

December 23, 1998

Wittnauer Worldwide, L.P.  
ATTN: Mr. Felix A. Pagan  
General Manager  
P.O. Box 372740  
Cayey, Puerto Rico 00737

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION REGARDING PLANS  
AND ARRANGEMENTS TO FUND FACILITY DECOMMISSIONING  
(Docket No. 030-17451, Control No. 257769)

Dear Mr. Pagan:

This is in reference to your decommissioning financial assurance submittal dated February 17, 1998. The NRC acknowledged the receipt of that document in a letter dated April 15, 1998. In our April 15, 1998 letter, the NRC stated that if any questions or deficiencies were identified regarding your February 15, 1998 submittal, the NRC would contact you. The NRC has completed a review of the decommissioning funding plan using a certificate of deposit and a stand-by trust agreement in the amount of \$15,000.00. The NRC has identified a number of concerns regarding specific provisions of the submitted certificate of deposit and the stand-by trust agreement. This letter also refers to the telephonic licensing meeting on December 22, 1998 between Wittnauer Worldwide representatives and member of the NRC staff.

Regulatory Guide (RG) 3.66 "*Standard Format and Content of Financial Assurance Mechanisms Required for Decommissioning Under 10 CFR Parts 30, 40, 70, and 72*," June 1990 (enclosed) provides important information for licensees preparing financial assurance submissions for NRC review. It is strongly recommended that this guidance be used by Wittnauer and by other persons assisting Wittnauer in preparing its response to this letter. While deviations in the standard language in RG 3.66 are acceptable, Wittnauer must clearly detail how such deviations will not reduce the assurance that adequate funds are available to fully pay for the costs of decontaminating and decommissioning the Cayey facility.

The following questions concern specific provisions of the submitted certificate of deposit (CD) and the stand-by trust agreement.

1. NRC reviewed the CD that was included as part of the February 17, 1998 submittal. A number of problems, detailed below, were identified that must be corrected prior to the NRC's final acceptance of Wittnauer's financial assurance arrangements.
  - a. The CD is payable to NRC, rather than to the trustee of Wittnauer's standby trust. As a result, funds paid from the CD would be deposited directly into the U.S. Treasury and thus would not be available for funding decommissioning activities.

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- b. The CD contains some inconsistent and potentially confusing terminology. Specifically, the CD refers to the issuing bank as the "Escrow Agent" and indicates that the funds are held in an escrow account, even though Wittnauer is currently using a standby trust with the CD.
- c. The CD is not automatically renewable.

To ensure that the certificate of deposit properly provides adequate financial assurance for decommissioning, please obtain and submit a revised certificate of deposit, payable to the trustee of the stand-by trust agreement rather than the NRC.

In addition, page 4-11 of RG 3.66, recommends that the Certificate of Deposit contain provisions that cause the CD to be renewed automatically unless the licensee provides written notice to the bank of (1) default on decommissioning obligations, (2) termination of the facility license, or (3) substitution of another financial assurance mechanism. Ensure that the revised CD contains automatic renewal provisions. Alternatively, confirm that Wittnauer will immediately notify the NRC, in writing, of any action that would result in the CD no longer remaining in force as a financial assurance instrument.

- 2. The revised standby trust agreement contained in the February 17, 1998 submittal includes the following provision in Section 5, as recommended in RG 3.66, with the blanks not filled in: "No withdrawal from the fund can exceed \_\_\_\_ percent of the outstanding balance of the Fund or \_\_\_\_ dollars, whichever is greater, unless NRC approval is attached." During the licensing meeting, Wittnauer representatives indicated that their copy had been completed and was consistent with NRC guidance that suggests that the appropriate level to complete the blanks is 10 percent, meaning that no more than 10 percent of the outstanding balance of the trust may be withdrawn at a time without written approval from NRC. Please submit a copy of the completed standby trust agreement in which Section 5 has been revised to specify the maximum withdrawal that can be made by Wittnauer without written NRC approval. It is important that all documents, including financial instruments, submitted to the NRC are signed originals.
- 3. The most recently submitted revision of Schedule A to the standby trust agreement details Wittnauer's estimate of the costs for decommissioning the Cayey facility. However, the new Schedule A does not list the facility name and address, the NRC license number, or the licensee's name and address. Schedule A is intended to be a reference document for the trustee. Without this information, the trustee may be unable to determine when funds may be appropriately distributed. Please submit a revised Schedule A that includes the most recent decommissioning cost estimates, the facility name and address, the NRC license number, and the licensee's name and address, as recommended in RG 3.66, page 4-26.
- 4. The following two minor problems were identified in the stand-by trust agreement that was included as part of the February 17, 1998 submittal. These problems, detailed below, must be corrected prior to the NRC's final acceptance of Wittnauer's financial assurance arrangements:

- a. First, the acknowledgment attests to the execution of the trust on February 13, 1998. The revised standby trust agreement, however, was not executed until February 17, 1998 (i.e., four days *after* the date listed in the letter of acknowledgment).
- b. Second, the acknowledgment does not specify the date on which the notary public's commission expires, as called for on page 4-27 of RG 3.66.

As a result, the submitted acknowledgment does not adequately verify the trustee's execution of the revised standby trust agreement. Please submit a revised letter of acknowledgment along with the other requested documents.

Our review of your financial assurance arrangements will continue upon receipt of the requested information. Please provide two copies of your reply and refer to Control No. 257769 in all correspondence regarding this review. If you wish, replies may be transmitted via electronic facsimile (FAX) to (404) 562-4955. You should then mail the original copy of any electronically transmitted documents.

In order to continue prompt review of your financial assurance arrangements, we request that you submit your response to this letter within forty-five (45) days from the date of this letter.

Thank you for your continued cooperation in this matter. If you have any questions, please call me at (404) 562-4729 or contact me via E-mail at JMP2@NRC.GOV.

Sincerely,

(original signed by  
J. M. Pelchat)

John M. Pelchat  
Senior Health Physicist  
Materials Licensing and Inspection Branch 2  
Division of Nuclear Materials Safety

Enclosure: Regulatory Guide (RG) 3.66  
*"Standard Format and Content of Financial  
Assurance Mechanisms Required for  
Decommissioning Under 10 CFR  
Parts 30, 40, 70, and 72," June 1990*

cc: Wanda I. Colon, RSO

cc (via E-mail): Matthew Ulizio, Controller

Distribution w/o encl: (See Page 4)



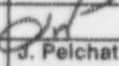
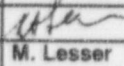
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