



WASHINGTON PUBLIC POWER SUPPLY SYSTEM

P.O. Box 968 • 3000 George Washington Way • Richland, Washington 99352

July 26, 1990

Docket No. 50-397
G02-90-129

U.S. Nuclear Regulatory Commission
Document Control Desk
Mail Station P1-137
Washington, DC 20555

Gentlemen:

Subject: **Decommissioning Financial Assurance
Certification Report For Docket Number 50-397**

The Nuclear Regulatory Commission's ("NRC") regulations require that, on or before July 26, 1990, all production or utilization facility licensees submit to the NRC "information in the form of a report as described in 10 CFR 50.75 indicating how reasonable assurance will be provided that funds will be available to decommission the facility." This Decommissioning Financial Assurance Certification Report ("Report") addresses the Commission's decommissioning financing requirements applicable to WNP-2.

WNP-2 is a BWR producing less than 3400 MWt, for which NRC License No. NPF-21 is currently and will continue to be in effect on July 26, 1990. In accordance with 10 CFR 50.75(b) and (c), Washington Public Power Supply System, the sole owner of WNP-2, hereby certifies that financial assurance, utilizing an external sinking fund of at least \$135 million in January 1986 dollars, will be available to decommission WNP-2. This figure will be annually revised during the licensed operating life of WNP-2 in accordance with the requirements of 10 CFR 50.75(c)(2).

Washington Public Power Supply System is accumulating decommissioning funds in an external sinking fund in accordance with 10 CFR 50.75(e) to address NRC financial assurance requirements. A copy of the Decommissioning Trust Fund Agreement governing the management of the external sinking fund is attached hereto.

If there are any questions, please contact me at (509) 372-5238.

Very truly yours,

G. C. Sorensen, Manager
Regulatory Programs (MD-280)

Attachment

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DECOMMISSIONING TRUST FUND AGREEMENT

This TRUST AGREEMENT, (the "Agreement") entered into as of July 26, 1990 by and between Washington Public Power Supply System, a municipal corporation and joint operating agency of the State of Washington, hereinafter referred to as the "Grantor" or the "Supply System", and Seafirst Bank, the "Trustee";

WHEREAS, the Grantor is a holder of License Number NPF-21 (the "Operating License"), pursuant to 10 CFR Part 50, for Washington Public Power Supply System Nuclear Project No. 2, located on the Department of Energy's Hanford Site in the State of Washington; and

WHEREAS, the U.S. Nuclear Regulatory Commission, an agency of the U.S. Government, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 50, which regulations require that a holder of a license issued pursuant to 10 CFR Part 50 provide assurance that funds will be available when needed for required decommissioning activities through use of an external trust fund or otherwise; and

WHEREAS, the Grantor has elected to use an external trust fund to provide all of such financial assurance for paying Costs of Decommissioning of the facilities identified in the Operating License; and

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee;

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

"Authorized Officer" means the Managing Director of the Supply System, the Treasurer or Assistant Treasurer of the Supply System and any other officer designated from time to time as an Authorized Officer of the Supply System by resolution of the Executive Board of the Supply System.

"Cost of Decommissioning" shall mean all costs incurred by the Grantor in connection with the decommissioning, restoring, removing or otherwise disposing of the facilities identified in the Operating License. Cost of Decommissioning shall include all costs of the Supply System including, but not limited to, staff, engineering, legal, accounting and management expenses, payments to contractors, and any other appropriate cost relating to decommissioning activities.

"Market Value" of any security in the Trust Fund shall mean, as of any date, the last sale price of such security on such date, or in case no sale takes place on such date, the closing bid on the principal national securities exchange on which security is traded, or if not traded on any national exchange, then the closing bid as quoted on the National Association of Securities Dealers Automated Quotation System or as reported by the National Quotation Bureau, Inc., or similar reporting organizations, or if not so reported, determined by such other means as the Trustee shall deem appropriate. In the case of any security which is an interest-bearing instrument, Market Value shall also include interest accrued but unpaid to such date.

