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December 11, 2008

U.S. Nuclear Regulatory Commission
E. William Brach, Director
Office of Nuclear Material Safety and Safeguards,
Division of Spent Fuel Storage and Transportation
U.S. Nuclear Regulatory Commission
Washington, DC 20555

**SUBJECT: Foster Wheeler Environmental Corporation
Idaho Spent Fuel Facility**

Request for Prior Written Consent to Indirect Transfer of Control of License
Special Nuclear Materials License No. 2512 (Docket No. 072-00025)

Dear Mr. Brach:

Foster Wheeler Environmental Corporation (FWENC) hereby requests prior written consent to a planned indirect transfer of control of Special Nuclear Materials License No. 2512 (SNM-2512) under Section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 72.50. SNM-2512 was issued to authorize FWENC to construct and operate an independent spent nuclear fuel storage installation called the "Idaho Spent Fuel Facility." 60 Fed. Reg. 71081 (Dec. 8, 2004). No facility has been constructed, but FWENC continues to hold the NRC license. The indirect transfer of control of FWENC's license results from a planned restructuring whereby Foster Wheeler AG will become the new corporate parent holding company of the Foster Wheeler group of companies. Foster Wheeler AG is a corporation duly organized under the laws of Switzerland, and it is currently a wholly owned subsidiary of Foster Wheeler Ltd., the current corporate parent holding company. There will be no changes affecting FWENC or the terms and conditions of SNM-2512.

FOSTER WHEELER LTD.
CLARENDON HOUSE, 2 CHURCH STREET, HAMILTON, HM CX, BERMUDA
MAILING ADDRESS: PERRYVILLE CORPORATE PARK CLINTON, NEW JERSEY 08809-4000
Tel: 908-730-4000 www.fwc.com

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The common shares of Foster Wheeler Ltd., a corporation duly organized under the laws of Bermuda, are widely held and publicly traded in the United States on the NASDAQ Global Select Market. Following the proposed corporate restructuring, the current shareholders of Foster Wheeler Ltd. will receive shares of Foster Wheeler AG, which will become the new parent company of Foster Wheeler Ltd. The current principal officers and directors of Foster Wheeler Ltd. will become the principal officers and directors of Foster Wheeler AG, with the only substantive change being that the new parent holding company will be domiciled in Switzerland, a jurisdiction that offers a more sophisticated financial and commercial infrastructure and that is closer to the areas in Europe and Asia where Foster Wheeler Ltd. earns the majority of its revenue. Simplified organization charts reflecting the current and post-reorganization ownership structures are provided as Figures 1 and 2.

The planned restructuring will not impact the operations of FWENC, nor will it impact any of the terms and conditions under which it maintains SNM-2512. None of the individuals with control over the licensed activity will change as a result of the restructuring. The proposed indirect transfer does not change the existing financial and technical qualifications of FWENC, and it does not involve any changes to the existing permit requirements. Implementation of the proposed changes does not require any amendment to the license, the Safety Analysis Report, or the Physical Protection Plan. The only impact on the information described in the license application is the identification of the new parent holding company, Foster Wheeler AG, which will stand in the place of the parent holding company described as Foster Wheeler Ltd.

Foster Wheeler Ltd. would like to complete the planned restructuring as expeditiously as possible, and it expects to have everything necessary in place to complete the transaction by February 2, 2009. NRC's approval of the indirect transfer of control of SNM-2512 is expected to be the only barrier that could delay completion of this transaction. Thus, FWENC respectfully requests NRC approval of this change no later than January 23, 2009 in order to support a shareholders meeting scheduled for January 27, 2009 and the closing of the transaction by February 2, 2009.

In this instance, Foster Wheeler is seeking to undertake a significant corporate action under the unique circumstance where it happens to hold an NRC license for a facility that has not been constructed and that is not part of its core business, but the timing of NRC's approval will be essential to setting the schedule for implementing a change that is important to Foster Wheeler's overall business. A delay in implementation will cause unnecessary uncertainty for its management and shareholders that would not exist, but for the need for NRC approval. NRC has adopted expedited procedures for handling license transfers, because it recognized "the need for expeditious decision-making from all agencies, including the Commission, for these kinds of transactions," and NRC concluded that "timely and effective resolution of requests for transfers on the part of the Commission is essential." 63 Fed. Reg. 66721, 66721 (Dec. 3, 1998). In general, the NRC rules for license transfers adopted in 1998 were premised on a judgment that the license transfer approval process should not interpose unreasonable barriers to the transfer of licenses and thereby potentially impair the value of companies that hold NRC-licensed assets.

