

## Amy Snyder

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**From:** Cole, Barry L. [blcole@babcock.com]  
**Sent:** Friday, September 05, 2008 5:52 PM  
**To:** Amy Snyder  
**Cc:** Peter Habighorst; Thomas Fredrichs; Yates, Carl R.; Ward, David C.; Colling, M. B. (Beth); Harvey, Steve D.; Chalker, Terry B.; Whitten, Nora J.; Goff, Cheryl K.; Kirby, Kenneth R.  
**Subject:** RE: Last Question Related to Financial Assurance for BWXT Transfer of Control  
**Importance:** High

Amy,

Below are BWXT's responses to the questions:

**Q:** Please provide the basis for your assumption.

**A:** The basis for our assumption is a legally binding contract between Babcock & Wilcox and the U.S. Department of Energy (DOE). The DOE is a U.S. federal agency authorized to enter into contracts for the permanent disposal of spent nuclear fuel and/or high-level radioactive waste of domestic origin in DOE facilities, and the contract was entered into under the authority of the DOE Organization Act (Pub. L. 95-91, 42 U.S.C. 7101 et seq.) and the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425, 42 U.S.C. 10101 et seq.). Because the contract states that the "DOE has the responsibility, following commencement of operation of a repository, to take title to the spent nuclear fuel or high level radioactive waste...", we therefore assume that the DOE will take title to the spent nuclear fuel once a repository is available.

**Q:** Does BWXT or B&W plan on requesting assurance that DOE will honor its obligations under the 1982 waste disposal contract for Greater than Class C Waste? If so, when.

**A:** BWXT and/or B&W do not plan on specifically requesting this assurance. BWXT and B&W have maintained an open line of communications regarding the spent nuclear fuel which have included negotiations of storage cost reimbursements. The DOE has not given BWXT or B&W any reason to believe that the DOE will not honor its contractual obligations once a repository is available.

The automatic proprietary statement at the end of this email does not apply in regards to this correspondence with the U. S. NRC.

Sincerely,

Barry Cole  
Manager, Licensing & Safety Analysis  
BWXT Technologies, Inc.  
Nuclear Products Division  
434-522-5665

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**From:** Amy Snyder [mailto:Amy.Snyder@nrc.gov]  
**Sent:** Tuesday, August 26, 2008 11:13 AM  
**To:** Cole, Barry L.  
**Cc:** Peter Habighorst; Thomas Fredrichs  
**Subject:** Last Question Related to Financial Assurance for BWXT Transfer of Control  
**Importance:** High

Barry,

In reviewing the BWXT Letter dated June 27, 2008, Enclosure 4, page 10-39, LTC Cost Estimate, we noted that it the BWXT cost estimate states that DOE -HQ has defaulted on its contract with B&W, and that B&W assumes DOE will eventually honor its contractual obligations.

Please provide the basis for your assumption.

Does BWXT or B&W plan on requesting assurance that DOE will honor its obligations under the 1982 waste disposal contract for Greater than Class C Waste? If so, when.

Based on your response, NRC will either decide to discuss your response in our Safety Evaluation Report or consider a condition to address Greater than Class C waste in the Order authorizing transfer of the license.

Amy

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