

RE: 9681-N

October 3, 1996

**Certified Mail  
Return Receipt Requested**

Mr. Michael F. Weber, Chief  
Low-Level Waste and Decommissioning  
Projects Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Subject: License SUB-1010; Docket No. 40-8027  
Letter Dated July 26 1996, M.F. Weber to J.H. Ellis

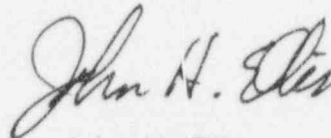
Dear Mr. Weber:

In a letter dated July 26, 1996, you requested that Sequoyah Fuels Corporation (SFC) modify the executed escrow agreement with Bank IV submitted on June 7, 1996. In addition to text changes in the escrow agreement, you also requested that SFC modify the agreement to reflect Boatman's First National Bank as the new escrow agent, replacing Bank IV. Enclosed are two (2) executed copies of the modified escrow agreement with the requested changes incorporated.

*1 copy  
1 copy*

Should you have any questions, please contact Craig Harlin at (918) 489-3386, or me at 489-3390.

Sincerely,



John H. Ellis  
President

*NL10%*

Enclosures: As stated

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PDR ADOCK 04008027  
C PDR

Mr. Michael F. Weber

October 3, 1996

Page 2

XC: James C. Shepherd, NRC NMSS/LLDR (w/o Enclosures)  
Al Gutterman, Morgan, Lewis & Bockius (w/Enclosures)  
Pat Gwin (w/o Enclosures)

## Escrow Agreement

Account Number 60-02-300-4091600

### 1. Establishment of Escrow Account

It is agreed between the parties that Sequoyah Fuels Corporation ("SFC"), Licensee, has elected to establish an escrow account with Boatmen's First National Bank of Oklahoma, P.O. Box 2360, Tulsa, OK 74101-2360 (herein "Escrow Agent") to provide financial assurance for decommissioning of the facility in the amounts shown below:

Sequoyah Fuels Corporation  
I-40 and Highway 10  
Gore, OK 74435

NRC License #: SUB-1010

Amount Escrowed: \$750,000.00 cash, in an interest bearing account

### 2. Description of Property in Escrow Account

It is hereby acknowledged that \$750,000.00 in cash has been delivered to escrow and will remain in an interest-bearing escrow account created by this Agreement until one of the three conditions stated in Section 3 of this Agreement has been satisfied.

SFC warrants to and agrees with Escrow Agent that, unless otherwise expressly set forth in this Agreement: there is no security interest in the property in the escrow account or any part thereof; no financing statement under the Uniform Commercial Code is on file in any jurisdiction claiming a security interest in or describing (whether specifically or generally) the escrow account or any part thereof; and the Escrow Agent shall have no responsibility at any time to ascertain whether or not any security interest exists or to file any financing statement under the Uniform Commercial Code with respect to the escrow account or any part thereof.

### 3. Conditions of Escrow Agreement

The property described in Section 2, above, will remain in the escrow account created by this Agreement until one of the three following conditions has been satisfied:

1. The decommissioning activities required by 10 CFR 40 have been completed, the license has been terminated, the facility site is released by the United States Nuclear

Regulatory Commission (the "NRC"), and the escrow account has been terminated by joint notice in writing, from SFC and the NRC; or

2. The NRC has approved in writing, the release of funds to pay for decommissioning costs; or

3. Escrow Agent has been notified by the NRC, in writing, that SFC has defaulted on the agreed obligation to carry out the decommissioning for the above listed facility.

4. Disbursement of Principal in Escrow Account

The Escrow Agent shall make principal payments from the escrow account upon the presentation of a certificate duly executed by the President of SFC attesting to the occurrence of the events, and in the form set forth in the attached Specimen Certificate, and upon presentation of a certificate attesting to the following conditions:

1. Decommissioning is proceeding according to an NRC-approved plan;
2. The funds withdrawn will be expended for activities undertaken pursuant to that plan; and
3. The NRC has been given 30 days prior notice of SFC's intent to withdraw principal funds from the escrow account.

No withdrawal of principal from the account can exceed \$75,000.00 unless NRC approval is attached.

Upon Escrow Agent's receiving written notification of SFC's default from the NRC, Escrow Agent shall make payments from the escrow account as the NRC shall direct, in writing, to provide for the payment of the costs of the required decommissioning activities covered by this Agreement. Escrow Agent shall reimburse the licensee or other persons as specified by the NRC in such amounts as the NRC shall direct in writing. Upon refund, such refunds shall no longer constitute part of the escrow account as specified in Section 2, above.