"NRC" shall mean the United States Nuclear Regulatory Commission or any successor to such entity.

"Trust Fund" shall mean the Project No. 2 Decommissioning Trust Fund created by this Agreement.

"Trustee Investment Policy" means the written policy or policies established by the Grantor for determining the investments to be purchased by the Trustee for the Trust Fund, attached hereto as Attachment B.

"Value of the Trust Fund" shall mean, as of any date, the sum of (a) all cash and cash equivalent held in the Trust as of such date and (b) without duplication, the Market Value of all securities held in the Trust as of such date.

Section 2. Establishment of Trust Fund. The Nuclear Project No. 2 Decommissioning Trust Fund (the "Trust Fund") is hereby created for the benefit of the Bonneville Power Administration ("Bonneville") for the purpose of satisfying the Supply System's obligations under 10 CFR 50 to provide assurance that funds will be available when needed for required decommissioning activities. Promptly after execution of this Agreement, the Supply System will deliver to the Trustee funds and securities heretofore held by the Supply System for decommissioning purposes.

The Trust Fund is established with the Trustee as an irrevocable trust to provide for payment of Costs of Decommissioning. The Trust Fund is to be held in the custody of the Trustee and accounted for separate and apart from other funds of the Trustee and from funds of the Grantor. The Grantor and Trustee intend that only the Supply System or Bonneville shall have the right to take any action to enforce the terms of the Trust created hereby; and that no other party shall have any rights in any portion of this Trust Fund for any purpose including, without limitation, satisfaction of any debt of the Grantor.

Section 3. Assets Constituting the Trust Fund.

- a) From time to time, the Supply System may deliver additional funds or securities to the Trustee, for deposit in the Trust Fund. Such property and any other property subsequently transferred to the Trustee, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement, shall be held by the Trustee.
- b) The Trustee shall not be responsible nor shall it undertake any responsibility for the adequacy of the Trust Fund to achieve its stated purpose or for collection of any amounts from the Grantor.

Section 4. Payments From the Trust Fund.

- a) Upon delivery of a certificate duly executed by an Authorized Officer of the Supply System attesting to the occurrence of the events, and in the form, set forth in Attachment A hereto, the Trustee shall make payments

from the Trust Fund as directed by the Grantor; provided, however, that prior to each such payment, the Trustee shall have received a certificate duly executed by an Authorized Officer of the Supply System, stating:

- 1) That decommissioning is proceeding consistent with rules and regulations promulgated by the NRC relating to decommissioning; and
- 2) That such payment is for a Cost of Decommissioning, describing the services or goods for which such payment is to be made, and stating that said activities have been performed or such goods have been received; and
- 3) That the payment from the Trust Fund will be for the sole and exclusive purpose of paying Costs of Decommissioning, and not for any other purpose.

Upon payment, such funds shall no longer constitute part of the Trust Fund.

- b) The Grantor may, at its option, direct the Trustee to make payments out of the Trust Fund for compensation of any person or firm retained by the Grantor to act as the designee of the Grantor under Section 5(a) hereunder.
- c) If the value of the Trust Fund on June 30 of any year, as stated by the Trustee in Section 6(d), shall exceed the present value of 115% of the estimated Cost of Decommissioning in then current year dollars discounted to the same valuation date using a discount rate that is 0.5% less than the current estimate of the future real rate of return*, then the Grantor, at its sole discretion, may direct the Trustee to transfer to

*Real rate of return is defined as current interest rate minus inflation rate.

Bonneville funds or securities with value up to the amount in excess. The estimated cost of decommissioning, at a minimum, shall be at least equal to the minimum required by NRC regulations.

Section 5. Investment of Trust Fund.

