

TECHNICAL POSITION
ON FINANCIAL ASSURANCES FOR
RECLAMATION, DECOMMISSIONING,
AND LONG-TERM
SURVEILLANCE AND CONTROL
OF URANIUM RECOVERY FACILITIES

Division of Low-Level Waste Management
and Decommissioning
U.S. Nuclear Regulatory Commission

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ABSTRACT

This Technical Position provides guidance, to uranium recovery facility licensees and license applicants, for establishing and maintaining financial assurance for the decommissioning, reclamation, and long-term surveillance and control of such sites.

The U.S. Nuclear Regulatory Commission (NRC) staff views this document as a regulatory tool, for applicants, licensees, and NRC staff, for implementing Title 10, Code of Federal Regulations (10 CFR) Part 40, Criteria 9 and 10 of Appendix A, entitled "Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content."

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Dennis Sollenberger, Division Low-Level Waste Management and Decommissioning
Howard Rose, Uranium Recovery Field Office
Harry Pettengill, Uranium Recovery Field Office
Darrel A. Nash, Program Management, Policy Development and Analysis,
Nuclear Reactor Regulation
Robert Wood, Program Management, Policy Development and Analysis,
Nuclear Reactor Regulation
John Kendig, Office of Governmental and Public Affairs
Linda Gilbert, Office of General Counsel
Robert Fonner, Office of General Counsel
Linda Embrey, Division Low-Level Waste Management and Decommissioning

1.0 INTRODUCTION

1.1 Organization of This Document

This Technical Position is organized to allow applicants/licensees easy access to their respective information needs, depending on the type of financial assurance to be used. Chapter 1.0 is an introduction defining the purpose and regulatory basis of this Technical Position.

Chapter 2.0 provides generic financial assurance guidelines applicable to any financial mechanism being proposed. Items discussed include timing of submissions/format, legal/signature authority, amount of coverage, maintenance of costs, cancellation, and termination.

Chapter 3.0 presents various financial assurance mechanisms which the U.S. Nuclear Regulatory Commission (NRC) views as acceptable. Each mechanism is presented as a section delineating terms, conditions, or guidance which are instrument-specific. Each section contains a definition, identifies roles of parties, and establishes specific guidelines for each instrument.

Chapter 4.0 recommends methods for cost estimating with regard to reclamation and decommissioning.

The Appendices are recommended wording/language for the instruments discussed in Chapter 3.0. This recommended wording/language incorporates the generic and instrument-specific guidance provided in Chapters 2.0 and 3.0.

Even though this document provides general guidance, it does not lessen the responsibility of the applicant/licensee to ensure that the terms and conditions of the financial instrument are clearly stated and support the regulatory requirements of 10 CFR Part 40, Appendix A.

1.2 Purpose

This Technical Position provides guidance, to uranium recovery facility licensees and license applicants, for establishing and maintaining financial assurance for the decommissioning, reclamation, and long-term surveillance and control of such sites. NRC views this document as a regulatory tool, for applicants, licensees, and NRC staff, for implementing 10 CFR Part 40, Criteria 9 and 10 of Appendix A, entitled "Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content."

This Technical Position has three primary purposes:

- ° identifying suggested financial assurance methods and instruments (as discussed in Criteria 9 and 10) for the: decommissioning of the mill and site; reclamation of any tailings or waste disposal areas; and long-term surveillance and control of the site;
- ° promoting standardized language for the financial assurance instruments so that administrative burden and cost may be reduced; and,

- establishing a uniform method of determining cost estimates for decommissioning and reclamation to serve as the basis for obtaining financial assurance, so that licensees if are unable to pay, or default, sufficient funds will be available to complete site reclamation.

This Technical Position will help licensees understand and fulfill the financial assurance and other regulatory requirements applicable to their operation. This guidance will also benefit licensees by enabling them to provide more detail, to the financial community, on various acceptable NRC financial instruments.

This Technical Position presents acceptable methods for demonstrating compliance with the regulations. Other methods, solutions, and financial assurances may be proposed and submitted to NRC.

This Technical Position closely follows the intent and scope of the U.S. Environmental Protection Agency's (EPA's) document entitled, "Financial Assurance for Closure and Post-Closure Care: Requirements for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities. A Guidance Manual" (May 1982, PB82-237595). Additionally, portions of the NRC Technical Position entitled "Funding Arrangements for Closure, Postclosure, and Long-Term Care of a Low-level Waste Disposal Facility," were also used (June 1982).

1.3 Regulatory Basis for Technical Position

Criterion 9 of Appendix A of 10 CFR Part 40 contains financial criteria for uranium mill operators. It states that each mill operator (this includes in situ operations) must establish financial surety arrangements before beginning operations, to assure that sufficient funds will be available to carry out decommissioning of the mill and site, and reclamation of any tailings or waste disposal areas.