5. Disbursement of Interest Earned by Escrow Account

Interest earned by the escrow account shall be paid by Escrow Agent directly to SFC on a regular basis but not less often than ten (10) days following the end of each calendar quarter, provided however that interest shall not be paid if and to the extent that the fair market value of the escrow account, valued within ten (10) days of the date of proposed distribution, is less or would become less than the amount then required to be maintained for decommissioning purposes.

6. Irrevocability

It is also agreed between the parties that this escrow become irrevocable upon delivery to Escrow Agent, and will remain irrevocable and in full force and effect until the occurrence of one of the events described in Section 3, above.

7. Powers of the Escrow Agent

The only powers and duties of Escrow Agent shall be to hold the escrow property in an interest-bearing account, and to invest and dispose of it in accordance with the terms of this Agreement.

Escrow Agent shall have no responsibility to determine that any work for which payment is directed was necessary, or has been properly done, or to see to the application or use of such funds by the payee, or to make any determination that the escrowed funds are adequate for the intended purpose.

8. Escrow Account Management

Escrow Agent shall maintain the principal in an interest-bearing account, in accordance with the general investment policies and guidelines which SFC may communicate in writing to Escrow Agent from time to time, subject, however, to the provisions of the escrow account. Escrow Agent shall discharge its duties with respect to the escrow account solely in the interest of the NRC and with the care, skill, prudence, and diligence, under the circumstances then prevailing, that persons of prudence, acting in like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims; except that:

- a. Securities or other obligations of SFC, or any other owner or operator of the licensed facility, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.W. C. 80A-2(a)(3), shall not be acquired or held unless they are securities or other obligations of the Federal Government; and
- b. Escrow Agent is authorized to invest the escrow account in time or demand deposits to the extent insured by an agency of the Federal Government or in obligations issued by the Federal Government.

9. Express Power of the Escrow Agent

Without in any way limiting the powers and discretion conferred upon Escrow Agent by other provisions of the is Agreement or by law, Escrow Agent is expressly authorized and empowered to:

- a. Deposit any cash in the escrow account in interest-bearing accounts or savings certificates to the extent insured by an agency of the Federal Government or invest in obligations issued by the Federal Government.
- b. Pay taxes, from the account, of any kind that may be assessed or levied against the account and all brokerage commissions incurred by the escrow account.

10. Annual Valuation

After delivery has been made into this escrow account, Escrow Agent shall annually, at least 30 days before the anniversary date of receipt of the property into the escrow account, furnish to SFC and to the NRC, a statement confirming the value of the escrow account. Any securities in the account shall be valued at the market value as of no more than 60 days before the anniversary date of the establishment of the escrow account. The failure of SFC to object in writing to Escrow Agent within 90 days after the statement has been furnished to SFC shall constitute a conclusively binding assent by SFC, barring SFC from asserting any claim or liability against Escrow Agent with respect to the matters disclosed in the statement.

In addition the Escrow Agent shall furnish to SFC and the NRC a statement confirming the valuation of the escrow account at least ten (10) days prior to any proposed distribution of interest to SFC.

11. Successor Escrow Agent

Upon 90 days prior notice to the NRC and SFC, Escrow Agent may resign or upon 90 days written notice to the NRC and the Escrow Agent, SFC may replace Escrow Agent provided that such resignation or replacement is not effective until SFC has appointed a successor escrow agent and this successor accepts the appointment. The successor escrow agent shall have the same powers and duties as those conferred upon the Escrow Agent under this Agreement. Upon the successor's acceptance of the appointment, Escrow Agent shall assign, transfer and pay over to the successor the escrow account. If for any reason SFC cannot or does not act in the event of the resignation of Escrow Agent, Escrow Agent may apply to a court of competent jurisdiction for the appointment of a successor or for instructions. The successor escrow agent shall specify the date on which it assumes administration of the escrow account in a writing sent to SFC, the NRC, and the current escrow agent by certified mail 10 days before the change becomes effective. Any expenses incurred by Escrow Agent as a result of any of the acts contemplated by this paragraph shall be paid as provided in Section 13 of this Agreement.

12. Instructions to the Escrow Agent

All orders, requests, and instructions from SFC to the Escrow Agent shall be in writing, signed by such persons as are signatories to this Agreement, or such other designees as SFC or



the NRC may designate in writing. All orders, requests, and instructions from the NRC shall be in writing, signed by the designees of the NRC. Escrow Agent shall be fully protected in acting in accordance with such orders, requests, and instructions. Escrow Agent shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of SFC or the NRC under this Agreement has occurred. Escrow Agent shall have no duty to act in the absence of such orders, requests, or instructions from SFC and/or the NRC, except as provided in this Agreement.

