



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

December 14, 1998

MEMORANDUM TO: Domonick A. Orlando, Project Manager
LLW & Regulatory Issues Section
Low-Level Waste and Decommissioning
Projects Branch, DWM/NMSS

FROM: Louis M. Bykoski, Sr. Project Manager
Facilities Decommissioning Section
Low-Level Waste and Decommissioning
Projects Branch, DWM/NMSS

Louis M. Bykoski

SUBJECT: THE OFFICE OF GENERAL COUNSEL AND CONTRACTOR
COMMENTS ON NONSTANDARD FINANCIAL ASSURANCE
SUBMITTALS

Our contractor, ICF Incorporated (ICF), and Office of General Counsel (OGC) have reviewed and provided comments on the BWX Technologies, Inc. nonstandard financial assurance submittal sent to us for review.

The ICF comments are presented in two parts. The first part deals with specific recommendations to current deficiencies. The second part (Other issues) provides a discussion of changes to the standard wording that are acceptable and are not considered to be deficiencies. The OGC comments may include additional deficiencies that need to be corrected by the licensee and comments for our internal use.

You should carefully review the comments before preparing the deficiency letter. We have attached more specific information to help you sort and consolidate the ICF and OGC comments.

Attachments: As stated

CONTACT: L. Bykoski, NMSS
301-415-6754

S. Lewis, OGC
301-415-1684

B/10



CONSULTING GROUP

ICF Incorporated
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703/934-3000 Fax 703/934-3740

November 18, 1998

To: Dr. Lou Bykoski, NMSS/NRC

From: Matt Borick and John Collier, ICF Incorporated

Subject: Review of Letter of Credit Submitted by BWX Technologies, Inc.

BWX Technologies, Inc. in Vandergrift, Pennsylvania, submitted a decommissioning funding plan (DFP), using a letter of credit in the amount of \$11,000,000. The submitted letter of credit is intended to replace two existing letters of credit, one from The Bank of Nova Scotia in the amount of \$2,000,000 and one from J.P. Morgan in the amount of \$8,000,000, and addresses license SNM-414 issued under 10 CFR Part 70. The submission also includes a revised Schedule A to the licensee's standby trust agreement covering license SNM-414 (as well as license SNM-42).¹

This review addresses the licensee's current financial assurance mechanism but does not address any issues concerning the adequacy of the \$11,000,000 financial assurance amount for license SNM-414, or amounts assured for other licenses held by the licensee. Upon review of the current submission, ICF recommends that NRC accept the letter of credit because it complies with the requirements specified in NRC's *Regulatory Guide 3.66* "Standard Format and Content of Financial Assurance Mechanisms Required For Decommissioning Under 10 CFR Parts 30, 40, 70, and 72" (June 1990).

Other Issues

Apart from editorial and non-substantive changes to the standard wording provided in *Regulatory Guide 3.66*, the following modifications are noteworthy:

- (a) The licensee's address listed in the submitted letter of credit differs from the addresses listed in the cover letter to the submission and in the revised Schedule A. This discrepancy should not reduce the effectiveness of the letter of credit, however, because the licensee's address is not an important provision of the wording.

¹ ICF has previously reviewed a number of other submissions from the licensee, several of which addressed license SNM-414. ICF reported recommendations to NRC relating to these submissions in memoranda dated November 13, 1990, December 5, 1991, July 26, 1993, December 17, 1993, February 3, 1994, March 7, 1995, March 10, 1995, and February 7, 1996.

**APPENDIX A
CHECKLIST FOR DECOMMISSIONING FINANCIAL ASSURANCE**

NAME OF LICENSEE OR APPLICANT

BWX Technologies, Inc. (B & W Services Inc.)

MAILING ADDRESS

R.D. 1 Box 355

Vandergrift, PA 15690

A. Licensee Part (check one of the following):

- Part 30 Licensee or Applicant Part 70 Licensee or Applicant
 Part 40 Licensee or Applicant Part 72 Licensee or Applicant

B. Check appropriate item in each category (if applicable)

1. July 29, 1998 Date of Financial Assurance Submission *Issue date. 7/21/98*
Effective date. 7/21/98
Expiration date. 8/15/99
with automatic 1-yr. extensions
2. Public Entity
 Private Entity
3. Certification of Financial Assurance
 Decommissioning Funding Plan *NO Cost estimate included!*
\$11,000,000.
4. (a) Prepayment Option (See Appendix B)
 - Trust Fund
 - Escrow Account
 - Certificate of Deposit
 - Government Fund
 - Deposit of Government Securities
- (b) Surety/Insurance/Other Guarantee (See Appendix C)
 - Surety bond
 - Letter of Credit *\$11,000,000.*
 - Line of Credit
 - Parent Company Guarantee/Financial Test*
- (c) External Sinking Fund, Sinking Account and Surety/Insurance (See Appendix D)
 - Trust Fund
 - Escrow Account
 - Certificate of Deposit
 - Government Fund
 - Deposit of Government Securities
 - Surety Bond
 - Letter of Credit
 - Line of Credit
- (d) Statement of Intent (public entities only)

*May not be used in combination with any other instrument.

EXHIBIT 3-7

CHECKLIST OF CRITERIA FOR REVIEW OF LETTERS OF CREDIT

- Copy of corporate by-laws or other evidence indicating that parties signing the financial instrument (for the applicant) are authorized to represent the organization in the transaction.
Not applicable
- Evidence that the financial instrument is an originally signed duplicate (e.g., an executed copy of the instrument).
NBC to check
- Evidence that the financial institution is regulated by Federal or State agency (e.g., member of FDIC, Federal Reserve System, etc.).
NO
- The instrument must be entitled a ^{irrevocable} letter of credit.
✓
- The letter should be limited in amount.
✓
- The letter of credit must contain a specified expiration date or be written for a definite term.
✓
- The issuer's obligation to pay the beneficiary should arise only upon presentation of a draft or other documents specified in the letter of credit.
✓
- The bank must not be called upon to determine a question of fact or law at issue between the licensee and the Commission or State regulatory agency.
✓
- The licensee should have an unqualified obligation to reimburse the issuer for payments made under the letter of credit.
✓
- The letter of credit must be payable to a standby trust.
✓

MEMO TO: Louis M. Bykoski, NMSS

FROM: OGC

RE: REVIEW OF NONSTANDARD SUBMITTALS

BWX TECHNOLOGIES, INC.

NO COMMENTS