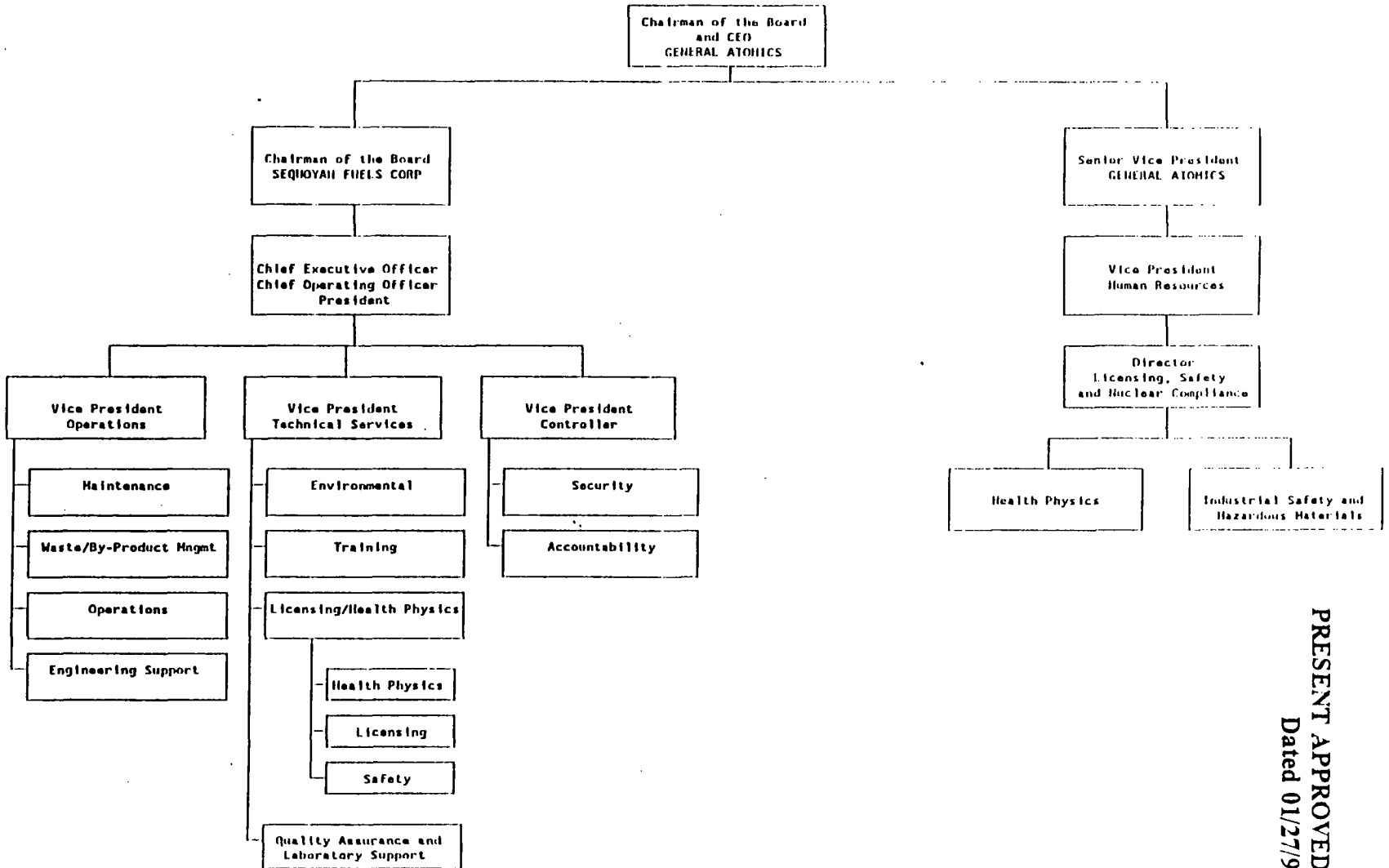


John H. Ellis  
President

Attachments (5)

cc: Diane Curran  
Maurice Axelrad  
James Wilcoxen  
James R. Edwards, GA  
SAFEST  
OK Radiation Control Program Director  
Administrative Law Judge James P. Gleason  
James C. Shepherd

SEQUOYAH FUELS CORPORATION  
Organization Chart  
Figure 2-1



PRESENT APPROVED LICENSE  
Dated 01/27/93

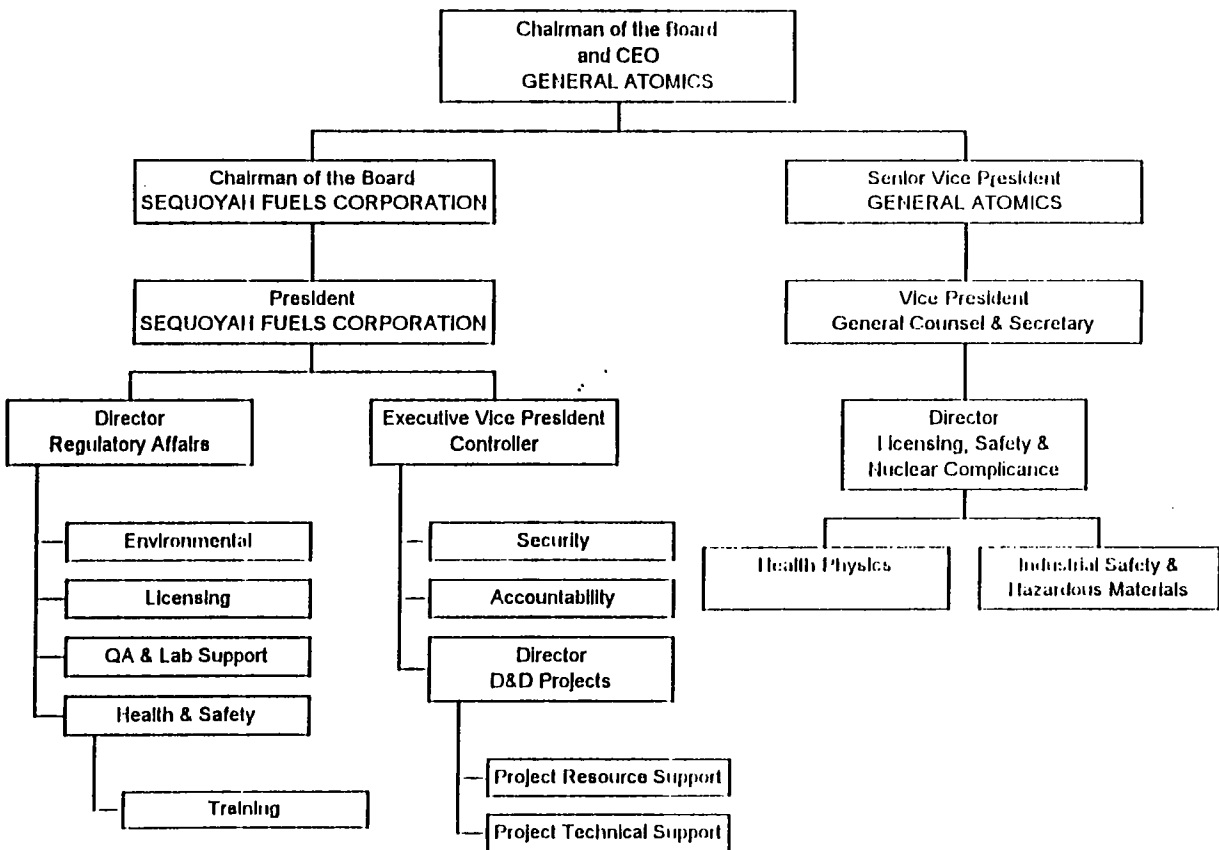
License No.  
Amend. No.

