

SAFETY EVALUATION REPORT

DOCKET NO.: 70-143

LICENSEE: NUCLEAR FUEL SERVICES, INC., SNM-124

SUBJECT: AMENDMENT 8 – UPDATES TO FINANCIAL ASSURANCE INSTRUMENTS AND AMENDMENTS TO STANDBY TRUST AGREEMENTS (COST ACTIVITY CODE L33445)

1. BACKGROUND

By letter dated June 16, 2017, Nuclear Fuel Services, Inc. (NFS) requested approval of changes to its financial assurance instruments and amendments to Standby Trust Agreements (STAs) that guarantee funds in the amount specified in the approved decommissioning cost estimate (Agencywide Documents Access and Management System [ADAMS] Accession Number ML17178A257). The cost estimate was last approved by the U.S. Nuclear Regulatory Commission (NRC) in a letter dated September 16, 2016 (ADAMS ML16252A377).

Specifically, NFS requested approval of the following changes:

- Replace an existing letter of credit No. 535537025 from Crédit Agricole Corporation and Investment Bank (CIB) for \$9,760,000 with a new letter of credit from TD Bank, N.A. for \$60,000 and a surety bond for \$23,250,000 (mentioned below).
- Replace an existing letter of credit from JP Morgan Chase Bank for \$3,785,680 with a new letter of credit from Bank of America, N.A., for the same amount.
- Replace two existing letters of credit – both from Crédit Agricole CIB for \$13,550,000 (No. 604737031) and the remaining amount of \$9,700,000, No. 5357025 with a surety bond from Argonaut Insurance Company valued at \$23,250,000.
- Amendment No. 2 to NFS Blended Low Enriched Uranium (BLEU) Complex STA.
- Amendment No. 2 to NFS STA.
- Corresponding revisions to Chapter 10 *Decommissioning* of the NFS special nuclear material license application.

The regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Paragraph 70.25(f) state the requirements for financial instruments assuring funds for decommissioning. The financial instruments submitted by NFS are sorted into the following liability categories for its \$414 million cost estimate:

- U.S. Department of Energy (DOE) government contracts (~\$373 million).
- NFS commercial contracts (~\$23.3 million).
- Joint Venture (AREVA and NFS) commercial contracts (~\$18.3 million).

In addition, the NRC received written notification dated April 13, 2017, from JP Morgan Chase Bank that their issued letter of credit supporting the NFS/AREVA liability for the BLEU Complex would not be renewed past its July 16, 2017, expiration date (ADAMS ML17116A588). NFS provided with this submittal an executed letter of credit to replace, for the full dollar amount, the expired letter of credit. The timely submission of an executed letter of credit prevented a gap in financial assurance for the NFS site.

2. DISCUSSION

The NRC staff reviewed the licensee submittal using the Standard Review Plan for financial assurance (NUREG-1757, Vol. 3, Rev. 1) to determine compliance with applicable paragraphs of 10 CFR Section 70.25.

2.1 Regulatory Framework

- Paragraph 10 CFR 70.25(e)(1)(v) requires an original instrument to cover the cost estimate for decommissioning.
- Financial assurance for decommissioning must be provided by one or more methods stated in 10 CFR 70.25(f).
- Paragraph 10 CFR 70.25(f)(2)(i) requires the surety method or insurance to be open-ended or, if written for a specified term, such as 5 years, must be renewed automatically unless 90 days or more prior to the renewal date, the insurer notifies the Commission, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Commission within 30 days after receipt of notification of cancellation.
- Paragraph 10 CFR 70.25(f)(2)(ii) requires surety method or insurance to be payable to a trust established for decommissioning costs. The trustee and the trust must be acceptable to the Commission.
- Paragraph 70.25(f)(2)(iii) requires that the surety method or insurance remain in effect until the Commission has terminated the license.

2.2 NRC Evaluation Findings

Financial Instruments for DOE

The financial instruments for the DOE government contract remain as approved by the NRC on May 30, 2017 (ADAMS ML17143A296).

Financial Instruments for NFS Commercial Contracts

For this liability category, NFS provided a decommissioning surety bond for \$23,250,000 to replace two Crédit Agricole CBI letters of credit – \$9,700,000 of the \$9,760,000 letter of credit and another one for \$13,550,000. The submittal included Amendment No. 2 to the STA for this liability category to reflect the surety mechanisms and replace Schedule A. The trustee is Regions Bank, N.A. The beneficiary of this STA is the NRC. The STA and trustee were previously approved by the NRC in letters dated March 14, 2016 (ADAMS ML16068A335) and August 4, 2016 (ADAMS ML16209A430).

Financial Instruments for Joint Venture Commercial Contracts

For this liability category, NFS provided two irrevocable standby letters of credit – one letter of credit provided by AREVA for \$3,785,680, and one letter of credit provided by NFS for \$60,000. These letters of credit replace for the full dollar amount two letters of credit currently in place. In addition, NFS provided an Amendment No. 2 to the NFS BLEU Complex STA to reflect the changes in financial instruments. The trustee is Regions Bank, N.A. The beneficiary of this STA is the NRC.

The letters of credit for \$60,000 and \$3,785,680; as well as the surety bond of \$23,250,000; in conjunction with other previously approved surety instruments, are equal to the current Commission-approved cost estimate for this site. The revisions to Chapter 10 *Decommissioning* of the license application reflects that a surety bond is used as an instrument for financial assurance.

The NRC staff finds that the licensee meets the applicable requirements of 10 CFR 70.25 by having surety methods:

- issued by regulated institutes which are payable to their corresponding STAs;
- that automatically renew and has commitments to notify both NFS and NRC;
- that allows NRC to draw on the instruments for the full amount prior to the expiration dates;
- that are payable to a trust established for decommissioning costs; and
- will remain in effect until another form of satisfactory financial assurance is in place and approved by NRC or the license is appropriately terminated.

The staff finds the amended STAs and the alternate financial surety letters of credit and the surety bond submitted by NFS adheres to the relevant regulatory requirements in 10 CFR 70.25, and are therefore acceptable.

3. ENVIRONMENTAL REVIEW

This action involves the amendment of a license to change financial assurance requirements. A proposed action is categorically excluded from an environmental review under 10 CFR 51.22(c)(10) if it involves the amendment of a license to change surety, insurance, and/or indemnity requirements. Therefore, neither an environmental assessment nor an environmental impact statement is warranted for this action.

4. CONCLUSION

The NRC staff determined the submitted financial assurance mechanisms and amendments to the STAs adhere to the relevant regulatory requirements in 10 CFR 70.25. The NRC staff finds

that the changes to the financial assurance documents provide reasonable assurance that sufficient funds will be available to perform decommissioning when required.

5. PRINCIPAL CONTRIBUTORS

Reginal Augustus,
Financial Project Manager
Performance Assessment Branch

Leira Cuadrado,
Licensing Project Manager,
Fuel Manufacturing Branch