Under the circumstances presented here, it is especially true that we have a license transfer proceeding "where a timely decision is important to the public interest." 63 Fed. Reg. at 66729.

Moreover, there are no substantive changes that impact FWENC or the license, and there is no compelling regulatory concern that should require any extensive review or inquiry. Thus, FWENC respectfully requests a high priority for NRC Staff resources to address this approval request.

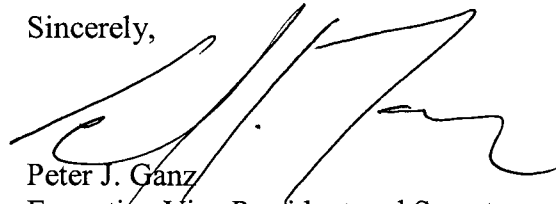
Service upon FWENC of comments, hearing requests, intervention petitions or other pleadings should be made to its counsel: Mr. John E. Matthews at Morgan, Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, NW, Washington, DC 20004 (tel: 202.739.5524; e mail: jmatthews@morganlewis.com). In order to assist the NRC Staff in expediting its review of this request for approval, we are providing a draft of the Federal Register Notice that would be required in connection with this matter pursuant to 10 CFR 2.1301(b).

If the NRC should have any questions concerning this submittal, please contact John E. Matthews at the number or email address noted above.

I declare under penalty of perjury that the foregoing and the information in the attached is true and correct.

Executed on this 11th day of December, 2008.

Sincerely,



Peter J. Ganz
Executive Vice President and Secretary
Foster Wheeler Environmental Corporation

Enclosures: Figures 1 & 2
Information Supporting Request for Prior Written Consent to
Indirect Transfer of Control of a Materials License
DOE Statement of Intent Regarding Decommissioning Funding

cc:

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

Figure 1 – Simplified Organization Chart (Current)