13. Compensation and Expenses of the Escrow Agent

The fee of Escrow Agent for its services in establishing the escrow account shall be \$2,500.00, payable at the time of the execution of this Agreement, to be borne by SFC.

The fee of the Escrow Agent for its services in administering the escrow account on an ongoing basis shall be an annual fee of \$2,500.00, payable semi-annually. The Escrow Agent may charge an additional fee for extraordinary services.

Expenses of Escrow Agent for the administration of the escrow account, the compensation of Escrow Agent for services subsequent to the establishing of the escrow account to the extent not paid directly by SFC, and all other proper charges and disbursements shall be paid from the escrow account.

14. Disputes

In the event of a dispute as to the disposition of funds remaining in the escrow account, Escrow Agent shall have the right to file an interpleader action in a state or federal court sitting in Muskogee County, Oklahoma, and to, and to deposit the escrow fund balance into the registry of such court for resolution. Escrow agent shall notify the NRC of any such action by certified mail, return receipt requested, at or prior to the time that any interpleader actions are filed. Upon such deposit Escrow Agent shall be discharged and released from any further duties or responsibilities with regard to such funds or the escrow agreement. Escrow Agent shall recover the reasonable costs incurred in such an action including attorneys' fees.

15. Amendment of this Agreement

This Agreement may be amended by an instrument in writing executed by SFC and Escrow Agent provided that SFC has given 30 days prior notice to the NRC.

16. Termination

This Agreement can be terminated by written notice of termination to Escrow Agent signed by SFC and the NRC, or by the NRC alone if SFC has ceased to exist.

17. Interpretation

This Escrow Agreement constitutes the entire agreement between SFC and Escrow Agent. Escrow Agent shall not be bound by any other agreement or contract entered into by SFC and the only documents that may be referenced in case of ambiguity in the Escrow Agreement are the NRC regulations and the license between SFC and the NRC, or its successor.

18. Acceptance of Appointment by Escrow Agent

Escrow Agent does hereby acknowledge its appointment by SFC, to serve as escrow agent for the escrow account created under this Agreement and agrees to carry out its obligations and duties as stated in this Escrow Agreement.

19. Severability

If any part of this Agreement is invalid, it shall not affect the remaining provisions that will remain valid and enforceable.

20. Effectiveness

This Agreement shall not become effective (and Escrow Agent shall have no responsibility hereunder except to return the escrow property to SFC) until Escrow Agent shall have received the following and shall have advised SFC in writing that the same are in form and substance satisfactory to Escrow Agent:

Certified resolution of SFC's Board of Directors authorizing the making and performance of this Agreement;

Certificates as to the name and specimen signatures of SFC's officers or representatives authorized to sign this Agreement and notices, instructions, or other communications hereunder.

21. Notices

Notices may be sent to the below-listed parties as follows:

Sequoyah Fuels Corporation  
I-40 and Highway 10  
Gore, OK 74435  
ATTN: President



Boatmen's First National Bank of Oklahoma  
P.O. Box 2360  
Tulsa, OK 74101-2360  
ATTN: Corporate Trust

United States Nuclear Regulatory Commission  
Washington, DC 20555  
ATTN: Branch Chief  
Low Level Waste and Decommissioning Projects Branch  
Division of Waste Management  
Office of Nuclear Material Safety and Safeguards

This Agreement is executed on the dates set forth herein below.

BOATMEN'S FIRST NATIONAL BANK  
OF OKLAHOMA

By: Camilla J. Lindsey  
Camilla J. Lindsey  
Trust Officer  
Date: 10/1/96

SEQUOYAH FUELS CORPORATION

By: Reggie Cook  
Name: Reggie Cook  
Title: Executive VP - Controller  
Date: 10/1/96

ACKNOWLEDGEMENT

STATE OF OKLAHOMA

COUNTY OF MUSKOGEE

This instrument was acknowledged before me on 10/1/96 by Camilla J. Lindsey as Trust Officer of Boatmen's First National Bank of Oklahoma.

Stephannie Mulley  
Notary Public

My commission expires: 11-1-97

STATE OF OKLAHOMA

COUNTY OF ~~MUSKOGEE~~ MUSKOGEE

This instrument was acknowledged before me on 10/1/96 by Reggie Cook as Executive Vice President of Sequoyah Fuels Corporation.

