



## Department of Energy

Idaho Operations Office  
1955 Fremont Avenue  
Idaho Falls, ID 83415

May 30, 2008

U. S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, DC 20555-0001

**SUBJECT:** Submittal of Application for the Transfer, with Revision of License Conditions, of 10 CFR Part 72 *Materials License No. SNM-2512* for the Idaho Spent Fuel Facility, an Independent Spent Fuel Storage Installation, from Foster Wheeler Environmental Corporation to the United States Department of Energy, Docket 72-0025 (FMDP-MDP-08-008)

**REFERENCES:** 1) Letter, S. Fried, Foster Wheeler Environmental Corporation, to E. Sellers, DOE-ID; "Consent for Transfer of the License for the Idaho Spent Fuel Facility Independent Spent Fuel Storage Installation to the U.S. Department of Energy", Contract No. DE-AC07-00ID13729 (FW-DOE-ISF-06-0017, dated March 1, 2006  
2) Contract No. DE-AC07-00ID13729 for the Spent Nuclear Fuel Dry Storage Project, dated May 19, 2000, and as subsequently modified  
3) Letter, M. Gardner, DOE-ID, to Document Control Desk, NRC; "Notification of the Use of a Previously Approved Quality Assurance Program (Dockets 72-09 and 72-20), (INTEC-NRC-02-044), dated November 20, 2002  
4) Letter, E. Sellers, DOE-ID, to Document Control Desk, NRC; "Request to Withhold Information Considered Sensitive by the Department of Energy's Idaho Operations Office from Public Docket #s 72-0009, 72-0020, and 72-0025 Until Further Notice," (EM-FMDP-05-019), dated April 20, 2005 (OUO)

Dear Sir or Madam:

The Nuclear Regulatory Commission (NRC) issued *Materials License SNM-2512* for the Idaho Spent Fuel (ISF) Facility Independent Spent Fuel Storage Installation (ISFSI) to Foster Wheeler Environmental Corporation (FWENC) on November 30, 2004. Submitted herewith is an application for the transfer, with appropriate license condition changes, of *Materials License SNM-2512* from FWENC to the Department of Energy (DOE). This

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application is made pursuant to the requirements of 10 CFR Part 72.50, and is consented to by FWENC via Reference 1.

The Assistant Secretary for Environmental Management, pursuant to designation from the Secretary of Energy, has designated the Manager of the Department of Energy, Idaho Operations Office to act as the authorized representative of the Secretary of Energy per the requirement of 10 CFR Part 72.16(b). (Redesignation Order 00-09.01-01, dated October 18, 2007). As the authorized representative of the Secretary of Energy, the Manager is applying for transfer (with license condition revisions) of the license to the Manager as holder of this NRC license. Copies of this designation and re-designation of authority are appended to the *License Transfer Application*. The Manager of DOE-ID currently holds 10 CFR Part 72 materials licenses for the Fort St. Vrain (FSV) and Three Mile Island (TMI) ISFSIs, Dockets 72-0009 and 72-0020, respectively.

FWENC was under the Reference 2 contract to DOE-ID to package (in DOE standardized canisters) and store stipulated quantities and types of spent nuclear fuel. The contract required FWENC to obtain an NRC license pursuant to 10 CFR Part 72, which it did, construct the ISFSI, and package (as an integrated part of storage), and store the spent nuclear fuel in that facility pursuant to the license. FWENC obtained an NRC license but did not construct the ISFSI. On February 14, 2006, DOE and FWENC modified the contract whereby FWENC's performance obligations under the contract ended as of March 6, 2006. Pursuant to the contract modification FWENC is required to retain possession and maintain all NRC License Basis Documentation required to be maintained by NRC licensees, pending license transfer or license termination. This contract modification also addresses the transfer of the ISF Facility license to DOE with appropriate license condition changes, subject to NRC approval, and transfer of contract-related intellectual property, including license basis documents, upon license transfer.

Accordingly, submitted herewith is a record copy (one printed copy and 1 electronic media) of the following ISF Facility documents:

- *License Transfer Application;*
  - *FWENC letter consenting to and supporting the license transfer to DOE (comprising Appendix A);*
  - *Proposed Decommissioning Plan, Revision 4 (Appendix B);*
  - *Proposed Technical Specifications (Appendix C);*
  - *Designations authorizing the Manager of DOE-ID as the Secretary of Energy's representative in matters pertaining to NRC licensing of the ISF Facility (comprising Appendix D);*
  - *Proposed License Conditions (Appendix E)*
- *Safety Analysis Report, Revision 4;*
- *Emergency Plan, Revision 3; and*
- *Environmental Report, Revision 4.*

Seven printed copies and one additional electronic media file are being sent directly to the NRC Project Manager (J. Randall Hall) per his request.

The *ISF Facility Training Plan* is embodied in Chapter 9.3 of the *Safety Analysis Report* and does not constitute a separate document submittal. Due to its safeguards content, one record copy and one electronic media file of the *ISF Facility Physical Protection Plan, Revision 2*, are being submitted under separate cover. An additional two printed copies of the *ISF Facility Physical Protection Plan* are being sent directly to the NRC Project Manager per his request.