SUB-1010  
Revision

Docket No. 40-8027  
Date 01/27/93

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I. 2-6

SEQUOYAH FUELS CORPORATION  
Organization Chart  
Figure 2-1



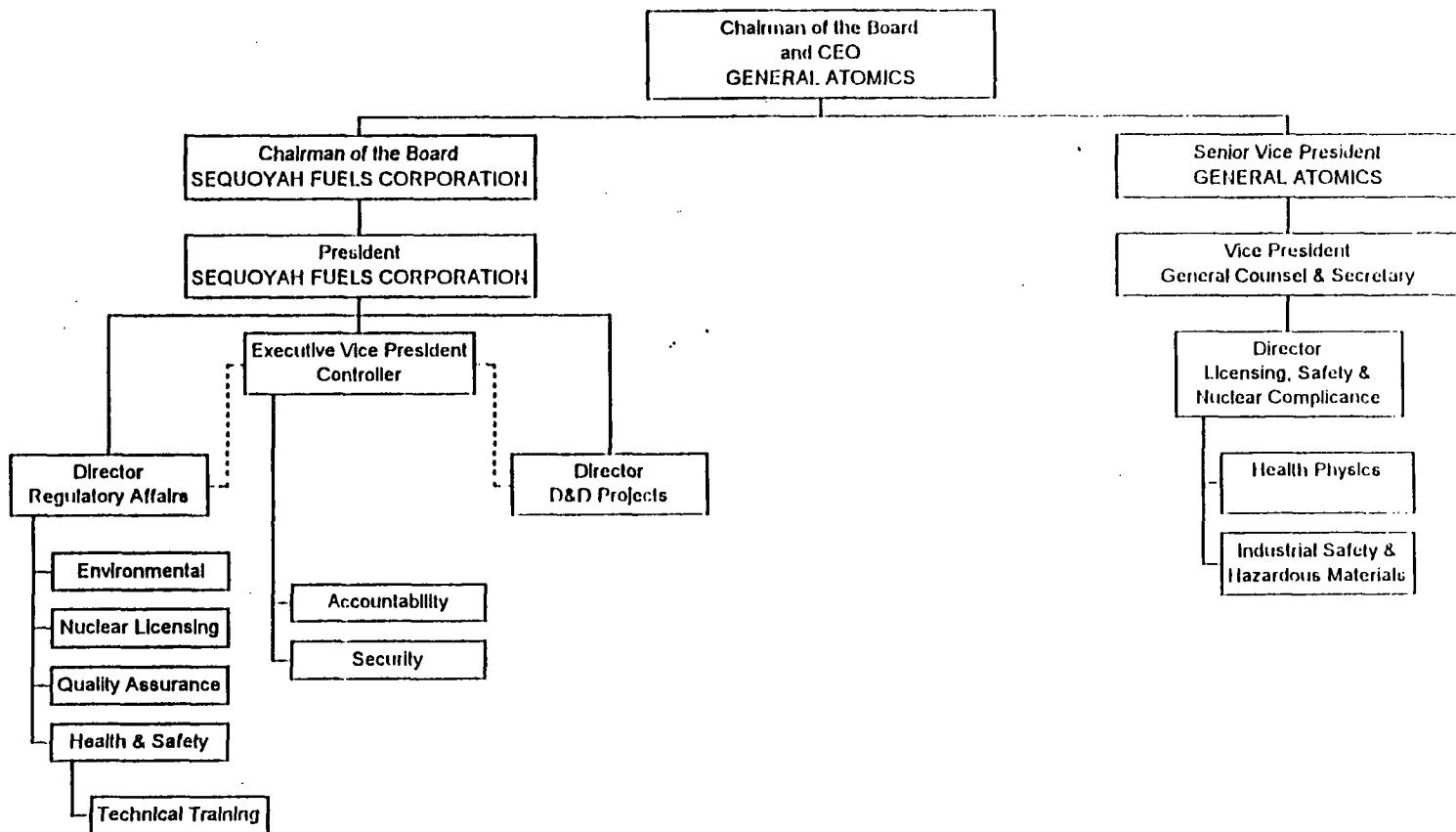
License No.  
Amend. No.

SUB-1010  
Revision

Docket No. 40-8027  
Date 05/06/94

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**SEQUOYAH FUELS CORPORATION**  
**Organization Chart**  
 Figure 2-1



LICENSE AMENDMENT REQUEST  
 Dated 11/23/94

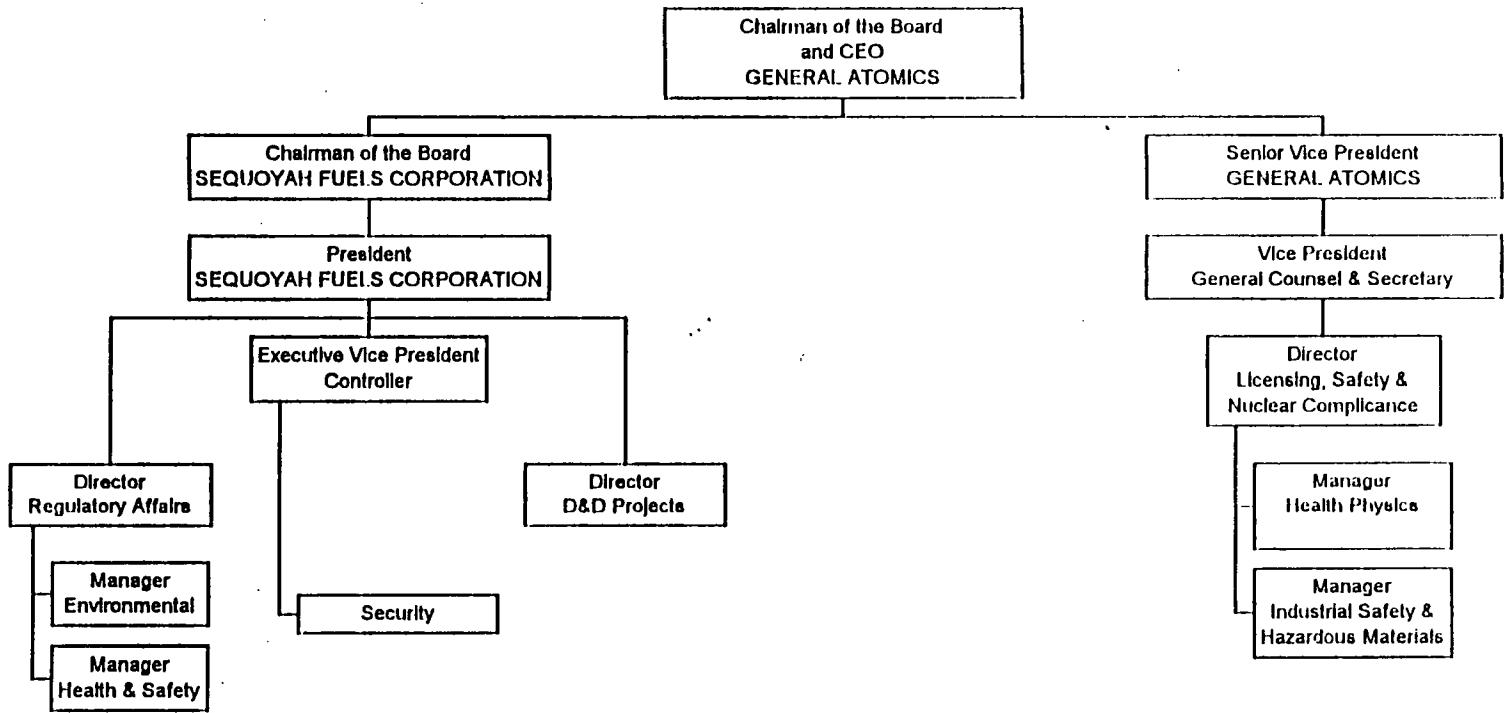
License No.  
 Amend. No.