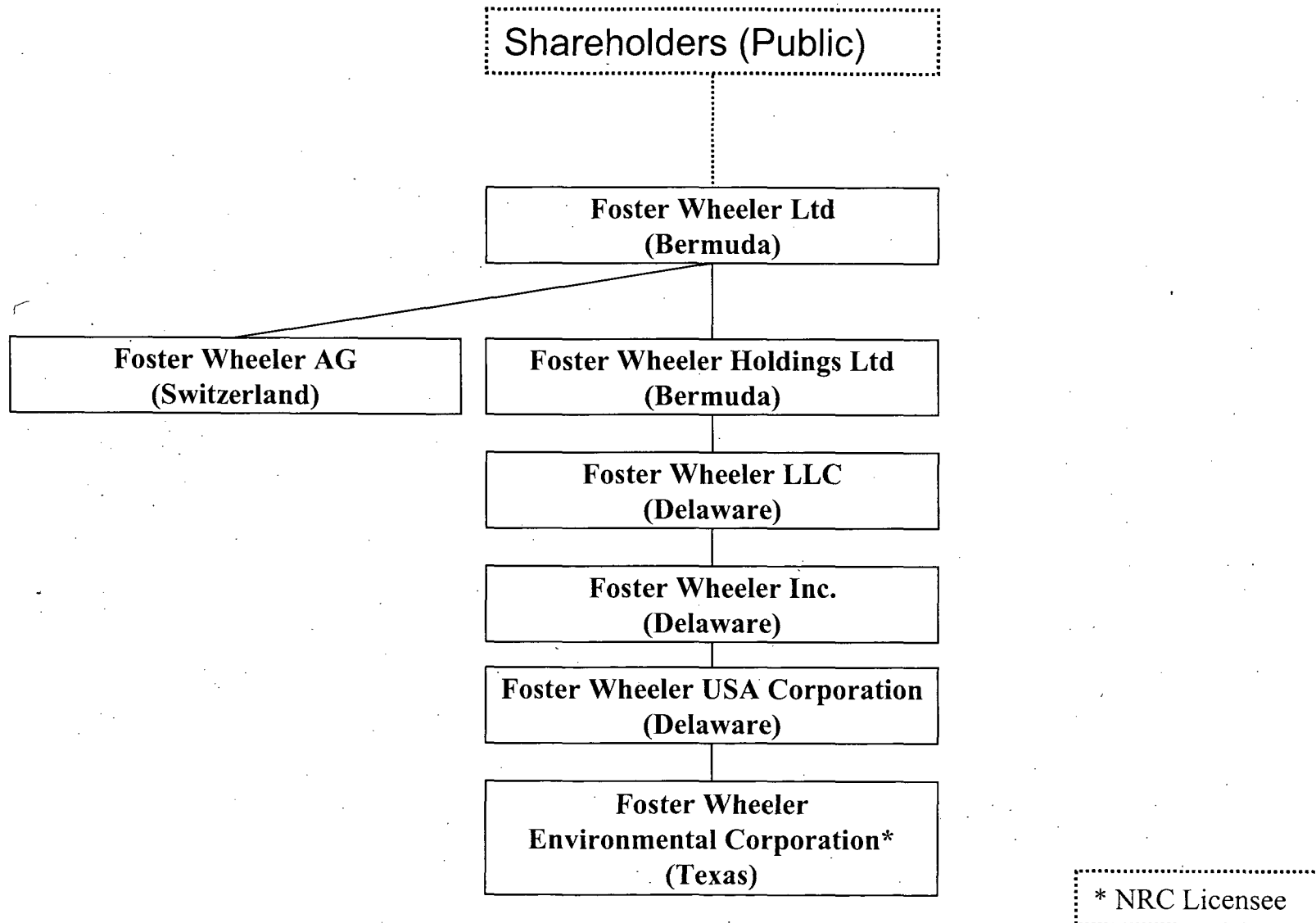
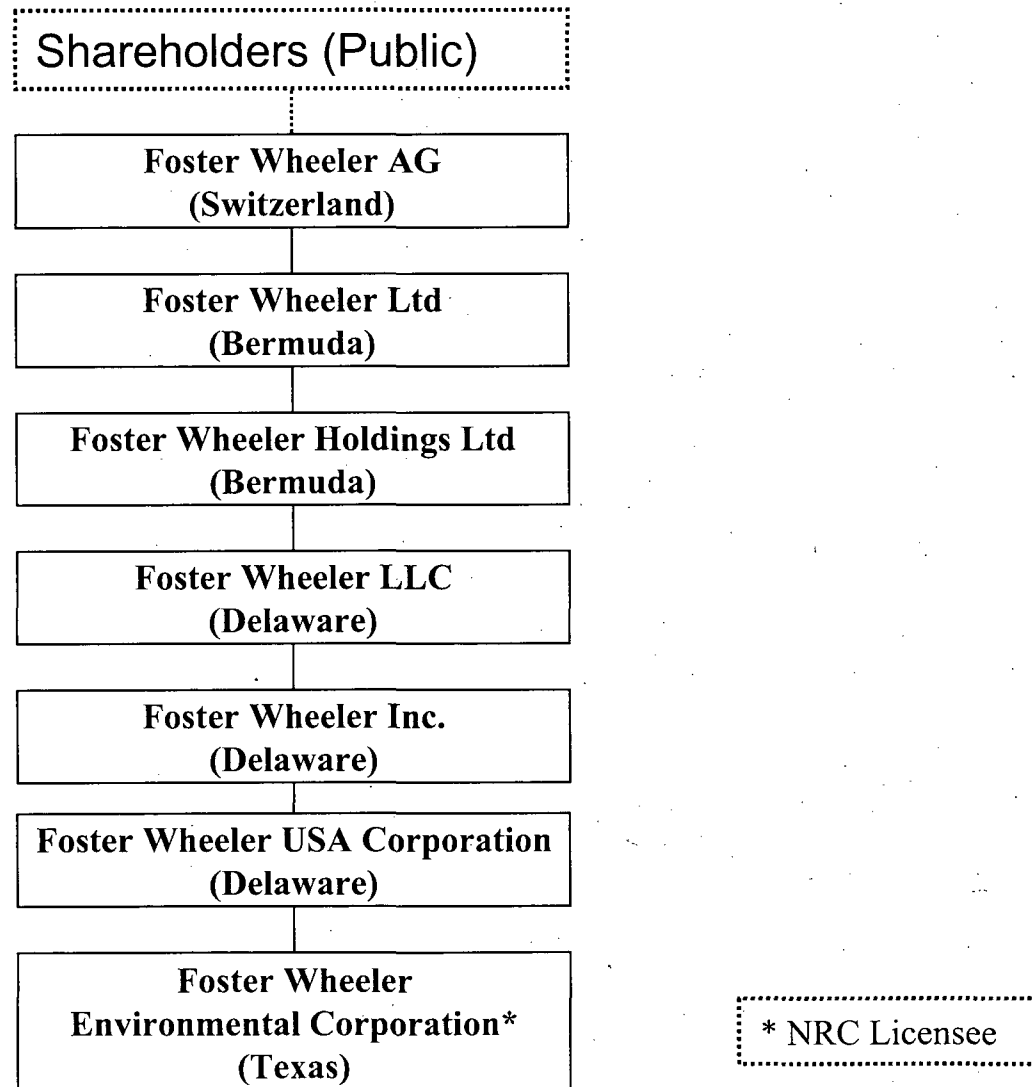