The amount of funds to be assured by such arrangements are to be based on Commission-approved cost estimates in a Commission-approved plan for: (1) decommissioning of the mill buildings and the milling site to levels which allow unrestricted use of these areas upon decommissioning; and (2) the reclamation of tailings and/or waste disposal areas in accordance with technical criteria as delineated in Section I of Appendix A. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning, and tailings reclamation, and evaluates alternatives for mitigating these impacts. The surety should also cover the payment of the charge for long-term surveillance and control required by Criterion 10 of Appendix A.

In establishing specific financial arrangements, the licensee's cost estimates shall take into account total costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. To avoid unnecessary duplication and expense, the Commission may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other Federal or State agencies and/or local governing bodies for such decommissioning, reclamation, and long-term site surveillance and control.

However, such arrangements should be considered adequate to satisfy these requirements; and the portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge should be clearly identified and committed for use in accomplishing these activities.

The regulations further specify that the Commission will review the licensee's surety mechanism annually to assure that sufficient funds are available for completion of the reclamation plan. The amount of financial responsibility should be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, and any other conditions affecting costs. Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability shall be retained until final compliance with the reclamation plan is determined. This will yield a surety that is sufficient at all times to cover all the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. Criterion 9 states that the surety must also cover the payment of the charge for long-term surveillance and control required by Criterion 10. Criterion 10 stipulates that a minimum charge of \$250,000 (1978 dollars) to cover the costs of long-term surveillance must be paid by each mill operator to the general treasury of the United States or to an appropriate State agency before the termination of a uranium or thorium mill license. Criterion 10 has other conditions regarding the total charge to cover the costs of long-term surveillance and control.

The term of the financial assurance should be open-ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a financial instrument which is written for a specified period of time (e.g., 5 years), yet which must be automatically renewed unless the financial assurance provider notifies the beneficiary (the Commission or State regulatory agency) and the principal (the licensee) of its intention not to renew, some reasonable time (90 days) before the renewal date. In such a situation, the financial assurance mechanism would remain in effect until the licensee obtained an acceptable replacement surety, this must be accomplished within 30 days after notification of pending termination. If the licensee were unable to obtain a new mechanism, the regulatory agency would have 60 days to collect under the existing mechanism.

Proof of forfeiture must not be necessary, to collect the surety, so that if the licensee can not provide an acceptable replacement surety within the required time, the surety shall be automatically collected before its expiration. The conditions described above shall be clearly stated on any financial assurance instrument which is not open-ended, and should be agreed to by all parties.

Uranium mill financial-responsibility arrangements, that are generally acceptable to the Commission staff as specified in Criterion 9 include:

(a) Surety bonds; (b) cash deposits; (c) certificates of deposit; (d) deposits of government securities; (e) irrevocable letters or lines of credit; and (f) combinations of the above, or such other types of arrangements as the Commission may approve.

Self-insurance or any arrangement which essentially constitutes self-insurance will not satisfy the financial assurance requirements, since this provides no additional protection other than that which already exists through license requirements.

2.0 GENERIC FINANCIAL RESPONSIBILITY GUIDELINES

Chapter 2.0 provides generic guidance applicable to all financial assurance instruments being proposed by uranium recovery facility licensees and license applicants. The guidance in this chapter is not meant to be exhaustive; however, the NRC finds these conditions acceptable for a financial instrument and anticipates that they would be used to evaluate financial assurances applicants/licensees propose. Meeting these generic guidelines should facilitate the review of applicants'/licensees' submissions under 10 CFR Part 40 Appendix A, Criteria 9 and 10.

If an applicant/licensee proposes alternate financial assurance mechanisms or language other than that recommended in Appendices A-E of this document, the applicant/licensee should allow for additional time required for the NRC review.

When an applicant /licensee submits a new financial assurance instrument or a revision including the annual update to the NRC, such submissions will be deemed to constitute a request for license amendment and should thus be accompanied by the appropriate NRC amendment fee.

2.1 Submission and Form Guidelines

An applicant should submit the financial instrument to the State or the NRC before beginning operations at the uranium recovery facility(ies). The NRC staff recommends that the financial instrument be submitted 120 days prior to planned start of processing.

The financial instrument should be submitted directly to the U.S. Nuclear Regulatory Commission, Director, Uranium Recovery Field Office, P.O. Box 25325, Denver, CO 80225

The financial instruments should clearly state the regulatory authority for their establishment. Each instrument should contain a statement as follows:

- This financial instrument is being established to carry out the surety requirements of Title 10, Chapter I of the Code of Federal Regulations (10 CFR) Part 40, Appendix A. These regulations were established to implement applicable provisions of the Atomic Energy Act of 1954, as amended, Title II of the Energy Reorganization Act of 1974, and Title II of the Uranium Mill Tailings Radiation Control Act of 1978.