SUB-1010  
 Revision

Docket No. 40-8027  
 Date 11/23/94

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 I. 2-5

SEQUOYAH FUELS CORPORATION  
Organization Chart  
Figure 2-1



LICENSE AMENDMENT REQUEST  
Dated 03/03/95

License No.  
Amend. No.

SUB-1010  
Revision

Docket No. 40-8027  
Date 03/03/95

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SFC INTERNAL MEMORANDUM

Dated 02/23/95

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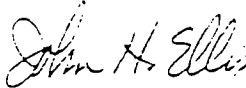
SEQUOYAH FUELS CORPORATION

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To: All Employees

Date: February 23, 1995

From: John H. Ellis



Subject: SFC Organization

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Recent staffing changes make it necessary to re-assign certain responsibilities that are specified in SFC License SUB-1010. A revision to the Organization Amendment is being prepared, and is scheduled to be submitted to the NRC by March 3, 1995. Until the time that the amendment is approved by the NRC, the following assignments of responsibility will be effective. The personnel assigned responsibility by this memo meet the qualifications for the newly assigned positions as defined in the license in Chapter 2.0.

Activities and responsibilities assigned to the Vice President, Operations shall be fulfilled by John Ellis, President, SFC.

Activities and responsibilities assigned to the Vice President, Technical Services shall be fulfilled by Craig Harlin, Director, Regulatory Affairs.

Activities and responsibilities assigned to the Vice President and Controller shall be fulfilled by Reggie Cook, Executive Vice President and Controller.

Activities and responsibilities assigned to the Manager, Operations shall be fulfilled by John Ellis, President, SFC.

Health and Safety activities and responsibilities assigned to the Manager, Licensing and Health Physics shall be fulfilled by Rob Miller, Manager, Health and Safety. Regulatory activities assigned to the Manager, Licensing and Health Physics shall be fulfilled by Craig Harlin, Director, Regulatory Affairs.

Routine environmental responsibilities and activities assigned to the Manager, Environmental shall be fulfilled by Scott Munson, Manager, Project Planning.

Quality Assurance activities and responsibilities assigned to the Manager, Quality Assurance and Laboratory Support shall be fulfilled by Craig Harlin, Director, Regulatory Affairs. Laboratory Support activities assigned to the Manager, Quality Assurance and Laboratory Support shall be fulfilled by Sonny Eidson, Supervisor, Laboratory Support.



Activities and responsibilities assigned to the Manager, Maintenance shall be fulfilled by Donald Robertson, Manager, Project Resource Support.

Activities and responsibilities assigned to the Manager, Engineering Support shall be fulfilled by John Ellis, President, SFC.

Activities and responsibilities assigned to the Manager, Waste and By-product Management shall be fulfilled by John Ellis, President, SFC.

Activities and responsibilities assigned to the Shift Supervisors shall be fulfilled by Donald Robertson, Manager, Project Resource Support.

Activities and responsibilities assigned to the Technical Training Coordinator shall be fulfilled by Rob Miller, Manager, Health and Safety.

In addition to the assignments of responsibility for the SFC organization noted above, it should be noted that there has been a change in the organization of General Atomics, which will also be included in the pending revision to the Organization Amendment. The regulatory and Health Physics responsibilities assigned to the Vice President, Human Resources will be fulfilled by the Director, Licensing, Safety, and Nuclear Compliance, who reports to the Corporate Vice President, General Counsel, and Secretary.

Please contact me or Craig Harlin if there are any questions regarding these assignments of responsibility.

The following SFC personnel acknowledge and accept the above assignments of responsibility.

John H. Ellis

Craig Harlin

Rob Miller

Reggie Cook

Donald Robertson

Sonny Eidson

Scott Munson

*John H. Ellis*  
*Craig R. Harlin*  
*Robert Miller*  
*Reggie Cook*  
*Donald Robertson*  
*Sonny Eidson*  
*Scott C. Munson*

RE: 93110-N

August 19, 1993

Mr. Robert M. Bernero, Director  
Office of Nuclear Material Safety  
and Safeguards  
U.S. NUCLEAR REGULATORY COMMISSION  
Washington, D.C. 20555

RE: License No. SUB-1010; Docket No. 40-8027  
Revised Schedule for Submittal of a  
Site Characterization Plan

Dear Mr. Bernero:

On February 16, 1993, Sequoyah Fuels Corporation (SFC) notified the NRC notification of its decision to terminate activities involving licensed materials authorized under License No. SUB-1010. That notification included as an attachment, SFC's Preliminary Plan for Decommissioning (PPCD). Section 2.0 of the PPCD stated that SFC would submit a Site Characterization Plan to NRC for its review. The schedule in Section 9 of the PPCD indicated that the Site Characterization Plan would be submitted to the NRC in the Fall of 1993. For reasons described below, SFC proposes to postpone submittal of the complete Site Characterization Plan until January 31, 1994.

On August 3, 1993, SFC entered into an Administrative Order on Consent (AOC) with the Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act (RCRA). The RCRA Facility Investigation (RFI) provisions of the AOC include information collection requirements RFI in regard to characterization of non-radioactive materials at the SFC Facility (see Section VI of EPA's AOC dated 8/3/93). These EPA information collection requirements are very similar to NRC requirements relating to characterization of radioactive materials at the SFC facility. SFC is developing a coordinated site investigation program which will satisfy the requirements of both agencies most efficiently without any wasteful duplication of documentation review, field work or analyses. In parallel with similar NRC requirements (noted below), the RFI Workplan under the AOC must apply, in site-specific detail, several voluminous EPA technical guidance documents. Soil and groundwater samples from numerous locations and depths must be obtained for both agencies. Although these samples will be analyzed for difference constituents for each agency, it will be much more efficient and economic to have single samples serving both regulatory purposes in as many locations as possible. The actions required for incorporation of EPA requirements into this coordinated site investigation

program necessitate a delay in the submittal of the Site Characterization Plan to the NRC until the equivalent plan has been prepared for submittal to EPA in accordance with the schedule in the AOC.

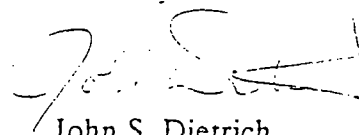
Both the AOC and the NRC's requirements for site characterization require a report describing existing conditions at the Facility. The report for EPA will focus on non-radiological conditions, while the NRC report will focus on radiological conditions. All other aspects of the reports for the two agencies will be essentially the same. Consistent with the AOC schedule, SFC will submit these reports to both the NRC and EPA by November 1, 1993, describing existing conditions at the Facility based on the extensive available information.

Also consistent with the AOC schedule, the RFI Workplan will be completed by January 31, 1994. By the same time, SFC will submit the complete Site Characterization Plan to the NRC describing the information to be collected and the plans for collecting such information as required to adequately characterize the site in support of SFC's decommissioning effort.

Development of both the complete Site Characterization Plan and the earlier report on existing conditions will consider applicable NRC guidance as appropriate. In particular, NRC's draft "Branch Technical Position on Site Characterization for Decommissioning Sites" and NUREG-5849, draft "Manual for Conducting Radiological Surveys in Support of License Termination", are being consulted.

Should you have any questions on this matter, please contact Craig Harlin of my staff at 918/489-3386.