- a) All assets held in the Trust Fund shall be invested by the Trustee at the direction of the Grantor, or its designee(s), to the fullest extent practicable and reasonable, in securities which are legal investments for the Supply System under Washington State law as in effect from time to time. Such designee may be an employee of the Supply System or another person or entity. If the Grantor fails to direct investments, the Trustee shall, to the fullest extent reasonable and practicable, invest the assets of the Trust Fund in securities in accordance with the Trustee Investment Policy, attached hereto as Attachment B, as it may be amended from time to time by the Grantor.
- b) Except as otherwise provided herein, all income and earnings received from the investment of amounts on deposit in the Trust Fund shall be retained in the Trust Fund and be reinvested and applied to payment of Costs of Decommissioning as provided hereunder.

Section 6. Duties of Trustee. Without in any way limiting the powers and duties conferred upon the Trustee by the other provisions of this Agreement, or by law, the Trustee is expressly authorized, empowered and directed:

- a) To hold all assets delivered to it by the Grantor;
- b) To invest such assets as provided by the terms of this Agreement and as set forth in the Trustee Investment Policy;
- c) To receive and hold all investment income derived from the assets of the Trust Fund;

- d) To provide to the Grantor and to the NRC, on or about August 1, a written accounting of the status of the Trust Fund, including:
- 1) A statement of the Value of the Trust Fund as of the preceding June 30, each year; and
 - 2) An accounting of all receipts and disbursements for the year ending on such June 30; and
 - 3) An inventory of all investments held by the Trustee as of June 30 of each year; and
 - 4) Such other information as the Grantor may, from time to time, request be included in such accounting.
- e) To provide to the Supply System monthly statements of account showing, at a minimum: (i) The balance of the Trust Fund; (ii) All transactions that month within the Trust Fund; and (iii) An inventory of all assets held by the Trust Fund.
- f) To insure all necessary documents are correct and complete before disbursing funds for the Cost of Decommissioning.

Section 7. Taxes. The Grantor may, at its option, direct the Trustee to make payments out of the Trust Fund in respect of all taxes of any kind that may be assessed or levied against or in respect of the Trust Fund.

Section 8. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting on the advice of counsel.

Section 9. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon, in writing, between the Grantor

and the Trustee. The trustee's compensation may be amended from time to time as mutually agreed upon by the Trustee and Grantor.

Section 10. Successor Trustee. Upon 60 days notice to the Grantor the Trustee may resign. The Grantor may replace the Trustee (i) upon 60 days notice; or (ii) immediately upon notice for gross negligence or willful misconduct of the Trustee. Any such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee and such successor Trustee accepts the appointment. The successor Trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor Trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor Trustee the funds and properties then constituting the Trust Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee or for instructions.

Section 11. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by an Authorized Officer provided, however, that investment directions may, consistent with industry practice, be verbal followed by written confirmation.. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor, except as provided herein.

Section 12. Amendment of Agreement. This Agreement may be amended only by an instrument in writing executed by the Grantor and the Trustee.

Section 13. Irrevocability and Termination. Subject to the rights of the parties to amend this Agreement as provided by Section 12, this Trust is

irrevocable and shall continue until terminated. This Agreement shall terminate:

- a) Upon delivery to the Trustee of a certificate by an Authorized Officer of the Supply System that no additional Costs of Decommissioning will be incurred for the facilities identified in License Number NPF-21, and that all such costs have been paid; or
- b) Upon delivery to the Trustee of a certificate of an Authorized Officer of the Supply System that the Supply System is no longer obligated under 10 CFR 50 to maintain an external trust fund.

Upon termination of the Trust Fund, all remaining assets of the Trust Fund shall be paid to Bonneville.

Section 14. Liability of Trustee.

- a) The Trustee shall exercise its duties hereunder in good faith and with the degree of care and skill that a prudent person would exercise in the conduct of such duties. The Trustee shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct or that of any of its officers, employees or agents. The Trustee shall not be liable for any loss resulting from any investment made pursuant to the terms and provisions of this Agreement. The Trustee shall have no lien, security interest or right of set-off whatsoever upon any of the moneys or investments in the Trust Fund for the payment of fees and expenses for services rendered by the Trustee under this Agreement or otherwise.
- b) So long as the Trustee applies the amounts on deposit in the Trust Fund in accordance with the terms of this Agreement, the Trustee shall not be liable for any deficiencies in the amounts necessary to pay Costs of Decommissioning.