The financial instrument should clearly state that it is issued pursuant to the obligations of the Commission-approved plan for the decommissioning of the mill and mill site and for the reclamation of any tailings or waste disposal areas

(hereafter referred to as the "Reclamation and Decommissioning Plan").

The financial instrument and cost estimate detail should be organized to allow the NRC to review the adequacy of the coverage at least annually accounting for variations in the approved reclamation and decommissioning plans, in inflation, and in the operations of the facility(ies).

The financial instrument's form should allow the NRC licensing staff to determine that it is properly signed and notarized, that it covers estimated costs for the facility(ies), and is effective for the proper period.

Each instrument should clearly identify the NRC license number, the type of instrument being used, the amount covered by each instrument, the effective date of each instrument, and the period of coverage.

All financial instruments, the original and any additions or replacements, should describe and pertain to the licensed facility(ies) covered under the existing license.

2.2 Legal, Beneficiary and Signature Guidelines

Qualifications and authority of the issuer to issue and execute the financial instrument should appear in the instrument. Certification of legal authority should be provided to NRC. For sureties, the issuer should certify listing in Circular 570 of the U.S. Department of Treasury, and that the surety is licensed in the State where the instrument is issued. For letters of credit, the bank providing the letter of credit should certify that it is regulated and examined in the State where the facility is located.

- The instrument should specify that the financial issuer's liability is joint and several.
- The firm name and legal status (i.e., corporation, partnership, or sole proprietorship of the principal (licensee) (and of the parent, in the case of a parent guarantee)) should appear on the financial instrument.
- The instrument's named beneficiary should specify the NRC or other governmental agency acceptable to the NRC, such as a State regulatory agency.
- If the instrument's beneficiary is a State regulatory agency, the licensee should submit to the NRC written verification of the State's agreement to use assured funds to carry out the activities required by the NRC-approved Reclamation and Decommissioning Plan for the facility covered by the instrument.
- All signatories should be legally bound by the instrument. The applicant/licensee should ensure that parties signing the various documents are legally authorized to act as representatives for the firm in these transactions.

- Corporations -- Two corporate officers, preferably the president and vice president, should sign the instrument and should indicate their legal capacity.

The legal authority of the corporate signatories should be described and substantiated by an attached copy of a resolution of the shareholders or board of directors or other certified evidence.

The corporate seal must be affixed.

- Partnership -- At least one partner should sign the financial instrument.
- Limited Partnership -- The general partner or a party authorized to sign for the general partner must sign. (The limited partners are prohibited from participating in the management and control of the partnership by the Uniform Limited Partnership Act, Revised § 303 (1976), which has been adopted by most states.)
- Jointly Owned -- (not a partnership) All owners should sign the financial instrument.
- Power of Attorney -- If applicable, the attorney-in-fact acting on behalf of the issuer should sign the financial instrument.

If an attorney-in-fact signs the financial instrument, a copy of a properly executed power of attorney in favor of the attorney-in-fact should be attached.

- Resident Agent -If applicable, the instrument should include the signature of the qualified resident agent of the financial organization issuing the instrument, who should be certified to do business in the State where the facility(ies) is located. Certification should be documented and provided to NRC.

- o Each party should sign his or her own name.

2.3 Cost and Coverage Guidelines

The financial instrument should be adjustable so that the covered amount is sufficient at all times to cover any cost changes due to inflation or modifications in the work plans for the decommissioning, reclamation, and long-term surveillance and control of the uranium recovery facility(ies).

The amount of the financial instrument, whether provided by a single instrument or a combination of instruments, should be equal to or be greater than the current cost estimates found in the currently approved Reclamation and Decommissioning Plan (including tailings reclamation, decommissioning, ground-water restoration, and long-term surveillance and control). Additionally, the amount of the financial instrument should reflect total costs incurred if an independent contractor were hired to perform the required activities.

The amount of coverage may be larger than the actual cost estimate because of projected inflation costs.

The financial instrument should provide coverage throughout the term of the license.

Multiple financial instruments are acceptable, with the exception of parent company guarantees, which should not be used in combination with other financial methods. If multiple financial instruments are used for a single facility, the combined coverage should be equal to or greater than the cost estimates for the facility identified in the current version of the NRC-approved Reclamation and Decommissioning Plan.

A single financial instrument may be used by a principal (licensee) for multiple licensed facilities. In addition to other stated guidance, this single instrument should identify, for each facility, the amount of coverage, the type of facility, the NRC license number, and location of the activities.

2.4 Terms, Cancellation, and Collection Guidelines

The instrument should state the terms and conditions under which the licensee may cancel the instrument and should require that the licensee notify the NRC, the appropriate State or Federal agency and receive approval before cancellation.