Sincerely,



John S. Dietrich  
Vice President  
Technical Services

JSD/RHM:lh

cc: James Milhoan, Region IV



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

NOV 26 1993

RECEIVED
By _____

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

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

Dear Mr. Ellis:

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION STAFF'S REVIEW OF THE SEQUOYAH  
FUELS CORPORATION'S PRELIMINARY PLAN FOR COMPLETION OF  
DECOMMISSIONING

By letter to me dated February 16, 1993, in response to a Demand for Information, the Sequoyah Fuels Corporation (SFC) transmitted its Preliminary Plan for Completion of Decommissioning (PPCD), for its Sequoyah Facility at Gore, Oklahoma. The PPCD is a scoping document for the development of a Site Characterization Plan (SCP), a Results Report, the design of an on-site disposal cell, and a site stabilization plan. In this letter, the Nuclear Regulatory Commission staff has limited its comments on the PPCD to the SCP because the evaluation of the other aspects of the PPCD will all depend on the results contained in a site characterization report and the Environmental Report discussed below.

The NRC staff expects SFC's SCP to contain plans for characterizing all areas of the site where licensed activities occurred, and a plan for characterizing all areas possibly affected by the licensed activities, including off-site areas. The SCP should clearly identify the methods to be used to characterize all existing site conditions at the Sequoyah Facility such as: 1) the extent of all contamination within and around the site; 2) the physical characteristics of the site; and 3) hazardous chemical contamination commingled with licensed material. The guidance in NUREG/CR-5849, "Manual for the Conducting Radiological Surveys in Support of License Termination" may be helpful during the development of the SFC SCP. The staff is prepared to work with SFC in further defining the scope and content of the SCP.

The decommissioning activities outlined in the PPCD entail a decommissioning alternative that significantly departs from past staff practices and could lead to significant exposures under human intrusion scenarios at some time in the future. Preliminary review of the proposed disposal alternative indicates implementation requires an exemption from the unrestricted release requirement of 10 CFR 40.42(f). Further, authorizing a decommissioning alternative with significant onsite disposal of radioactive waste would be considered a major Federal action affecting the quality of the human environment. Consequently, SFC must submit an Environmental Report (ER) in accordance with 10 CFR 51.60. The ER submitted by SFC must provide the information specified in 10 CFR 51.45.

Mr. John H. Ellis

- 2 -

Because SFC has notified NRC that they intend to decommission the facility and seek license termination, SFC must follow, in a timely fashion, the requirements specified in 10 CFR 40.42(c)(1)(i) through (v).

If you have any questions, please contact Dr. John H. Austin of my staff, at (301) 504-2560.

Sincerely,



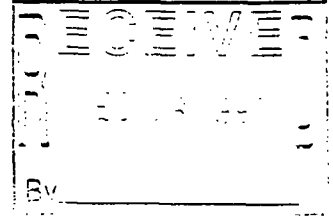
Robert M. Bernero, Director  
Office of Nuclear Material Safety  
and Safeguards

cc: Maurice Axelrad, Esq.  
Diane Curran, Esq.  
Brita Haugland-Cantrell, Esq.  
James Wilcoxon, Esq.  
Allyn Davis  
Susan Uttal, Esq.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

NOV 23 1993



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

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

Dear Mr. Ellis:

SUBJECT: SCHEDULE FOR SUBMITTAL OF THE SEQUOYAH FUELS CORPORATION SITE  
CHARACTERIZATION PLAN

This is in response to your letter dated August 19, 1993, in which you proposed a schedule for the submittal of the Sequoyah Fuels Corporation (SFC) facility Site Characterization Plan to the Nuclear Regulatory Commission that is different from the schedule provided in Section 9 of your Preliminary Plan for Completion of Decommissioning (PPCD). The reason for revising your schedule was stated to be that SFC had entered into a Consent Order Agreement with the Environmental Protection Agency (EPA), and that additional time would be required to meet the requirements for a similar characterization plan for EPA.

The EPA Consent Order appears to provide a schedule to meet the needs of both federal agencies. In order to facilitate efficiencies in the remediation of the SFC site, the NRC staff has no objection to SFC submitting a site characterization plan on the schedule in the EPA Consent Order (i.e., by January 31, 1994). However, consistent with the Site Decommissioning Management Plan process, please submit a license amendment request to reflect decommissioning activities, including milestones for submittals consistent with the schedule specified in the RCRA Consent Order. The request should also include ground water monitoring, all activities SFC is currently conducting as authorized by the current license, and any additional actions in which SFC expects to engage prior to submission of the decommissioning plan. Note that as activities progress, NRC expects further amendments to this license to be needed periodically to reflect the contemporary state of activities at the site.

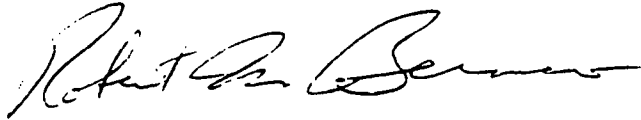
The PPCD, in addition to providing a schedule for the submittal of a site characterization plan, provides a series of proposed steps leading to license termination. The PPCD is currently under NRC review, and a response will be forwarded to you regarding that document in a separate letter.

John H. Ellis

- 2 -

If you have any questions, please contact John H. Austin of my staff at (301) 504-2560.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert M. Bernero". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Bernero".

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

cc: Diane Curran, Esq.  
Maurice Axeirad, Esq.  
Brita Haugland-Cantrell, Esq.  
James Wilcoxon, Esq.  
Allyn Davis  
Susan Uttal, Esq.

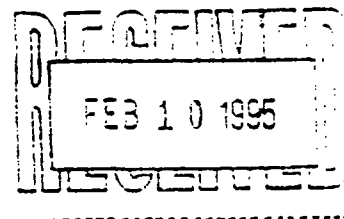


UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

Attachment 6

February 5, 1995

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



SUBJECT: SCHEDULE FOR SITE CHARACTERIZATION BY SFC

Dear Mr. Ellis:

I am responding to your concerns about the schedule for the Site Characterization Report (SCR); Sequoyah Fuels Corporation (SFC) is included in the Site Decommissioning Management Program (SDMP), thus the guidance provided in the Action Plan to Ensure Timely Cleanup of Site Decommissioning Management Plan Sites (Action Plan) is applicable to SFC. Section C.1 of the Action Plan states:

As soon as practical, but generally not later than 12 months after notification by the NRC that decommissioning is expected to commence, the licensee ... should submit to the NRC an adequate site characterization report ....

SFC stated in its letter of July 6, 1993, that SFC has ceased all production activities and intends to seek license termination. The Nuclear Regulatory Commission responded by letter dated September 1, 1993. NRC considers its September 1, 1993, response to be notification that your site is expected to be cleaned up in a timely and effective manner. In accordance with Action Plan Guidance, SFC's SCR was due in September 1994.

However, the NRC agreed to the decommissioning schedule SFC submitted to NRC in February 1993 in response to a Demand For Information. In this Preliminary Plan for the Completion of Decommissioning (PPCD), SFC committed to submit a Site Characterization Plan (SCP) at the end of the third quarter of calendar year 1993, and the preliminary SCR at the end of 1994. As a demonstration of interagency cooperation between NRC and EPA, SFC received permission to delay that schedule so that you could submit the SCP to NRC at the same time you submitted the Resource Conservation and Recovery Act (RCRA) Facility Investigation (RFI) Report to the Environmental Protection Agency (EPA). In accordance with the interagency agreement, SFC submitted the Draft RFI Workplan and the Draft SCP in January 1994. EPA has reviewed and approved the RFI Workplan, thus SFC is required to submit an RFI report to EPA in one year. The NRC has reviewed the SCP and provided comments to SFC and discussed these comments with SFC. The NRC staff believes that SFC understands the comments provided and expects that these comments will be used during SFC's preparation of its SCR.

