7590-01-P

UNITED STATES NUCLEAR REGULATORY COMMISSION

FOSTER WHEELER ENVIRONMENTAL CORPORATION

IDAHO SPENT FUEL FACILITY

DOCKET NO. 72-25

NOTICE OF ORDER APPROVING INDIRECT TRANSFER OF MATERIALS LICENSE

AGENCY: U. S. Nuclear Regulatory Commission.

ACTION: Issuance of Order Approving Indirect Transfer of Materials License No. SNM-2512.

FOR FURTHER INFORMATION, CONTACT: Shana Helton, Senior Project Manager, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards (NMSS), U.S. Nuclear Regulatory Commission (NRC), Rockville, MD 20852. Telephone: (301) 492-3284; fax number: (301) 492-3348; e-mail: shana.helton@nrc.gov.

SUPPLEMENTARY INFORMATION:

I

Foster Wheeler Environmental Corporation (FWENC) is the holder of Special Nuclear Materials (SNM) License No. 2512, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 72. The license authorizes FWENC to construct and operate the Idaho Spent Fuel (ISF) Facility in accordance with the terms and conditions specified therein. The yet-to-be constructed ISF Facility is an independent spent fuel storage installation, which, if constructed, will be located adjacent to the Department of Energy's Idaho Nuclear Technology and Engineering Center site on the Idaho National Laboratory grounds in Idaho.

II

By letter dated December 11, 2008, as supplemented on December 22, 2008 (Agencywide Documents Access and Management System Accession Nos. ML083500374 and ML0836403110, respectively), FWENC submitted an application seeking consent to the indirect transfer of control of SNM License No. 2512 for the ISF Facility.

The indirect transfer of control of FWENC's license would result from a planned restructuring whereby Foster Wheeler AG will become the new ultimate corporate parent holding company of FWENC, replacing Foster Wheeler Ltd, the current ultimate parent holding company. The 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. The proposed new ultimate 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.

No physical changes to the planned ISF Facility were proposed in the application. FWENC will still be authorized to construct and operate the ISF Facility, notwithstanding the proposed corporate restructuring, and will continue to hold the license. No direct transfer of the license will result from the planned restructuring.

Approval of the application was requested pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 72.50. Notice of the application and an opportunity for a hearing was published in the Federal Register on December 29, 2008 (*73 FR 79518*). No hearing requests or written comments were received.

Under 10 CFR 72.50, no license or any part included in a 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. Upon review of the information submitted in the application and other information before the Commission, the NRC staff has

determined that the proposed corporate restructuring as described above will not affect the qualifications of FWENC as holder of SNM License No. 2512, and that the indirect transfer of control of the license, to the extent effected by the restructuring, is otherwise consistent with applicable provisions of the law, and the regulations and orders issued by the Commission. These findings are supported by a Safety Evaluation of the same date as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), and 2234; and 10 CFR 72.50, IT IS HEREBY ORDERED that the application regarding the indirect license transfer described above related to the proposed corporate restructuring and establishment of Foster Wheeler AG as the new ultimate parent holding company of FWENC is approved, subject to the following condition:

> Should the proposed corporate restructuring and establishment of Foster Wheeler AG as the new ultimate corporate parent holding company not be completed within one year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated December 11, 2008, as supplemented by letter dated December 22, 2008, and the NRC's safety evaluation dated January 29, 2009 (ADAMS Accession Nos. ML083500374, ML0836403110, and ML090220068, respectively). These documents are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the 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 pdr@nrc.gov.

Dated at Rockville, Maryland this 29th day of January, 2009.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Michael F Weber, Director,
Office of Nuclear Material Safety and Safeguards

For further details with respect to this Order, see the application dated December 11, 2008, as supplemented by letter dated December 22, 2008, and the NRC's safety evaluation dated January 29, 2009 (ADAMS Accession Nos. ML083500374, ML0836403110, and ML090220068, respectively). These documents are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the 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 pdr@nrc.gov.

Dated at Rockville, Maryland this 29th day of January, 2009.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Michael F Weber, Director,
Office of Nuclear Material Safety and Safeguards

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NAME	NMamish for MScott		NMamish for EWBrach		APessin – NLO		MWeber	
DATE	1 / 29 / 2009		1 / 29 / 2009		1 / 29/ 2009		1 / 29 / 2009	

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