Figure 2 – Simplified Organization Chart (Post-Transfer)



**INFORMATION SUPPORTING REQUEST FOR PRIOR
WRITTEN CONSENT TO INDIRECT TRANSFER OF
CONTROL OF A MATERIALS LICENSE**

Idaho Spent Fuel Facility
Special Nuclear Materials License No. 2512
(Docket No. 072-00025)

December 11, 2008

This information is submitted consistent with NUREG-1556, Vol. 15, Chapter 5 (November 2000), Consolidated Guidance About Materials Licenses – Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses.

The information is submitted in support of Foster Wheeler Environmental Corporation's (FWENC) request for prior written consent to indirect transfer of control of a materials license. NUREG-1556 was issued to give guidance for applications to transfer materials licenses covered by 10 CFR 30.34(b), 31.2, 40.46, and 70.36. NUREG-1556, p. 5-1. The transfer of control of a license for an independent spent fuel storage installation is governed by 10 CFR 72.50, and the requirements of Section 72.50 are essentially the same as the requirements of the sections specifically covered by NUREG-1556, except for certain specific cross-references to additional information that is required by 10 CFR 72.22 & 72.28. This additional information has been included in the appropriate sections below.

It is noteworthy that the facility authorized by this license has not been constructed. No physical activities are currently being conducted pursuant to the license, and FWENC is not in possession of any spent nuclear fuel that it would be authorized to possess at the proposed facility under the license. FWENC's current role with respect to this license is primarily as custodian to maintain the license for purposes of potential future activity or transfer to the U.S. Department of Energy.

Section 5.1 DESCRIPTION OF TRANSACTION

- 1. This section provides a complete and clear description of the transaction, including any transfer of stocks or assets, mergers, etc., so that legal counsel is able, when necessary, to differentiate between name changes and changes of ownership.*

NRC Special Nuclear Materials License No. 2512 (SNM-2512) was issued to authorize FWENC to construct and operate an independent spent nuclear fuel storage installation called "Idaho Spent Fuel Facility." 60 Fed. Reg. 71081 (December 8, 2004). The indirect transfer of control of FWENC's license results from a planned restructuring whereby Foster Wheeler AG will become the new corporate parent holding company. Foster Wheeler AG is a corporation duly organized under the laws of Switzerland, and it is currently a wholly owned subsidiary of Foster Wheeler Ltd., the current corporate parent holding company. The common shares of Foster Wheeler Ltd., a corporation duly organized under the laws of Bermuda, are widely held and publicly traded in the United States on the NASDAQ Global Select Market.

Following the proposed corporate restructuring, the current shareholders of Foster Wheeler Ltd. will receive shares of Foster Wheeler AG, which will become the new parent company of Foster Wheeler Ltd. The current principal officers and directors of Foster Wheeler Ltd. will become the principal officers and directors of Foster Wheeler AG, with the only substantive change being that the new parent holding company will be domiciled in Switzerland, a jurisdiction that offers a

more sophisticated financial and commercial infrastructure and that is closer to the areas in Europe and Asia where Foster Wheeler Ltd. earns the majority of its revenue. Simplified organization charts reflecting the current and post-reorganization ownership structures are provided as Figures 1 and 2. The organization charts are "simplified" in that they reflect only the legal entities in the current and planned chain of ownership of FWENC.

The planned restructuring will not impact the operations or management of FWENC or the terms and conditions under which it maintains SNM-2512. None of the individuals with control over the licensed activity will change as a result of the restructuring. The proposed indirect transfer does not change the existing financial and technical qualifications of FWENC, and it does not involve any changes to the existing permit requirements.

The purpose of the restructuring is to have the parent holding company for Foster Wheeler incorporated in Switzerland, a jurisdiction that offers a more sophisticated financial and commercial infrastructure than Bermuda. Switzerland also offers a stable economic and political environment. In addition, a parent company incorporated in Switzerland will be more geographically centralized within the markets in Europe and Asia where Foster Wheeler Ltd. earns the majority of its revenue. The shares of Foster Wheeler AG will be widely held and publicly traded in the United States on the NASDAQ Global Select Market.