NRC agrees with SFC that the schedule for the SCR should be parallel to that for the RFI to minimize possible redundancy and associated costs. To facilitate the effective utilization of SFC resources, and in cooperation with the EPA, NRC expects SFC to submit a draft SCR by January 15, 1996. This schedule closely parallels the schedule for the RFI, and NRC is willing to



J. H. Ellis

- 2 -

make minor adjustments to curtail any remaining schedule differences that SFC feels may lead to redundancy or additional costs.

On previous occasions, SFC has expressed concern about the lack of a signed Memorandum of Understanding (MOU) between the EPA and the NRC. I am using this letter to assure you that NRC and EPA have drafted an MOU, which has been approved by the Commission and is expected to be signed shortly, and that NRC and EPA are fully cooperating in the spirit of the draft MOU.

SFC is reminded that under Section E of the Action Plan, the NRC may establish legally binding requirements, if necessary, to ensure timely and effective remediation of SDMP sites.

Sincerely,



Malcolm R. Knapp, Director  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

Docket 40-8027  
License SUB-1010

cc:  
Maurice Axelrad, Esq.  
Diane Curran, Esq.  
Allyn Davis  
John Ellis  
Brita Haugland-Cantrell, Esq.  
Lance Hughes  
Kathy Peter  
President, S.A.F.E.S.T  
Charles Scott  
James Wilcoxon, Esq.  
Merritt Youngdeer  
Col. Otis Williams



Attachment 7

RE: 9521-N

February 17, 1995

**Certified Mail  
Return Receipt Requested**

Mr. Robert M. Bernero, Director  
Office of Nuclear Material Safety  
and Safeguards  
U.S. NUCLEAR REGULATORY COMMISSION  
Mail Stop T 8-A-23  
Washington, D.C. 20555.

Subject: License No. SUB-1010; Docket No. 40-8027, Update of  
Preliminary Plan for Completion of Decommissioning

Reference: Letter No. 94158-N from John H. Ellis to  
Robert M. Bernero dated December 30, 1994

Dear Mr. Bernero:

By letter dated February 16, 1993, Sequoyah Fuels Corporation (SFC) provided to the Nuclear Regulatory Commission (NRC) its Preliminary Plan for Completion of Decommissioning (PPCD). This plan included a preliminary schedule (Figure 9-1), an estimate of direct costs of decommissioning activities (Table 10-1), and a projection of SFC's cash flow for the years 1993 through 2003 (Table 10-2).

SFC believes that it is appropriate, after two years of actual cost experience and after performing additional preliminary cost studies on some of the decommissioning activities, that the figures and tables identified above be updated.

Figure 9-1 has been revised to provide the present status of active tasks and to reflect changes in approach. Most notably, as explained in my letter of December 30, 1994, SFC proposes to dispose of the raffinate and calcium fluoride sludges in the on-site cell rather than to ship it off-site. Figure 9-1 also takes into account longer time periods experienced for review and approval of the various work plans.

Table 10-1 has been revised to show actual expenses to date and to present revised cost estimates for many of the activities in the original submittal. Increased cost estimates for site characterization and on-site cell construction and closure account for most of the \$5.3 million increase in the estimated direct costs of decommissioning activities.

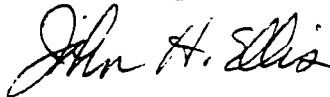
Robert M. Bernero  
February 17, 1995  
Page Two

Table 10-2 reflects the changes in schedule and cost presented in Figure 9-1 and Table 10-1, including changes in project scopes and administrative costs. It also provides the latest estimates of fees that SFC will receive from ConverDyn through the end of the decommissioning project, now estimated to take until the year 2005. Overall, Table 10-2 shows a projected decrease in revenues of about \$0.5 million and a decrease in total expenses of \$2.2 million.

As in the case of the PPCD, the attached Table 10-2 contains limited summary information concerning SFC's arrangements with ConverDyn. Detailed information concerning the projection of SFC revenues from ConverDyn is proprietary commercial and financial information, the public disclosure of which would jeopardize the competitive position of ConverDyn. Accordingly, detailed information related to ConverDyn will be submitted separately to the NRC with a request that it be withheld from public disclosure pursuant to 10 CFR 2.790(a) (4) and 9.17(a) (4).

Please let me know if you require any additional information or if the NRC would like to meet on any of these subjects at your convenience.

Sincerely,

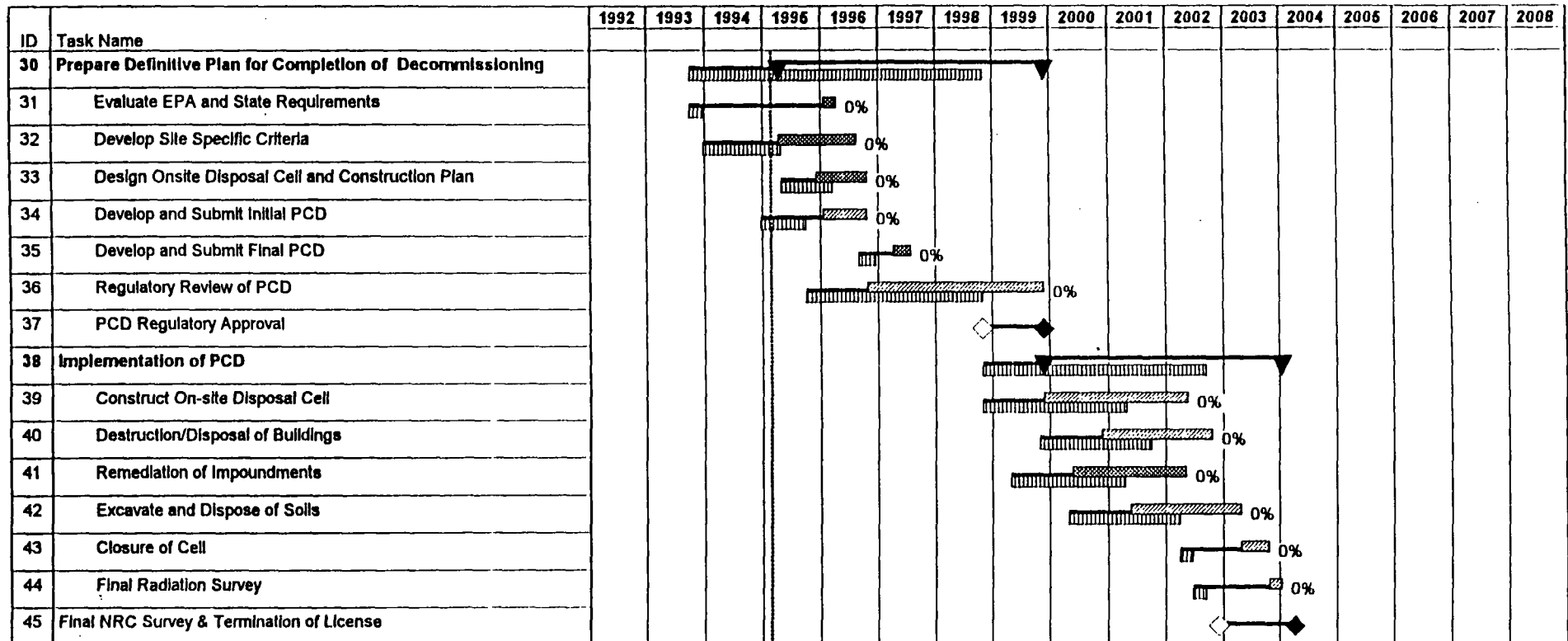


John H. Ellis  
President, SFC

cc: L. J. Callan, NRC Region IV Administrator  
George Bearpaw, Cherokee Nation  
Lance Hughes, NACE  
Mike Hebert, Project Manager, EPA