In order to ensure consistency, all documents have been assigned the next highest revision number over that currently on the docket, with the exception of the *Safety Analysis Report*. Although FWENC's *Final Safety Analysis Report* stands at Revision 0, the DOE *Safety Analysis Report* is submitted herewith as Revision 4, the next highest revision over the *Safety Analysis Report* submitted by FWENC on November 14, 2003, to avoid confusion.

Other than an administrative change, related to assignment of responsibilities in *Materials License No. SNM-2512 Technical Specifications 5.1 and 5.2*, no changes to the existing Technical Specifications are proposed. Therefore, the existing *Materials License No. SNM-2512 Technical Specifications* are resubmitted herewith with no significant changes.

DOE anticipates that the NRC will be requesting proposed license conditions, and to facilitate that process, DOE is submitting the *Proposed License Conditions* as Appendix E to the *License Transfer Application* setting forth its proposed license condition changes for the NRC's consideration. The proposed license conditions include removal of financial assurance provisions in the current *Materials License SNM-2512* that do not apply to DOE pursuant to 10 CFR 72.22(e); changing the use of NVLAP accredited dosimetry to DOELAP accredited dosimetry (request will be submitted under separate cover); and retaining exemptions related to the specified seismic design criteria. DOE requests that the license transfer request and the proposed license condition changes be considered together to ensure transfer of an appropriate license that comports with NRC regulations.

DOE may later request an exemption from the decommissioning requirements in 10 CFR Part 72 and 10 CFR Part 20, Subpart E, should DOE decide to construct the ISFSI. Nevertheless, DOE has included a *Decontamination and Decommissioning Plan* at this time. This *Decontamination and Decommissioning Plan* does include a cost estimate; however financial assurance in the form of an escrow account is not required where DOE is the license applicant consistent with NRC regulations.

In preparing this *License Transfer Application*, DOE has not changed or modified any technical parameters or licensed materials (quantities or types). All sections of the *ISF Facility Safety Analysis Report (SAR)* submitted to NRC by FWENC on June 30, 2005, have been modified to reflect DOE as the licensee. Changes are minor with the exception of SAR Chapters 9 (Conduct of Operations) and 11 (Quality Assurance) as follows:

- SAR Chapter 9 has been rewritten to reflect an “interim” organizational structure reflective of that used for the Fort St. Vrain and Three Mile Island ISFSIs (*Materials Licenses SNM-2504 and 2508*, respectively). This proposed “interim” organization structure is to avoid an unnecessarily large operating staff in advance of a decision to proceed with facility construction and operation. DOE intends to contractually assign its current contractor CH2M-WG Idaho, LLC to manage the ISF Facility license. This contractor currently manages both the TMI and FSV ISFSIs for the DOE under their respective NRC licenses. DOE is proposing a license condition be added to require submittal of an updated revision to the *ISF Facility SAR* including a commitment to a full operational organization should a decision be made to construct and prior to proceeding with the construction activities.
- SAR Chapter 11 has been written to implement the *DOE Quality Assurance Program* (QAP) instead of the Foster Wheeler QAP. This QAP was previously approved by the NRC and is implemented for the TMI and FSV ISFSIs, as documented in Reference 3. The QAP meets the requirements of 10 CFR 72, Subpart G and implements the *Quality Assurance Requirements and Description* (QARD) Elements, Supplement, and Appendices through a graded approach. DOE has proposed a revision to SNM-2512 License Condition #13 to reflect the implementation of the DOE QAP.

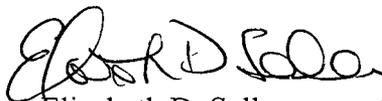
DOE believes the transfer and license condition changes for this license are categorically excluded from the need for the NRC to prepare an Environmental Assessment or Environmental Impact Statement pursuant to 10 CFR 51.22(c) (10), (11) and (21). Accordingly, a resubmittal of an Environmental Report or supplement thereto is not required under 10 CFR Part 51. Should the NRC decide that the transfer and changes are not categorically excluded and that a supplement to the *Environmental Report* is required, DOE has submitted the existing *Environmental Report* (RPT-222, Revision 4) and believes that the *Environmental Report* continues to be adequate for any supplemental analysis.

DOE requests that the *Idaho Spent Fuel Facility Safety Analysis Report* and *Emergency Plan* be treated as Official Use Only (OUO) and withheld from public access pending resolution of concerns previously raised by DOE (Reference 4).

Please note that the approach taken by DOE in this *License Transfer Application* will not necessarily be the approach taken for other license applications. Accordingly, this application should not be viewed or construed as setting binding precedent on DOE for other ongoing or future license applications whether under 10 CFR Part 72 or other parts of the NRC regulations.

Please contact the DOE-ID NRC Licensing Manager, Jan Hagers, at 208-526-0758, should you have any questions in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth D. Sellers". The signature is fluid and cursive, with the first name being the most prominent.

Elizabeth D. Sellers  
Manager

Enclosures

cc: R. Hall, USNRC  
B. Spitzberg, USNRC Region IV (w/o enclosures)