In addition to the planned restructuring, Foster Wheeler is evaluating whether or not it may be desirable to eliminate some of the intermediary holding companies in the corporate chain of ownership of FWENC. For example, the shares of FWENC's second tier parent company, Foster Wheeler, Inc., may be distributed such that these shares are held directly by Foster Wheeler AG. FWENC will provide notice to NRC if it makes such a change following the proposed restructuring. However, eliminating intermediary holding companies in the chain of ownership would not involve any direct or indirect transfer of control of SNM-2512, because existing legal entities would retain control both before and after such a transaction, and no new legal entity would be introduced that would be able to directly or indirectly control the license.

2. *The new name of the licensed organization. If there is no change, the licensee should so state.*

There will be no change to the name of the licensee, currently FWENC, as a result of the proposed indirect transfer.

3. *The new licensee contact and telephone number(s) to facilitate communications.*

The licensee will not change as a result of the proposed restructuring. In addition, the contacts and telephone numbers of the licensee will not change as a result of the change in the corporate structure.

The names, addresses, and citizenship of the directors and principal officers of Foster Wheeler AG will be the same as the ones for the current parent company, Foster Wheeler Ltd. These directors and principal officers are listed below in accordance with 10 CFR 72.22(d)(3). In addition, the address at which they can be contacted remains the same: Perryville Corporate Park, Clinton, New Jersey 08809-4000. Except as noted below, the directors and principal officers are citizens of the United States.

DIRECTORS

Eugene D. Atkinson
 Steven J. Demetriou
 Jack A. Fusco
 Robert C. Flexon
 Edward G. Galante
 Stephanie Hanbury-Brown
 Raymond J. Michovich
 Maureen B. Tart-Bezer
 James D. Woods

OFFICER

TITLE

Raymond J. Michovich	Chairman and Chief Executive Officer
Umberto della Sala*	President and Chief Operating Officer
Franco Baseotto**	Executive Vice President, Chief Financial Officer and Treasurer
Peter J. Ganz	Executive Vice President, Secretary and General Counsel
Beth Sexton	Executive Vice President, Human Resources
Lisa Z. Wood	Vice President and Controller
Rakesh J. Jindal	Vice President of Tax
W. Scott Lamb	Vice President, Investor Relations
Peter D. Rose	Vice President and Chief Compliance Officer
David Wardlaw***	Vice President, Project Risk Management Group

* Mr. della Sala is a citizen of Italy, and he resides and works primarily in Italy.

** Mr. Baseotto is a citizen of Italy, and he resides and works primarily in the United States as a resident alien.

*** Mr. Wardlaw is a citizen of the United Kingdom, and he resides and works primarily in the United Kingdom.

The directors and principal officers of FWENC, all of whom are citizens of the United States who can be contacted at Perryville Corporate Park, Clinton, New Jersey 08809-4000, are:

DIRECTORS

John Crider
Anthony Scerbo

OFFICER

TITLE

John Crider	President, Chief Executive Officer
John A. Doyle, Jr.	Assistant Secretary
Rakesh J. Jindal	Vice President of Tax
Anthony Scerbo	Executive Vice President
Peter J. Ganz	Executive Vice President & Secretary
Rohit Chib	Vice President
Kevin C. Hagan	Treasurer
Ronald R. Thau	Assistant Treasurer
Steve Di Lauri	Senior Vice President and Controller

Section 5.2 CHANGES OF PERSONNEL

1. *Any changes in personnel having control over licensed activities (e.g., officers of a corporation and any changes in personnel named in the license such as radiation safety officer, authorized users, or any other persons identified in previous license applications as responsible for radiation safety or use of licensed material). The licensee should include information concerning the qualifications, training and responsibilities of new individuals.*

The proposed indirect transfer of control of SNM-2512 will not affect the management teams and personnel having control over licensed activities.

2. *An indication of whether the transferor will remain in non-licensed business without the license.*

FWENC will remain the licensee before and after the proposed indirect transfer of control.

Section 5.3 CHANGES OF LOCATION, EQUIPMENT & PROCEDURES

1. *A complete description of any planned changes in organization, location, facility, equipment, or procedures (i.e., changes in operating or emergency procedures).*

There are no planned changes to the operating organization, location, or personnel with responsibilities under SNM-2512.