Attachments: (3)

**Figure 9-1**  
**PRELIMINARY PLAN FOR DECOMMISSIONING**  
**Revision 1**



1993 PPCD Schedule

Slippage from PPCD Schedule

1995 Revision, Critical

Critical Progress

1995 Revision, Noncritical



Noncritical Progress

Milestone, 1993 PPCD

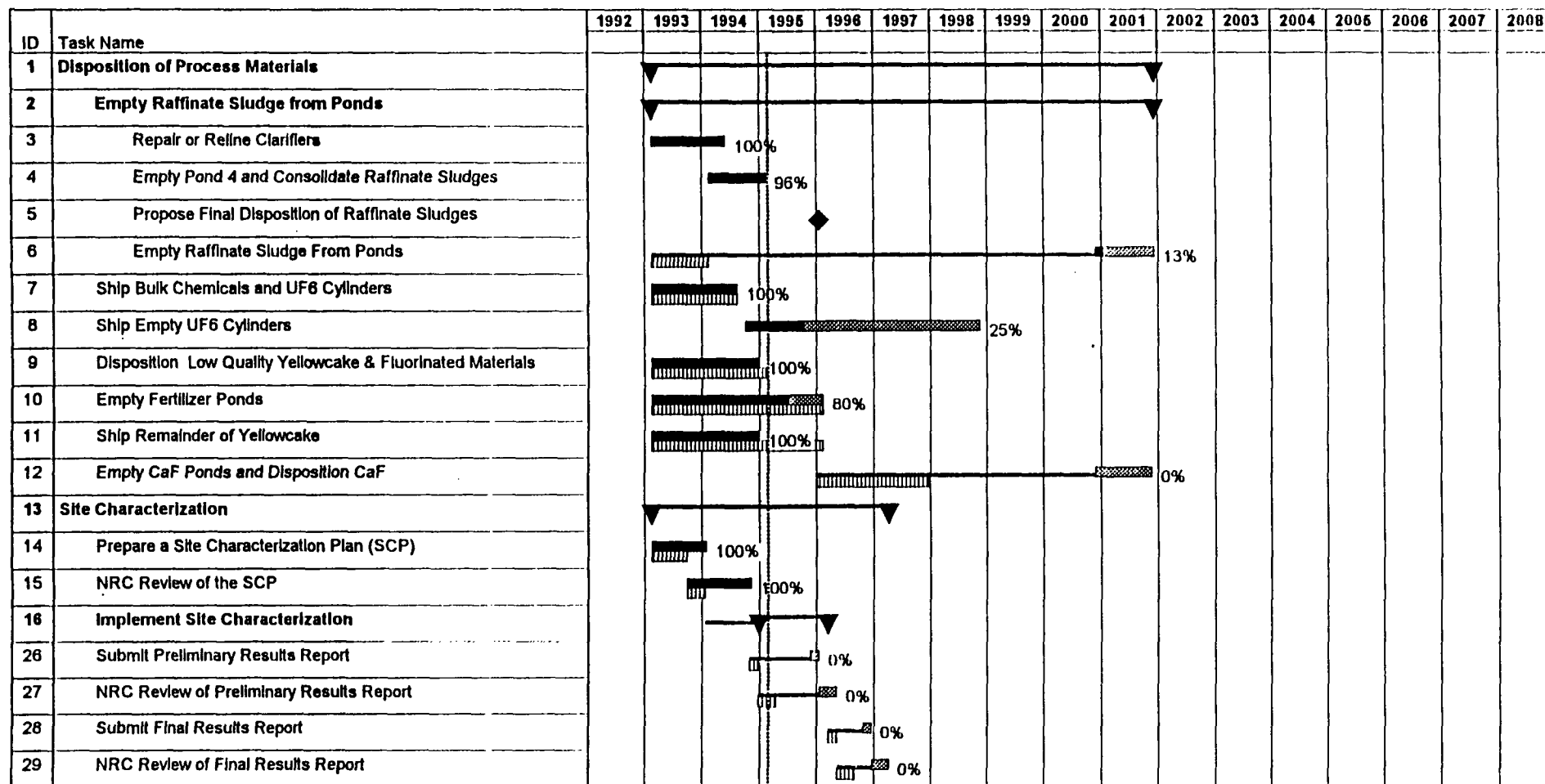
Milestone, 1995 Revision

Summary



Project: PPCD  
 Date: 2/17/95

**Figure 9-1**  
**PRELIMINARY PLAN FOR DECOMMISSIONING**  
**Revision 1**



1993 PPCD Schedule

Slippage from PPCD Schedule

1995 Revision, Critical

Critical Progress

1995 Revision, Noncritical



Noncritical Progress

Milestone, 1993 PPCD

Milestone, 1995 Revision

Summary



Project: PPCD  
 Date: 2/17/95

Table 10-1 (Revision 1)

ESTIMATED DIRECT COSTS OF ACTIVITIES RELATED TO DECOMMISSIONING  
(\$ Millions)

<u>Activity</u>	<u>Revised Cost Estimate</u>	<u>Actual Spent 93-94</u>	<u>Estimated Remaining Cost</u>
Disposition of Raffinate Sludge	3.7	1.9	1.8
Disposition of Calcium Fluoride Sludge	1.3	0.0	1.3
Disposition of Fertilizer	1.6	1.4	0.2
Shipment of Yellowcake	1.3	1.3	0
Site Characterization	1.6	0.2	1.4
Develop Decommissioning Plan	0.5	0.0	0.5
Remediate Fertilizer Ponds	0.4	0.0	0.4
Remediate Sludge Ponds	1.3	0.0	1.3
Remediate Clarifiers	0.2	0.0	0.2
Remediate Emergency Basin, North Ditch, Sanitary Lagoon	0.5	0.0	0.5
On-site Cell Construction	2.5	0.0	2.5
On-site Cell Closure	2.9	0.0	2.9
Excavate and Dispose of Contaminated Soils	2.0	0.0	2.0
Deconstruct Buildings and Equipment and Disposition	<u>4.7</u>	<u>0.0</u>	<u>4.7</u>
Total	24.5	4.8	19.7

Note: In view of the more detailed current cost estimates, no separate contingency line item has been included.

SEQUOYAH FUELS CORPORATION  
ESTIMATED CASH FLOW  
(IN MILLIONS OF DOLLARS)