Stephannie Mulley  
Notary Public

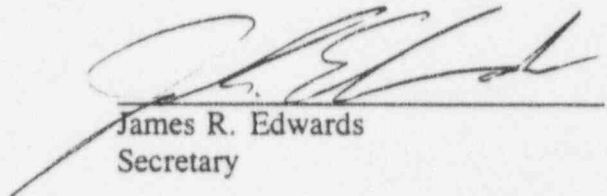
My commission expires: 11-1-97

SEQUOYAH FUELS CORPORATION

CERTIFICATE OF RESOLUTION

I, James R. Edwards, do hereby certify that I am Secretary of Sequoyah Fuels Corporation, a Delaware corporation, and that the resolution listed below was duly adopted at a special meeting of the Corporation's Board of Directors on September 6, 1996.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of this Corporation this 6th day of September, 1996.



James R. Edwards  
Secretary

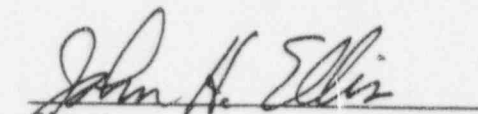
RESOLVED, that this Board of Directors hereby authorizes the President, or such other employee of the Company as he may designate, to enter into an escrow agreement with Boatmen's First National Bank of Oklahoma, substantially in accordance with the terms and conditions as the President shall approve with and upon the advice of counsel.

SEQUOYAH FUELS CORPORATION

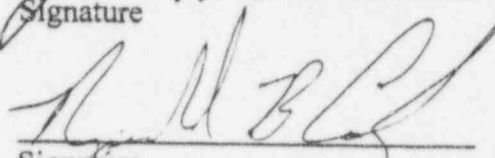
CERTIFICATE OF AUTHORIZED SIGNATORIES

Sequoyah Fuels Corporation ("SFC") hereby certifies that the following persons, and no others, are authorized to sign the Escrow Agreement, by and between SFC and Boatmen's First National Bank of Oklahoma pertaining to decommissioning of the Sequoyah Fuels facility at Gore, Oklahoma, NRC License # SIB-1010, and to sign any notices, instructions, orders, requests, or other communications under the Escrow Agreement:

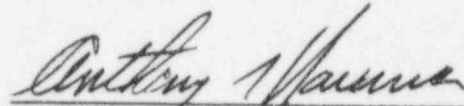
John H. Ellis  
President and Chief Operating Officer

  
Signature

Reginald B. Cook  
Executive Vice President,  
Controller & Assistant Secretary

  
Signature

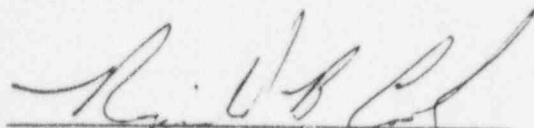
Anthony G. Navarra  
Treasurer


  
Signature

This certificate may be amended only by written instrument delivered to Boatmen's First National Bank of Oklahoma at the address indicated in the Escrow Agreement.

Attest:

SEQUOYAH FUELS CORPORATION

  
Reginald B. Cook  
Assistant Secretary

By:   
James R. Edwards  
Secretary

SPECIMEN CERTIFICATE OF EVENTS

Boatmen's First National Bank of Oklahoma  
P.O. Box 2360  
Tulsa, OK 74101-2360

Attention: Corporate Trust

In accordance with the terms of the Agreement with you dated \_\_\_\_\_, 1996,  
I, \_\_\_\_\_, as Secretary of Sequoyah Fuels Corporation, hereby certify that  
the following events have occurred:

1. Sequoyah Fuels Corporation is required to commence decommissioning of its facility at Gore, Oklahoma (hereinafter called the decommissioning).
2. The plans and procedures for the commencement and conduct of the decommissioning have been approved by the United States Nuclear Regulatory Commission, or its successor, on \_\_\_\_\_ (copy of approval attached).
3. The Board of Directors of Sequoyah Fuels Corporation has adopted the attached resolution authorizing the commencement of the decommissioning.

\_\_\_\_\_  
Secretary of Sequoyah Fuels Corporation

\_\_\_\_\_  
Date

SEQUOYAH FUELS CORPORATION

SPECIMEN CERTIFICATE OF RESOLUTION

I, James R. Edwards, do hereby certify that I am Secretary of Sequoyah Fuels Corporation, a Delaware corporation, and that the resolution listed below was duly adopted by unanimous written consent of the Corporation's Board of Directors on \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of this Corporation this \_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
James R. Edwards  
Secretary

RESOLVED, that this Board of Directors hereby authorizes the President, or such other employee of the Company as he may designate, to commence decommissioning activities at Sequoyah Fuels in accordance with the terms and conditions described by the Board of Directors at this meeting and with such other terms and conditions as the President shall approve with and upon the advice of counsel.