



**Boehringer
Ingelheim**

RADIATION SAFETY OFFICE

To: Tom Thompson, NRC
From: Patricia Lopez (RSO)
Subject: Cost Estimate

MS16 Date: 1-07-2005
P-7

06-19183-d
03017101

This facsimile is in reference to the letter from Boehringer Ingelheim Pharmaceuticals Corporation, Inc. issued on January 6, 2004 regarding the revised cost estimate and financial assurance documentation. This is to be regarded as signature approval of the above mentioned documentation.

Please call me at (862) 778-3669 if you have any additional questions.

Patricia M Lopez
Radiation Safety Officer
Boehringer Ingelheim Pharmaceutical Corporation

135568

NMSS/RGNI MATERIALS-002

January 6, 2005

Thomas K. Thompson
Senior Health Physicist
Commercial and R&D Branch
Division of Nuclear Materials Safety
U.S. Nuclear Regulatory Commission
Region 1
475 Allendale Road
King of Prussia, PA 19406-1415

Re: Decommissioning Cost Estimate and Financial Assurance Documentation for Boehringer
Ingelheim Pharmaceuticals, Inc.

Dear Mr. Thompson,

Boehringer Ingelheim Pharmaceuticals, Inc.'s (BIPI) submits this letter in response to the NRC's
request for a revised decommissioning cost estimate and the financial assurance documentation
for License No. 06-19183-01. The cost estimate was prepared based on current site conditions.

Should you have further questions or comments, please contact Patricia Lopez, Radiation Safety
Officer, at (860) 210-3058.

Sincerely,

Patricia Lopez

Cc: Art Slesinger, Dr. Karl Hargrave, Ken Modrovsky

**Cost Estimate for the D&D of Boehringer Ingelheim
Pharmaceuticals, Inc. in 2004 Dollars**

<u>Task</u>	<u>Cost Estimate</u>
1 <u>Mobilization</u> Travel to Site Procurement of Supplies and Rental Equipment	\$ 16,250
2 <u>Decontamination of Laboratories</u> Scoping and Characterization Surveys Radiosynthesis Laboratory Decontamination Other Restricted Area Decontamination Remedial Action Surveys	\$ 130,000
3 <u>Laboratory Analysis Costs</u> Waste Profiling QA Samples Analysis	\$ 6,500
4 <u>Final Status Survey</u> Survey of Laboratories Survey of Radioactive Waste Storage Building Survey of Other Restricted Areas	\$ 84,500
5 <u>Shipping and disposal of LLRW</u> Purchase of Container(s) Transportation to Waste Disposal Site Burial Fees	\$ 65,000
6 <u>Demobilization</u> Travel from Site Return of Rental Equipment	\$ 6,500
7 <u>Report Preparation and Submittal</u>	\$ 16,250
TOTAL	\$ 325,000

AMENDMENT TO TRUST AGREEMENT

WHEREAS, Boehringer Ingelheim Pharmaceuticals Inc. ("Grantor") and Citibank, N.A. ("Trustee") entered into a trust agreement ("Trust Agreement") dated August 7th, 2001 hereby desire to amend the Trust Agreement.

WHEREAS, Section 15 of the Trust Agreement provides that amendments may be made by an instrument in writing executed by the Grantor and the Trustee.

NOW, THEREFORE, Grantor and Trustee hereby agree to amend the Trust Agreement by having the text deleted in its entirety and replaced with the following:

STANDBY TRUST AGREEMENT

TRUST AGREEMENT, the Agreement entered into as of December 29, 2004, by and between Boehringer Ingelheim Pharmaceuticals, Inc., a Delaware corporation, herein referred to as the "Grantor," and Citibank, N.A., the "Trustee."

WHEREAS, the U.S. Nuclear Regulatory Commission (NRC), an agency of the U.S. Government, pursuant to the Atomic Energy Act of 1954, as amend, and the Energy Reorganization Act of 1974, has promulgated regulations in Title 10, Chapter I, of the Code of Federal Regulations, Part 30. These regulations, applicable to the Grantor, require that a holder of, or an applicant for, a materials license issued pursuant to 10 CFR Part 30 provide assurance that funds will be available when needed for required decommissioning activities.

WHEREAS, the Grantor has elected to use a letter of credit to provide all of such financial assurance for the facilities identified herein; and

WHEREAS, when payment is made under a letter of credit, this standby trust shall be used for the receipt of such payment; and

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee;

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the NRC licensee who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the trustee who enters into this Agreement and any successor trustee.

Section 2. Costs of Decommissioning. This Agreement pertains to the costs of decommissioning the materials and activities identified in License Number 06-19183-01 issued pursuant to 10 CFR Part 30 as shown in Schedule A.