Table 10 -  
Revision 1  
2/16/95

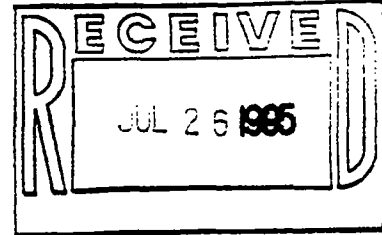
	1993 ACTUAL	1994 ACTUAL	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	TOTAL
SOME														
CONVERSION REVENUE	8,288	64	53	24	27	18	17	7	4	5	2			8,509
4 REDUCTION REVENUE	4,562													4,562
POSITION OF INVENTORY	2,034	189	202	2,000										4,425
CH REVENUE	293	235	342	200	200	200	200	200	200	200	200	200	200	2,870
IVERDYN FEES	7,386	5,098	1,433	1,444	7,618	5,631	6,470	7,143	13,539	4,736	2,831	2,831	2,665	68,825
DIAL REVENUES	22,563	5,586	2,030	3,668	7,845	5,849	6,687	7,350	13,743	4,941	3,033	3,031	2,865	89,191
IVITIES RELATED TO OMMISSIONING														
AN-UP:														
AFFINATE SLUDGE	1,633	273							1,382	461				3,749
ERTILIZER PONDS	622	780	148											1,550
AF PONDS									970	323				1,293
HIP U308/URANIUM PRODUCTS	349	901												1,250
OMMISSIONING:														
ECOMMISSIONING PLAN					500									500
ITE CHARACTERIZATION		167	422	500	500									1,589
ONSTRUCT CELL								750	1,000	750				2,500
EONSTRUCT BUILDINGS									1,783	2,350	587			4,700
EM. OF IMPOUNDMENTS								200	1,200	1,000				2,400
ISPOSE OF SOILS									250	1,000	750			2,000
CLOSURE OF CELL											1,450	1,450		2,900
I & ADMIN:														
ERSONNEL	7,617	5,878	2,576	1,800	1,800	1,800	1,800	1,800	2,800	2,800	1,800	1,800	1,800	36,071
RC LIC./FEES	1,181	208	205	265	265	265	265	265	265	265	265	265	265	4,242
AXES, INSUR. & OTHER	6,594	2,785	897	500	500	500	500	500	500	500	500	500	500	15,276
UF4 OPERATING	1,773													1,773
LANT CLEAN-OUT	1,305	(178)												1,127
RANSITION COST	283													283
TEREST (INC)/EXP	396	162	223	333	305	29	0	(111)	(264)	(396)	(252)	(171)	(137)	117
ANCH COSTS	208	105	89	29	29	29	29	29	29	29	29	29	29	692
TOTAL COSTS	21,961	11,079	4,560	3,427	3,899	2,823	2,594	3,433	9,895	9,082	5,129	3,873	2,457	84,012
SH MARGIN	602	(5,493)	(2,530)	241	3,948	3,226	4,083	3,917	3,848	(4,141)	(2,096)	(842)	408	5,179
R/DECR IN RECEIVABLES	2,289	343	50	(40)	(206)	83	8	(79)	(551)	546	71	0	14	2,528
R/DECR IN PAYABLES	3,443	895	480	200	200	(2,890)	(1,338)							992
JECTED NET CASH FLOW	6,334	(4,255)	(2,000)	401	3,940	419	2,765	3,838	3,297	(3,585)	(2,025)	(842)	422	8,699
ORE DEBT REPAYMENT														

1/ As of 12/31/94 Sequoyah Fuels debt consisted of \$2.4 million to General Atomics (not including \$1.25 million provided by General Atomics as collateral for two letters of credit held by Sequoyah Fuels) and \$10.6 million on a note to Kerr McGee Corporation. The note to Kerr McGee is collateralized and its terms are presently the subject of ongoing negotiations. Payments of principal and interest to Kerr McGee have been suspended.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

July 21, 1995



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

SUBJECT: TIMELINESS RULE

Dear Mr. Ellis:

In February 1993, Sequoyah Fuels Corporation (SFC) submitted to the Nuclear Regulatory Commission a Preliminary Plan for the Completion of Decommissioning (PPCD). The PPCD included a schedule for decommissioning of the SFC facility and site over an approximately 10-year period. By letter dated August 19, 1993, SFC requested a schedule modification to adjust the decommissioning schedule to that of the U.S. Environmental Protection Agency's (EPA) Administrative Order on Consent (AOC) of August 3, 1993. By letters from R. M. Bernero (NRC) to J. H. Ellis (SFC), dated November 26 and November 29, 1993, the NRC accepted the new schedule proposed by SFC.

In July 1994, NRC promulgated a rule for Timeliness in Decommissioning of Materials Facilities (59 FR 36026). Beginning in December 1994, the NRC informed sites listed on the Site Decommissioning Management Plan (SDMP) of the Timeliness Rule (example is enclosed). Under the provision of the revised 10 CFR 40.42 (f)(2) "The Commission may approve an alternative schedule ...." The letters of November 1993, Bernero (NRC) to Ellis (SFC) constitute NRC approval of such an alternative schedule, which is necessary for the effective conduct of decommissioning at SFC and will not pose an undue risk from radiation to the public health and safety and is in the public interest.

As you are aware, the NRC is initiating an Environmental Impact Statement (EIS) to consider impacts and alternatives associated with SFC's preferred approach for decommissioning. The development of the EIS and SFC's Environmental Report to be submitted under 10 CFR 51.60 will specifically consider potential risks to the public and environment from decommissioning the SFC facility and site. No additional action by SFC on this subject is necessary.

If you have any questions, please contact James Shepherd, NRC Project Manager



Mr. John Ellis

- 2 -

for the SFC facility at (301) 415-6712.

Sincerely,

*Michael F. Weber*

Michael F. Weber, Chief  
Low-Level Waste and Decommissioning  
Projects Branch  
Division of Waste Management, NMSS

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

Enclosure: As stated

cc: Maurice Axelrad, Esq.  
Allyn Davis  
Kathy Peter  
Charles Scott  
Merritt Youngdeer

Diane Curran, Esq.  
Lance Hughes  
President, S.A.F.E.S.T  
James Wilcoxen, Esq.  
Col. Otis Williams



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

December 21, 1994

Mr. David R. Sargent, Vice President  
Chemetron Corporation  
2100 New River Center  
200 East Las Olas Boulevard  
Fort Lauderdale, FL 33301

SUBJECT: TIMELINESS IN DECOMMISSIONING NUCLEAR MATERIALS FACILITIES AND  
PROPOSED CRITERIA FOR DECOMMISSIONING NUCLEAR FACILITIES

Dear Mr. Sargent:

I am calling to your attention two recent rulemaking actions that could significantly affect the U.S. Nuclear Regulatory Commission's regulatory framework for decommissioning licensed nuclear facilities. On July 15, 1994, the NRC published, in the Federal Register (59 FR 36026), its final rule requiring the timely decontamination and decommissioning of nuclear material facilities licensed by the Commission. The final rule amends NRC's regulations at 10 CFR Parts 30, 40, 70, and 72 to ensure that facilities possessing radioactive materials licenses that were issued pursuant to these regulations clearly understand their responsibility to decommission their facilities in a timely manner. The rule was developed because the lack of definitive criteria establishing when licensees should commence decommissioning operations has resulted in instances where NRC has had to resort to issuing orders to establish schedules for the decommissioning of nuclear materials facilities.

The rule is intended to reduce the risk to the public health and the environment from radioactive material remaining at licensed nuclear facilities for long periods of time after licensed activities have ceased. Licensees should review the new regulations for applicability to their site. NRC recognizes that, currently, some licensees may not have access to adequate disposal capacity for much, or all, of the radioactive waste generated by their decommissioning activities. In general, NRC does not anticipate that licensees will delay decommissioning because of the lack of disposal capacity and expects licensees to make every effort to dispose of their decommissioning waste at available radioactive waste disposal facilities. However, in some cases, it may be more appropriate for licensees to delay decommissioning because of unique circumstances at their facilities. In these cases, licensees should contact the NRC staff to discuss these circumstances prior to deciding whether to delay decommissioning their facility. Licensees should then provide any required notifications for alternative decommissioning schedules or waste disposal plans, or contact the NRC staff to further discuss the unique circumstances at inactive facilities.

In addition, on August 22, 1994, NRC proposed radiological criteria for decommissioning licensed nuclear facilities (59 FR 43200). NRC recognizes that the lack of definitive radiological criteria for decommissioning has acted as a disincentive to Site Decommissioning Management Plan (SDMP)

Enclosure

D. Sargent

2

reasonably achievable (ALARA). Decisions concerning residual radioactivity will continue to be made as necessary during the pendency of this rulemaking process. NRC is accepting comments on the proposed rule until January 20, 1995. The comment period has been extended from the date in the enclosed Federal Register notice to afford additional opportunity for public comment.