2. *A detailed description of any changes in the use, possession, location or storage of the licensed materials.*

The transfer of SNM-2512 will not result in changes in use, possession, location or storage of licensed materials. The transfer will not result in any change to the revised Physical Protection Plan, including Safeguards Contingency Plan and the Security Training and Qualification Plan, that was previously approved by NRC letter dated September 16, 2004.

3. *Any changes in organization, location, facilities, equipment, procedures, or personnel that would require a license amendment even without the change of ownership.*

The transfer will not result in any changes to location of activities, facilities, equipment or procedures related to SNM-2512. In fact, there are no changes that would require amendment of the SNM-2512 license or its Safety Analysis Report (SAR), including Chapter 9.1 of the SAR which describes the FWENC organizational structure and the technical qualifications of FWENC in compliance with 10 CFR 72.28. Information regarding the existing parent holding company, Foster Wheeler Ltd., was provided in Chapter 1 of the License Application, but information regarding the parent company organization does not impact the licensed activities of the FWENC organization and, therefore, is not described in the SAR. To the extent the description of Foster Wheeler Ltd. is part of the licensing basis for SNM-2512, that information is now supplemented with the identification of Foster Wheeler AG as the new parent holding company in place of "Foster Wheeler Ltd." as described herein.

Section 5.4 SURVEILLANCE RECORDS

1. *An indication of whether all surveillance items and records (e.g., calibrations, leak tests, surveys, inventories, and accountability requirements) will be current at the time of transfer. A description of the status of all surveillance requirements and records should also be provided.*

All surveillance items and records are current and will continue to be maintained by FWENC.

Section 5.5 DECOMMISSIONING AND RELATED RECORDS TRANSFERS

1. *Confirmation that all records concerning the safe and effective decommissioning/closure of the facility: public dose and waste disposal by release to sewers, incineration, radioactive material spills, and on-site burials, have been transferred to the new licensee if licensed activities will continue at the same location.*

Records concerning safe and effective decommissioning are unaffected by the proposed indirect transfer, because FWENC will remain the licensee before and after the corporate restructuring.

2. *A description of the status of the facility. Specifically, the presence or absence of contamination should be documented. If contamination is present, will decontamination occur before transfer? If not, is the transferee knowledgeable of the extent and levels of contamination and applicable decommissioning requirements, and does the transferee agree to assume full liability for the decontamination of the facility or site?*

The status of the facility is unaffected by the proposed indirect transfer, because no facility currently exists and FWENC will remain the licensee before and after the transaction.

3. *A description of any decontamination plans, including financial surety arrangements of the transferee. This should include information about how the transferee and transferor propose to divide the transferor's assets and responsibility for any cleanup needed at the time of transfer.*

As a result of the proposed restructuring, there will be no changes to the decontamination plan submitted with the application for SNM-2512 and discussed in Chapter 13 of the NRC's Safety Evaluation. In any case, it should be noted that the Department of Energy (DOE) retains ultimate responsibility for decommissioning the facility, which includes decontaminating the site. NRC has granted an exemption from the decommissioning fund requirements of 10 CFR 72.30, based upon DOE's commitment to obtain funding for decommissioning, which remains in place unaffected by the proposed license transfer. A copy of the DOE's Statement of Intent letter dated March 24, 2003 (INTEC-PSF-03-006) is attached.

A proposed decommissioning plan was submitted with the original application for the Idaho Spent Fuel Facility. The plan provides that the decommissioning of the site will occur in two phases. In the first phase, which will begin after the spent nuclear fuel has been transferred from the facility, the site will be decontaminated and dismantled. In the second phase, the site will be restored.

Section 5.6 **TRANSFeree'S COMMITMENT TO ABIDE BY THE TRANSFEROR'S COMMITMENTS**

1. *Confirmation that the transferee agrees to abide by all commitments and representations previously made by the transferor. These include, but are not limited to: maintaining decommissioning records; implementing decontamination activities and decommissioning of the site; and completing corrective actions for open inspection items and enforcement actions.*

With regard to contamination of facilities and equipment, the transferee should confirm, in writing, that it accepts full liability for the site, and should provide evidence of adequate resources to fund decommissioning; or the transferor should provide a commitment to decontaminate the facility before the change of control or ownership.

With regard to open inspection items, etc., the transferee should confirm, in writing, that it accepts full responsibility for open inspection items and/or any resulting enforcement actions; or the transferee proposes alternative measures for meeting the requirements; or the transferor provides a commitment to close out all such actions with the NRC before license transfer.

FWENC will continue to abide by all commitments and representations made by FWENC.