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a standby trust fund (the Fund) for the benefit of the NRC. The Grantor and the Trustee intend that no third party shall have access to the Fund except as provided herein.

Section 4. Payments Constituting the Fund. Payments made to the Trustee for the Fund shall consist of cash, securities, or other liquid assets acceptable to the Trustee. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee are referred to as the "Fund," together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount of, or adequacy of the Fund, nor any duty to collect from the

NONNEGOTIABLE

Grantor, any payments necessary to discharge any liabilities of the Grantor established by the NRC.

Section 5. Payment for Required Activities Specified in the Plan. The Trustee shall make payments from the Fund to the Grantor upon presentation to the Trustee of the following:

- (a) A certificate duly executed by the Secretary of the Grantor attesting to the occurrence of the events, and in the form set forth in the attached Certificate of Events, and
- (b) A certificate attesting to the following conditions:
 - (1) that decommissioning is proceeding pursuant to an NRC-approved plan;
 - (2) that the funds withdrawn will be expended for activities undertaken pursuant to that plan; and
 - (3) that the NRC has been given 30 days prior notice of the Grantor's intent to withdraw funds from the trust fund.

No withdrawal from the Fund for a particular license can exceed 10 percent of the remaining funds available for that license unless NRC written approval is attached.

In the event of the Grantor's default or inability to direct decommissioning activities, the Trustee shall make payments from the Fund as the NRC shall direct, in writing, to provide for the payment of the costs of required activities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the NRC from the Fund for expenditures for required activities in such amounts as the NRC shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the NRC specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 6. Trust Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge its duties with respect to the Fund solely in the interest of the beneficiary and with the care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (a) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended (15 U.S.C. 80a-2(a)), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;
- (b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal government, and in obligations of the Federal government such as GNMA, FNMA, and FHLM bonds

and certificates or State and Municipal bonds rated BBB or higher by Standard & Poor's or Baa or higher by Moody's Investment Services; and

- (c) For a reasonable time, not to exceed 60 days, the Trustee is authorized to hold uninvested cash, awaiting investment or distribution, without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), including one that may be created, managed, underwritten, or to which investment advice is rendered, or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale, as necessary to allow duly authorized withdrawals at the joint request of the Grantor and the NRC or to reinvest in securities at the direction of the Grantor;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name, or in the name of a nominee, and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, to reinvest interest payments and funds from matured and redeemed instruments, to file proper forms concerning securities held in the Fund in a timely fashion with appropriate government agencies, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee or such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the U.S. Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal government; and (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. After payment has been made into this standby trust fund, the Trustee shall annually, at least 30 days before the anniversary date of receipt of payment into the standby trust fund, furnish to the Grantor and to the NRC a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days before the anniversary date of the establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the NRC shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to the matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting on the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing with the Grantor. (See Schedule C.)

Section 13. Successor Trustee. Upon 90 days notice to the NRC and the Grantor, the Trustee may resign; upon 90 days notice to NRC and the Trustee, the Grantor may replace the Trustee; but such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee, the successor accepts the appointment, the successor is ready to assume its duties as trustee, and NRC has agreed, in writing, that the successor is an appropriate State or Federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency. The successor Trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. When the resignation or replacement is effective, the Trustee shall assign, transfer, and pay over to the successor Trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee or for instructions. The successor Trustee shall specify the date on which it assumes administration of the trust, in a writing sent to the Grantor, the NRC, and the present Trustee, by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are signatories to this Agreement or such other designees as the Grantor may designate in writing. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's

orders, requests, and instructions. If the NRC issues orders, requests, or instructions to the Trustee these shall be in writing, signed by the NRC or its designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee 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 the Grantor or the NRC hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the NRC, except as provided for herein.

Section 15. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the NRC, or by the Trustee and the NRC if the Grantor ceases to exist. All amendments shall meet the relevant regulatory requirements of the NRC.

Section 16. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 15, this trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the NRC, or by the Trustee and the NRC if the Grantor ceases to exist. Upon termination of the trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor or its successor.

Section 17. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this trust, or in carrying out any directions by this Grantor or the NRC issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the trust fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 18. This Agreement shall be administered, construed, and enforced according to the laws of the State of Connecticut.

Section 19. Interpretation and Severability. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

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

STANDBY TRUST AGREEMENT SCHEDULES

Schedule A

This Agreement demonstrates financial assurance for the following cost estimates or certification amounts for the following licensed activities:

U.S. NUCLEAR REGULATORY COMMISSION LICENSE NUMBERS	NAME AND ADDRESS OF LICENSEE	ADDRESS OF LICENSED ACTIVITY	COST ESTIMATES FOR REGULATORY ASSURANCES DEMONSTRATED BY THIS AGREEMENT
06-19183-01	Boehringer Ingelheim Pharmaceuticals, Inc.	Ridgefield Connecticut	\$ 325,000

The cost estimates listed here were last adjusted and approved by the NRC on December 6, 2004.