In order to ensure that all facilities listed on NRC's SDMP are aware of the promulgation of the final rule on decommissioning timeliness and the proposed rule on decommissioning criteria, we are enclosing copies of the Federal Register notices.

Please review the final and proposed rules and, if you have any questions, please contact me at 301-415-7299.

Sincerely,

(ORIGINAL SIGNED BY:)

Timothy C. Johnson, Section Leader  
Materials Decommissioning Section  
Low-Level Waste and Decommissioning  
Projects Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

Enclosures: As stated

Docket No. 040-08724  
License No. SUB-1357

## AGENDA

For  
SFC Public Information MeetingJune 27, 1995  
7:00-10:00 p.m.

7:00	Opening	F. K. Cameron, Facilitator
7:05	Welcome by NRC	Michael F. Weber, NRC
7:15	Overview of Process and Groundrules Introduction of Participants	F. K. Cameron, Facilitator
7:30	Overview of NRC's Role and Future Actions Concerning the SFC Site Participant Comments	Michael F. Weber, NRC
8:00	Overview of EPA's Role and Future Actions Concerning the SFC Site Participant Comments	
8:30	Open Floor for Questions and Comments from the Audience	-- All Participants
9:00	Overview of SFC's Role and Future Actions Concerning the SFC Site Participant Comments	John H. Ellis, SFC
9:30	Future Meetings	Michael F. Weber, NRC
9:45	Open Floor for Questions and Comments from Audience	All Participants
10:00	Meeting Adjourned	

# Public Meeting - SFC

6-27-95

## PUBLIC INFORMATION MEETING



SEQUOYAH FUELS FACILITY

## NRC ORGANIZATION

Commission			
EDO			
NMSS		Region IV	
Other	DWM	DRSS	Other
	Greeves, Dir.	Codomo, Dir.	
	Fairman, Dep. Dir.	Searles, Dep. Dir.	
	Weber, Sr. Chief	Cann, Sr. Chief	
	L. Bell, Sr. Lic.	Vannote, Sr. Inspr	
	Shepherd, PM		

## NRC DECOMMISSIONING REVIEW PROCESS

- Licensee Submits Site Characterization Plan
- NRC review and comment on SCP
- Licensee performs site characterization and submits Site Characterization Report
- NRC review and comment on SCR
- Licensee submits Decommissioning Plan and request for license amendment authorizing remediation
- NRC review and comment on Decommissioning Plan

## Public Meeting - SFC

6.27.95

### NRC DECOMMISSIONING REVIEW PROCESS

- NRC performs Safety Evaluation of remediation
- NRC issues license amendment authorizing decommissioning
- Licensee performs remediation activities then requests license termination
- NRC review and comment on request and survey
- NRC performs Confirmatory Survey
- License termination

### NRC DECOMMISSIONING REGULATIONS

- 10 CFR 51: Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions
- 10 CFR 40: Domestic Licensing of Source Material
- NRC's Site Decommissioning Management Plan (SDMP)
- NRC's SDMP Action Plan (April 10, 1992)
- NRC's Radiological Criteria for Decommissioning, Proposed Rule (59 FR 43200, August 22, 1994)

### SEQUOYAH FUELS FACILITY MAP

# Public Meeting - SFC

5-27-85

## SFC HISTORICAL EVENTS

- 1970: Operation started by Kerr-McGee
- 1984: UF<sub>6</sub> Release Event
- 1987: Depleted Uranium process started
- 1988: Purchase by General Atomics
- 1992: NO<sub>x</sub> release and subsequent shutdown
- 1993: 10 CFR 40.42 notification to NRC

## NRC REVIEW PROCESS AT SFC

### Remediation

Start Date	End Date	Start Date	End Date	Start Date
1/94	11/94	1/95	1/95	7/95

### EIS

Review	Approval	Approval	Approval	Approval
1/94	11/94	1/95	1/95	7/95

INVITED PARTICIPANTS - SEQUOYAH FUELS CORPORATION PUBLIC INFORMATION MEETINGS

Dr. Loren Mason  
U.S. Army Corps of Engineers  
Tulsa District  
P.O. Box 61  
Tulsa, OK 74121-0061

H.A. Caves  
Waste Management Division  
Oklahoma Department of Environmental Quality  
1000 Northeast Tenth Street  
Oklahoma City, Oklahoma 73117-1211  
Phone: (405) 271-8338  
cc: Mike Broderick at same address

Representative G.T. Stites  
State Representatives Office  
State Capitol  
Oklahoma City, OK 73105  
Phone: (405) 521-6711

Jewel Horne  
Mayor  
P.O. Box 216  
Webbers Falls, OK 74470  
Phone: (918) 464-2760

Bill Summers  
Mayor  
P.O. Box 181  
Gore, OK 74435  
Phone: (918) 489-2636

Carlotta Scarborough  
Mayor  
P.O. Box 687  
Vian, OK 74962  
(918) 773-6110

Fred Allenbaugh  
President, S.A.F.E.S.T.  
P.O. Box 98  
Gore, OK 74435  
Phone: (918) 489-5855

Bruce Tabor  
Chairman, Sequoyah County Commission  
117 S. Oak  
Sallisaw, OK 74955  
Phone: (918) 775-5539



Pat Gwin  
Office of Environmental Services  
Cherokee Nation  
P.O. Box 948  
Tahlequah, OK 74465  
Phone: 918-458-5499  
cc: Duane Beavers at same address

Dr. David Gooden  
Chairman  
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John Ellis  
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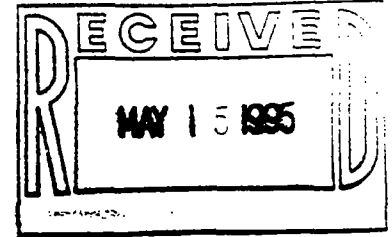
UNITED STATES  
NUCLEAR REGULATORY COMMISSION

Attachment 10

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

May 12, 1995



Sequoyah Fuels Corporation  
(Subsidiary of General Atomics)  
ATTN: John Ellis, President  
P.O. Box 610  
Gore, Oklahoma 74435

SUBJECT: NRC INSPECTION REPORT 40-8027/95-01

This acknowledges receipt of your April 28, 1995, letter in which SFC clarified its position regarding SFC's management organization. At the time of the inspection, SFC's license described an organizational structure that was designed for an operational status, and was therefore outdated. The inspectors exercised judgement in evaluating the adequacy of SFC's organization. The inspectors concluded that, based on activities ongoing at the site and planned upcoming activities, the organization appeared adequate to reasonably assure worker and public health and safety.

However, at the time of the inspection, SFC's organization was changing in that two key individuals (managers) were about to be laid off, and the responsibilities were in the process of being transferred to other individuals. SFC was developing a license amendment request, and planning to make changes to procedures. The inspectors could not (and did not) provide conclusions regarding SFC's planned changes (e.g., Quality Assurance functions) because the changes had not been developed. SFC should not construe the statements in the inspection report regarding planned changes to QA as a conclusion that SFC's plans were adequate or inadequate. NRC will reach its conclusions during the license amendment review process.

Should you have any questions concerning this inspection, we will be pleased to discuss them with you.

Sincerely,

Samuel J. Collins, Director  
Division of Radiation Safety  
and Safeguards

Docket: 40-8027  
License: SUB-1010

Sequoyah Fuels Corporation

-2-

cc:

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Oklahoma Radiation Control Program Director