



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

AE 20-2

JUN 04 1992

MEMORANDUM FOR: John Hickey, Chief
Fuel Cycle Safety Branch
Division of Industrial and Medical
Nuclear Safety, NMSS

FROM: Jesse Funches
Deputy Controller

SUBJECT: SEQUOYAH FUELS CORPORATION -- LICENSE
SUB-1010

40-8029

We are enclosing a copy of a comment letter dated May 29, 1992, on the proposed fee rule for FY 1992, filed by Swidler & Berlin, on behalf of Allied Signal, Inc. of Metropolis, Illinois. The law firm indicates that Sequoyah Fuels Corporation, a competitor of Allied and located at Gore, Oklahoma, conducts multiple activities under a single NRC license (SUB-1010).

The license authorizes activities at two facilities adjacent to each other at the Gore site. One facility is the UF_6 conversion facility. The second facility is the UF_6 reduction facility which converts depleted uranium hexafluoride (DUF_6) to depleted uranium tetrafluoride (DUF_4). The reduction facility was added to the license by Amendment No. 8 issued on March 25, 1987. Amendment No. 18, issued June 16, 1988, also authorizes the conversion as natural UF_6 to natural uranium tetrafluoride (UF_4) in the UF_6 reduction facility. Our cursory review of the Sequoyah license, SUB-1010, indicates that conditions 9, 11 and 40 of the license appear to authorize the activities as indicated.

Fee Category 2A(1) (10 CFR Part 171), is applicable to the UF_6 conversion activity and Sequoyah was assessed the applicable FY 1991 annual fee of \$683,500 which includes the LLW surcharge of \$143,500 for that category. Fee Category 2A(2) covers the possession and use of source material in recovery operations. We would appreciate NMSS review of the specific language in fee Category 2A(2), as well as the Sequoyah license, to determine whether the deconversion of DUF_6 to DUF_4 and UF_6 to UF_4 is covered by the language. For example, can the deconversion process from UF_6 to UF_4 be considered a source material recovery operation? If so, the license would also be subject to the fees of Category 2.A.(2), other facility, for FY 1991.

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John Hickey

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Swidler and Berlin has indicated that Sequoyah should be assessed a substantially larger portion of the LLW surcharge because the deconversion process poses an additional risk of spills of material which must be disposed of. They indicate that the Commission's recognition that additional activities authorized under a license should be reflected in additional fees also applies to the LLW surcharge. Please provide your comments relating to the low level waste activities.

Please provide your comments as quickly as possible but no later than noon Friday, June 12, 1992. Thank you for your assistance in this matter.

Original signed by Jesse Funches

Jesse Funches
Deputy Controller

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(57 FR 18095)

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May 29, 1992

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Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
ATTN: Docketing & Service Branch

Re: RIN 3150-AE20 (Revision of Fee Schedule)
57 Fed. Reg. 18095, April 29, 1992

Dear Sir:

We submit these comments on the above-referenced proposed rule on behalf of Allied-Signal Inc. Allied-Signal owns a uranium hexafluoride (UF₆) conversion facility at Metropolis, Illinois, which it operates pursuant to NRC Materials License No. SUB-526.

The Commission requests comments on whether it has properly applied the methodology it adopted in the rule promulgated July 10, 1991, for FY 1991 to the fees for FY 1992.

In that connection, it must be noted that in one major respect the proposed rule does not properly apply the methodology adopted for FY 1991. In the announcement of the final rule for FY 1991, the Commission stated:

For those licenses that authorize more than one activity on a single license ... annual fees will be assessed for each fee category applicable to the license." 56 Fed. Reg. at 31496 (July 10, 1991).

Sequoyah Fuels Corporation operates a UF₆ conversion plant at Gore, Oklahoma, under license from the Commission. Under this license Sequoyah also deconverts UF₆ tails to UF₆ at this facility. The Commission's explanation of its application of the rule contemplates that an additional fee will be assessed on Sequoyah for those additional activities. The proposed fee for FY 1992, however, does not do so, and thus is inconsistent with the methodology adopted by the Commission in 1991. Because Sequoyah operates multiple activities under a single license and Allied-Signal does not, a substantially larger share of the \$848,000 in budgeted costs allocated to UF₆ converters should be assessed to Sequoyah than to Allied-Signal.

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For the same reason, Sequoyah should be assessed a substantially larger portion of the LLW surcharge. The deconversion process poses an additional risk of spills of radioactive materials which must be disposed of. This has in fact occurred at Sequoyah's deconversion plant. The Commission's recognition that additional activities authorized under a license should be reflected in additional fees applies to the LLW surcharge. Under the Commission's explanation of the methodology of the rule, the \$310,200 of LLW disposal generic activities allocated to the UF₆ converters should not be allocated equally; Sequoyah should pay a substantially larger amount than Allied-Signal to account for its multiple activities giving rise to greater waste generation.

Allied-Signal wishes also to incorporate the points it has previously brought to the attention of the Commission relating to the methodology adopted by it in 1991 and applied to the FY 1992 fees, namely that:

1. The uranium hexafluoride converters compete in an international market with foreign government converters who are not subject to the fee. Because of this competition and the price sensitivity of those who contract for conversion services, it may be not possible for the American converters to pass on the cost of the Commission's fee to their customers. Imposing the fee on them, therefore, is not fair and equitable, and would not permit the cost of the fee to be spread as broadly as practicable. It is contrary to what Congress intended in authorizing imposition of the fee on non-power reactor licensees.

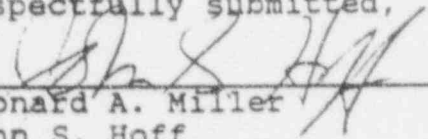
2. It is not fair and equitable, and is contrary to the intent of Congress, to assess the UF₆ converters a fee that is larger than that assessed against the uranium mills. The converters deal with uranium in the same state as the mill operators and thus are subject to a level of safety regulation comparable to that posed on the mill operators.

3. Imposing an equal fee on the two uranium hexafluoride converters is not fair and equitable and violates Congress' intent that licensees who require the greatest expenditures of the agency's resources should pay the greatest annual charge. The Commission is required to spend substantially more time and effort on regulation with respect to Sequoyah's plant than it is on Allied-Signal's. Congress determined that the Part 171 fees should be assessed on non-nuclear power reactor licensees if this could be done fairly and equitably and if the fees were assessed by the Commission so that licensees "who require the greatest

expenditures of the agency's resources should pay the greatest annual charge." It is improper to assess the two converters equally for unequal regulatory effort by the Commission.

4. For the same reasons, the LLW surcharge should not be assessed equally on Sequoyah and Allied-Signal. Sequoyah disposes of substantially more low level radioactive waste than Allied-Signal does. In 1991, Allied-Signal disposed of 1144 cubic feet of LLW generated by Metropolis. Allied-Signal calculates that Sequoyah's facility disposed of 17,000 cubic feet of LLW during the same period. In light of Congress' intent that the Part 171 fees be allocated so that licensees who require the greatest expenditure of Commission resources pay the largest charge, the LLW surcharge should reflect the difference in the volume of waste disposal between Sequoyah and Allied-Signal. Sequoyah receives far greater benefit from the Commission's generic activities concerning LLW disposal than does Allied-Signal, and this should be proportionately reflected in the LLW surcharge imposed on the two licensees.

Respectfully submitted,



Leonard A. Miller
John S. Hoff

Attorneys for Allied-Signal Inc.