Schedule B

DOLLAR AMOUNT \$ 325,000

AS EVIDENCED BY an Irrevocable Letter of Credit

Schedule C

AMOUNT **\$325,000**
AS EVIDENCED BY **Irrevocable Letter of Credit**
No. 

Boehringer Ingelheim Pharmaceuticals, Inc. has paid to the Bank, a set-up fee of \$2,500 for the Letter of Credit, and pays a commission of 0.375% annually, equaling \$1,218.75, and under this Standby Trust Agreement will pay an annual Trustee's fee of \$5,000, and transaction fees of \$100 per wire transfer, and the Bank's legal fee for review of Document.

CERTIFICATE OF EVENTS

[Name and address of trustee]
Attention: Trust Division

Gentlemen:

In accordance with the terms of the Agreement with you dated _____, I, _____, Boehringer Ingelheim Pharmaceuticals, Inc., hereby certify that the following events have occurred:

1. Boehringer Ingelheim Pharmaceuticals, Inc. is required to commence the decommissioning of its facility located at Ridgefield Connecticut (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 [insert name of licensee] has adopted the attached resolution authorizing the commencement of the decommissioning.

Boehringer Ingelheim Pharmaceuticals, Inc.

Date: _____

CERTIFICATE OF RESOLUTION

I, _____, do hereby certify that I am Secretary of Boehringer Ingelheim Pharmaceuticals, Inc., a Delaware corporation, and that the resolution listed below was duly adopted at a meeting of this Corporation's Board of Directors on _____, 2001.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of this Corporation this _____ day of _____, 20____.

Secretary

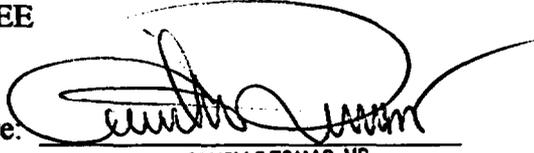
RESOLVED, that this Board of Directors hereby authorizes the President, or such other employee of the Company as he may designate, to commence decommissioning activities at Boehringer Ingelheim Pharmaceuticals, Inc. in accordance with the terms and conditions described to this Board of Directors at this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

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by the respective officers duly authorized and the incorporate seals to be hereunto affixed and attested as of the date first written above.

ATTEST 

Title: PATRICK DeFELICE, VP
Citibank Agency & Trust
388 Greenwich Street/14th Floor
New York, NY 10013
212-816-5680

TRUSTEE

Signature: 

Title: CAMILLE TOMAO, VP
Citibank Agency & Trust
388 Greenwich Street/14th Floor
New York, NY 10013
212-816-5859

Corporate Seal

ACKNOWLEDGMENT

STATE OF NEW YORK

To Wit:

CITY OF NEW YORK

On this 30th day of December, before me, a notary public in and for the town and State aforesaid, personally appeared Camille Tomao, and ~~he~~she deposes and says, that ~~he~~she is the Vice President of Citibank, N.A. which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was, so affixed by order of the association; and that he/she signed his name thereto by like order.

Signature of notary public: 

My commission Expires: 1/21/07

Date: 12/30/04

NANETTE MURPHY
Notary Public, State of New York
No. 01MU6086415
Qualified In Kings County
Commission Expires 1/21/07

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by the respective officers duly authorized and the incorporate seals to be hereunto affixed and attested as of the date first written above.

BOEHRINGER INGELHEIM
PHARMACEUTICALS, INC.

ATTEST: *Mary-ellen M. Devlin*
Mary-ellen M. Devlin
Title: Assistant Secretary

Signature: *J. Martin Carroll*
J. Martin Carroll
Title: President and
Chief Operating Officer

Corporate Seal

ACKNOWLEDGMENT

STATE OF CONNECTICUT

To Wit:

TOWN OF RIDGEFIELD

On this 29 day of December, 2004 ^(not), before me, a notary public in and for the town and State aforesaid, personally appeared J. Martin Carroll, and he deposes and says, that he is the President and Chief Operating Officer of Boehringer Ingelheim Pharmaceuticals, Inc. which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was, so affixed by order of the corporation; and that he signed his name thereto by like order.

Signature of notary public: *Nancy A. O'Grady*

My commission Expires: October 31, 2009 ^(not)

Date: December 29, 2004

NANCY A. O'GRADY
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 31, 2009