

May 4, 2006

Mr. Steven A. Toelle
Director, Regulatory Affairs
U.S. Enrichment Corporation
2 Democracy Center
6903 Rockledge Drive
Bethesda, MD 20817

SUBJECT: CONTINGENCY FACTOR APPLIED TO DECOMMISSIONING
FUNDING PLANS FOR PORTSMOUTH AND PADUCAH GASEOUS
DIFFUSION PLANTS AND AMERICAN CENTRIFUGE PLANT (TAC
NOS. L32306, L32307 and L32308)

On April 7, 2006, U.S. Nuclear Regulatory Commission (NRC) staff held a conference call with you and your staff to discuss the contingency factor to be applied to the depleted uranium disposition cost estimate in the decommissioning funding plans (DFPs) for the Portsmouth and Paducah Gaseous Diffusion Plants (GDPs) and the proposed American Centrifuge Plant (ACP). During the meeting, we discussed our rationale for using a 25 percent contingency factor instead of the 10 percent contingency factor you proposed. At the end of the conference call, we stated that we would further evaluate your rationale for proposing the 10 percent contingency factor.

In completing our evaluation, we reviewed the original basis for allowing the Portsmouth and Paducah GDPs to use a 10 percent contingency factor. In 2000 and 2001, we had several discussions with you and your staff about the appropriate contingency factor that should be applied to the DFPs for the gaseous diffusion plants. As part of this review, we conducted an in-office review of contracts the United States Enrichment Corporation (USEC) had in place for dispositioning its low-level radioactive wastes, mixed wastes, and depleted uranium. At that time, USEC had current contracts to disposition these materials and, on that basis, we allowed the use of a lower contingency factor, 10 percent, than we would have routinely expected.

Since the contracts for the dispositioning of depleted uranium have expired and there are no new contracts in place, we conclude that the use of a 25 percent contingency factor is appropriate for both the GDPs and the ACP. This value is consistent with the recommendations in our guidance on preparing DFPs in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 3. If USEC can obtain written contracts with the U.S. Department of Energy (DOE) for dispositioning depleted uranium, we will reconsider the value of the contingency factor.

In your letter of March 23, 2006, you presented a series of reasons why you considered a 10 percent contingency adequate. You questioned the basis for having written contracts as the basis for a contingency factor. You are correct that the guidance in NUREG-1757 and in NUREG-6477, "Revised Analysis of Decommissioning Reference Non-Fuel-Cycle Facilities," does not address this specific point. However, the guidance was intended to allow the staff to address unique situations in evaluating DFPs. It was on this basis that, in 2001, the NRC staff decided that because written contracts were in place for the GDPs, a lower contingency factor could be allowed rather than the standard 25 percent.

You also stated that use of a 10 percent contingency factor is a reasonable amount based on the limited scope of the GDP decommissioning, which does not include decontamination of the GDP facilities, which are DOE's responsibility. Regardless of the scope of USEC's decommissioning responsibilities, we consider that a 25 percent contingency factor is appropriate for the DOE cost estimate because your DOE cost estimate is based on proposed baseline costs that are not firm costs. In the DOE letter to USEC dated December 12, 2005, DOE stated that the cost estimate is subject to change as assumptions and circumstances change and as DOE receives actual cost and performance data from the conversion project after operations begin. NRC staff considers the DOE cost estimate to provide a reasonable basis of preparing a DFP for dispositioning depleted uranium generated by the GDPs and the ACP. However, without firm written contracts, we do not consider that it provides sufficient certainty to be the basis for a 10 percent contingency factor.

As part of our evaluation, we reviewed the documentation for the DOE cost estimate and found that a contingency factor had been applied to two lines of the cost estimate. A contingency factor of 10 percent was applied to the plant operating cost line and a contingency factor of 20 percent was applied to the construction cost line. Contingency factors were not applied to cost lines for plant recapitalization, product disposal, surveillance and maintenance, decommissioning, and the Federal administrative charge. We will accept credit to be taken for these contingencies as part of the overall 25 percent contingency.

In your March 23, 2006, letter, you also stated that the annual updates of the cost estimate reduce the uncertainty of the estimate. We agree that the annual updates reduce the uncertainty of the cost estimate. However, we do not agree that the uncertainties are reduced to the level equivalent to having written contracts in place to cover depleted uranium disposition.

You also provide some historical background of the previous reviews of the GDP cost estimates and the NRC staff acceptance of a 10 percent contingency factor. However, you failed to mention that the rationale for allowing a reduced contingency factor was the fact that the written contracts for low-level radioactive waste, mixed waste, and depleted uranium disposition were in place at the time of the evaluations in 2000 and 2001. Because the depleted uranium disposition contracts have expired and no new contracts are currently in place, we consider that our previous basis for accepting a 10 percent contingency factor is now no longer in effect.

Therefore, after considering your rationale of use of a 10 percent contingency factor, we find that there is insufficient justification to reduce the recommended contingency factor of 25 percent to 10 percent. We consider that because of the inherent uncertainties in the DOE cost estimate, it is appropriate to use a contingency factor of 25 percent in your cost estimate for the dispositioning of depleted uranium generated at the GDPs and the ACP. Please modify the DFPs for the GDPs and the ACP to use a 25 percent contingency factor and 2006-year dollars and provide the revised DFPs within 30 days. As stated above, it is acceptable to take credit for the contingencies that have been previously applied in the DOE cost estimate for the construction and plant operating costs.

S. Toelle

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If you have any questions, please contact Dan Martin at 301-415-7254 or Stan Echols at 301-415-6981.

Sincerely,

\RA\

Gary Janosko, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
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Joseph G. Giitter, Chief
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket Nos.: 70-7001
70-7002
70-7004

cc:

William Szymanski/DOE
Carol O'Claire/Ohio EMA
Donald Silverman/Morgan Lewis
Rocky Brown/Mayor of Beaver
David Bowe/SPFPA/USEC
Billy Spencer/Mayor of Piketon
Harry Rioer/Pike Co. Comm
Robert Huff/Portsmouth CoC
Kara Willis/Gov. Taft's Reg. 7
Joyce Weeth/Pike Co. Rec

Michael Marriotte/NIRS
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Jim Brushart/PikeCoComm
Teddy West/SciotoTwpTrust
Vina Colley/PRESS
Larry Scaggs/SealTwpTrust
Ted Wheeler/PikeCtyAud
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Carrie Mytinger/Cong. Ney
Marvin Jones/ChillicotheCoC
Dwight Massie/Pike CoC
MarJean Kennedy/Gov. Taft

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NAME	JGiitter	GJanosko
DATE	5/2/06	05/03/06