2. *Documentation that the transferor and transferee agree to the change in ownership or control of the licensed material and activity, and the conditions of the transfer; and the transferee is made aware of all open inspection items and its responsibility for possible resulting enforcement actions.*

Foster Wheeler Ltd. and Foster Wheeler AG agree to the indirect transfer of control of SNM-2512. Foster Wheeler AG understands that FWENC is responsible for any open inspection items.

3. *A commitment by the transferee to abide by all constraints, conditions, requirements, representations, and commitments identified in the existing licenses. If not, the transferee must provide a description of its program to ensure compliance with the license and regulations.*

FWENC will continue to abide by all constraints, conditions, requirements, representations and commitments identified in SNM-2512.

4. *Pursuant to 10 C.F.R. § 72.22(e), information sufficient to demonstrate the financial qualifications of the applicant to carry out the activities that the license covers. The information must show that the applicant either possesses the necessary funds or has reasonable assurance of obtaining the necessary funds to cover the: (1) estimated construction costs, (2) estimated operating costs over the life of the independent spent fuel storage installation, and (3) estimated decommissioning costs.*

The planned restructuring does not change any of the information previously provided regarding the financial qualifications FWENC and decommissioning funding assurance previously described.

As described in the application for SNM-2512, as supplemented, and Chapter 17 of the NRC's Safety Evaluation Report, FWENC obtains funds for its activities relating to the Idaho Spent Fuel Facility pursuant to contract with DOE. In addition, pursuant to the contract, DOE retains ownership of the spent nuclear fuel and remains responsible for the eventual decontamination and decommissioning of the site.

5. *Pursuant to 10 C.F.R. § 72.28, each application must include: (1) the technical qualifications of the applicant to engage in the licensed activity, (2) a description of the personnel training program required under subpart I, (3) a description of the applicant's operating organization, and (4) a commitment by the applicant to have and maintain an adequate complement of trained and certified installation personnel prior to the receipt of spent fuel.*

This information was provided by FWENC with its original application, as supplemented, and is described in Chapter 10 of the NRC's Safety Evaluation. The planned indirect transfer of control of SNM-2512 does not change any of this information. The planned restructuring has no effect on the operations or management of FWENC, and implementation of the new parent company structure does not require any amendment to the SNM-2512 license or the SAR, including Chapter 9.1 of the SAR which describes the FWENC organizational structure.

Draft Federal Register Notice

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NUCLEAR REGULATORY COMMISSION

[Docket No 72-25]

Foster Wheeler Environmental Corporation, Idaho Spent Fuel Facility, Independent Spent Fuel Storage Installation; Notice of Consideration of Approval of Proposed Corporate Restructuring And Opportunity For A Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of approval of proposed corporate restructuring and opportunity for hearing.

FOR FURTHER INFORMATION CONTACT: **[insert NRC official's contact information]**.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering the issuance of an order under 10 CFR 72.50 approving the indirect transfer of Special Nuclear Materials License No. (SNM) -2512 for an independent spent fuel storage installation (ISFSI), called the "Idaho Spent Fuel Facility," currently held by Foster Wheeler Environmental Corporation (FWENC). Currently, FWENC's parent holding company is Foster Wheeler Ltd., a corporation duly organized under the laws of Bermuda, with shares that are widely held and publicly traded in the United States on the NASDAQ Global Select Market. The indirect transfer of control of FWENC's license results from a planned restructuring whereby Foster Wheeler AG will become the new corporate parent holding company. Foster Wheeler AG is a corporation duly organized under the laws of Switzerland, and it is currently a wholly owned subsidiary of Foster Wheeler Ltd, the current corporate parent holding company.

Following the proposed corporate restructuring, the current shareholders of Foster Wheeler Ltd. will receive shares of Foster Wheeler AG, which will become the new parent company of Foster Wheeler Ltd. The current principal officers and directors of Foster Wheeler Ltd. will become the principal officers and directors of Foster Wheeler AG. The only substantive change that will result from the corporate restructuring is that the new parent holding company will be domiciled in Switzerland.

According to the application filed by Foster Wheeler Ltd., the planned restructuring will not impact the operations of FWENC, nor will it impact any of the terms and conditions under which it maintains SNM-2512. None of the individuals with control over the licensed activity will change as a result of the restructuring. The proposed indirect transfer does not change the existing

financial and technical qualifications of FWENC, and it does not involve any changes to the existing permit requirements.