- c) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Agreement and no implied covenants or obligations shall be read into this Agreement against the Trustee.
- d) The Trustee shall be under no obligation to inquire into or be in any way responsible for the performance or nonperformance by the Grantor of any of its obligations with respect to the Cost of Decommissioning.

Section 15. Indemnification of Trustee. The Grantor hereby agrees to indemnify the Trustee and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fee, or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Trustee under this Agreement, and in connection therewith, to indemnify the Trustee against any and all expenses, including reasonable attorney's fees and the cost of defending any action, suit or proceeding or resisting any claim, including appellate proceedings. The provisions of this Section shall not apply in the case of the Trustee's own negligence or willful misconduct or that of any of its officers, employees or agents.

Section 16. This Agreement shall be administered, construed, and enforced according to the laws of the State of Washington applicable to contracts entered into and performed entirely within the State of Washington.

Section 17. Audits. The Grantor may conduct an annual audit of the Trust Fund and all transactions relating thereto. Such audits may be conducted by the Grantor or by an independent auditor selected by the Grantor. All costs of such audits shall be borne by the Grantor. The Trustee shall make all books and records of account relating to the Trust Fund available for the audit.

Section 18. Interpretation and Severability. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

If any provision of this Agreement should be determined by a court of competent jurisdiction to be contrary to law, such provision shall be deemed and construed to be severable from the remaining provisions herein contained, and shall in no way affect the validity of the remaining provisions of this Agreement.

Section 19. Notices. Any notices to be given or to be served upon either party hereto in connection with this Agreement must be in writing (including telecopy or similar writing) and may be delivered personally when delivered at the address specified below, may be telecopied when such telecopy is transmitted to the telecopy number specified below and its receipt is acknowledged or may be sent by certified or registered mail at the address specified below; provided, that if so mailed, such notices shall be deemed to have been given and received seventy-two (72) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. Such notice shall be given to the parties at their following respective addresses or telecopy numbers or at such other address or telecopy number as either party may hereafter designate to the other party in writing:

If to the Grantor:

Attention: J.D. Perko, Chief Financial Officer
Telephone No.: (509) 372-5000
Telecopier No.: (509) 372-5328

If to the Trustee:

Attention: Jane Towery, Assistant Vice President
Telephone No.: (206) 358-0968
Telecopier No.: (206) 358-0080

Section 20. This Agreement supersedes all prior negotiations, agreements and understandings with respect to the subject matter hereof.

Section 21. This Agreement shall be binding on the parties and their successors and assigns.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by respective officers duly authorized as of the date first written notice above.

WASHINGTON PUBLIC POWER SUPPLY
SYSTEM

By: *J.D. Perko* *for*
J.D. Perko 7-25-90
Chief Financial Officer

SEAFIRST BANK

By: *Diane C. Moran*
Diane C. Moran
Assistant Vice President

ATTACHMENT A

CERTIFICATE OF EVENTS

[Insert name and address of trustee]

Attention: Trust Division

Gentlemen:

In accordance with the terms of the Agreement with you dated _____, I, _____, an Authorized Officer of the Supply System, hereby certify that the following events have occurred:

1. The Supply System is required to commence the decommissioning of its facility located at the Department of Energy's Hanford Site in the State of Washington (hereinafter called the decommissioning).
2. The plans and procedures for the commencement and conduct of the decommissioning have been approved by the United States Nuclear Regulatory Commission (NRC), or its successor, on _____ (copy of approval attached).
3. The Executive Board of the Supply System has adopted the attached resolution authorizing the commencement of decommissioning activities.

Authorized Officer of the Supply System

Date

cc: Nuclear Regulatory Commission

ATTACHMENT B

TRUSTEE INVESTMENT POLICY

Trustee: Funds not invested within two (2) banking days of receipt shall be invested in the current three month (91-day) U.S. Treasury Bills.