Pursuant to 10 CFR 72.50, no license, or any part included in the license issued under 10 CFR Part 72 for an ISFSI shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any motion relevant to the license of an ISFSI which does no more than reflect the indirect transfer action involves no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to such determinations are being solicited.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the indirect license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application may request a hearing and intervention via electronic submission through the NRC E-filing system. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)-(viii).

All documents filed in NRC adjudicatory proceedings, including petitions to intervene and requests to participate as an interested government entity under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which was promulgated by the NRC on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the petitioner must contact the Office of the Secretary by e-mail at HearingDocket@nrc.gov, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner (or its

counsel or representative) already holds an NRC-issued digital ID certificate). Each participant will need to download the Workplace Forms Viewer TM to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer TM is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a participant has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. Participants filing a document in this manner are responsible for serving the document on all other participants.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held, and designating the presiding officer. A notice granting a hearing will be published in the Federal Register and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by **[insert date]**, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. These comments need not be submitted using the E-Filing process. Rather, comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this Federal Register notice.

For further details with respect to this indirect license transfer application, see the application dated **[insert date]**, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737 or by e-mail to pdrr@nrc.gov.

Attorney for the applicant: John E. Matthews of Morgan, Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, NW, Washington, DC 20004, ph: (202) 739-5524, facsimile: (202) 739-3001, email: jmatthews@morganlewis.com.

Dated in Rockville, Maryland this **[insert date]** day of December 2008.

[insert NRC official],

[insert title], Licensing Section, Spent Fuel Project Office,
Office of Nuclear Material Safety and Safeguards.



Department of Energy

Idaho Operations Office
850 Energy Drive
Idaho Falls, Idaho 83401-1563

March 24, 2003

United States Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

SUBJECT: Idaho Spent Fuel Facility, Docket 72-25, Statement of Intent (INTEC-PSF-03-006)

Dear Sir or Madam:

On November 19, 2001, the Foster Wheeler Environmental Corporation (FWENC) submitted its license application for the Idaho Spent Fuel (ISF) Facility (Docket 72-25). Design, construction, licensing, and operation of the ISF are the responsibility of FWENC under contract No. DE-AC07-00ID13729 between FWENC and the United States Department of Energy (DOE). This Statement of Intent supports FWENC's request for an exemption from the decommissioning fund requirements of 10 C.F.R. §72.30 regarding the ISF Facility.

The ISF Facility will be located at the Idaho National Engineering and Environmental Laboratory (INEEL), which is funded and operated by DOE. DOE owns the fuel that will be placed in the ISF Facility and will retain title to the fuel throughout the ISF Facility's licensed life. As such, DOE has a significant interest in ISF Facility design, construction, licensing, and operation. DOE is also responsible under the subject contract for funding decommissioning of the ISF Facility at the end of its licensed life. DOE will ensure decommissioning is performed in a manner that does not adversely impact the public health and safety.

DOE anticipates that operation of the ISF Facility will continue beyond 2010, when its contract with FWENC comes to an end. Facility operation beyond that date will require either an extension of the FWENC contract or transfer of ISF Facility operations to a successor contractor, subject to approval by the Nuclear Regulatory Commission, as appropriate. DOE's responsibility for decommissioning the ISF Facility will survive any expiration or termination of the contract between the DOE and FWENC. The recent purchase of FWENC assets by Tetra Tech, Inc. in no way impacts this DOE commitment.

As Acting Manager of the DOE Idaho Operations Office, and on behalf of DOE, I am authorized to, and commit that the DOE will, make a timely request of funds from the United States Congress when necessary, consistent with ISF Facility decommissioning plan estimates. Those estimates currently total approximately \$23 million. These funds will be requested sufficiently in advance of decommissioning to prevent delay of required activities. Appropriation of funds necessary for decommissioning is, of course, the responsibility of the Congress.

March 24, 2003

DOE will revise this Statement of Intent if the circumstances described above materially change, including a significant increase in the estimated cost of decommissioning. Because the health and safety of the public is paramount, DOE anticipates the Congress will adequately and timely fund the ISF Facility decommissioning.

I am authorized by DOE to address funding and project scope matters regarding the ISF Facility pursuant to the aforementioned contract No. DE-AC07-00ID13729. Furthermore, my authority to act on budget matters for the DOE Idaho Operations Office is provided in DOE Order O 130.1 (copy enclosed).

Please contact Jan Hagers at (208) 526-0758 if you require any further information from DOE in this regard.

Sincerely,



Warren E. Bergholz, Jr.
Acting Manager

Enclosure