The term of the financial instrument should be open-ended or, if written for a specified term, the instrument should provide that it be renewed automatically unless, 90 days or more days before the renewal or expiration date, the issuer notifies the Commission, the beneficiary, and the licensee of its intention not to renew.

An issuer of a financial instrument should notify the licensee and the NRC (also the State, if applicable), by certified mail of its intent to cancel the financial instrument. Notification to all parties at least 90 days before intended termination must be received by all parties.

The financial instrument cannot be cancelled during the 90-day notification period. The 90-day notification period begins with the receipt date of the notice by the licensee and the NRC (and the State, if applicable), as evidenced by the return receipts.

The licensee is responsible for obtaining another financial instrument within 30 days of receipt of intent to cancel, if the financial institution or corporate guarantor gives notice that it intends to cancel.

The instrument should provide that the beneficiary may unilaterally collect the assured amount before the date of expiration, without proof of default or forfeiture, so that if the licensee fails to provide an alternative surety acceptable to the NRC within 30 days of receipt of the notification of cancellation, the funds are automatically collected before expiration.

If the owner or operating entity for an uranium recovery facility(ies) is transferred, the NRC will not allow the existing financial instrument to be terminated until the new licensee has obtained an instrument acceptable to NRC for the licensed uranium recovery facility(ies).

A licensee should immediately obtain replacement financial assurance coverage in the event of bankruptcy of the organization acting as trustee, or the issuer of the financial instrument.

- ° Each licensee should comply with the terms and conditions of 10 CFR Part 40, §40.41 Paragraph (f) which became effective February 8, 1987 (52 Federal Register dated January 12, 1987) regarding bankruptcy notification. §40.41(f) states that each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy.

If the financial instrument is a letter of credit or bond, it should be accompanied by a standby trust to automatically receive assets in the event of licensee bankruptcy or default.

2.5 Adjustments, Changes, and Release Guidelines

Annual updates of cost estimates and coverage of financial instruments are necessary even if cost estimates are sufficient to cover another year's inflation and no other changes have taken place.

Financial instruments should be adjusted for inflation either by recalculating the cost estimate in current dollars or by using the inflation factor derived from the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics. The adjustment should be made 90 days prior to the anniversary of the effective date of the surety instrument or as specified in the license.

If the current cost estimates exceed the coverage of the existing financial assurance mechanisms, additional coverage should be obtained and evidence of it submitted to NRC within 60 days after the cost estimate increase.

If, during the operating life of the uranium recovery facility, the cost estimate for decommissioning and reclamation decreases due to a change in operating plans or other factors, the licensee may apply to NRC for approval of the decreased coverage.

Licensees may change the type of financial instrument in use with prior written approval from NRC. To obtain approval, the new assurance should comply with NRC's regulations for eligibility found in 10 CFR Part 40, Appendix A, Criteria 9 and 10. The new assurance, if approved, should become effective before or at the time the existing assurance expires. If a letter of credit or a surety bond will be the mechanism used, the licensee should also establish a standby trust fund. Suggested wording for a standby trust, when using letters of credit or surety bonds, are discussed in Chapter 3.0.

The instrument should be established so that the uranium recovery licensee will have its financial assurance released by the NRC after the NRC has concurred that decommissioning and reclamation of the uranium recovery

facility(ies) have been accomplished in compliance with the current approved Reclamation and Decommissioning Plan and the license has been terminated.

Additionally, the licensee should show that the long-term surveillance and control funds have been transferred to the appropriate parties, as identified in Criterion 10, Appendix A of 10 CFR Part 40, at license termination. The NRC will send written notification to the licensee allowing termination of the financial assurance mechanisms and a return of any funds held (except for the long-term surveillance and control funds).

3.0 FINANCIAL ASSURANCE OPTIONS

This chapter provides specific guidance to licensees on the types of financial assurances that the NRC has found to be acceptable. The discussion contained here differs from Chapter 2.0 in that it more explicitly defines the requirements and terms of each individual mechanism.

3.1 Surety Bonds

A surety bond is a contract that a licensee (sometimes called the PRINCIPAL) can enter into with a qualified surety company (sometimes called the SURETY) which guarantees that responsibilities spelled out in the bond will be undertaken. Two standard types of surety instruments are allowed, financial guarantee bonds and performance bonds. Recommended wording for each instrument is found in Appendix A of this document, and it is recommended that both instruments submitted to the NRC be accompanied by a standby trust fund. Standby trust funds are discussed in more detail in Section 3.6.

Both types of sureties are intended to ensure that adequate funds will be made available by the surety, if the licensee fails to perform activities specified in its NRC-approved Reclamation and Decommissioning Plan or fails to provide for the long-term surveillance fee.

The performance bond provides assurance that if the licensee fails to perform its activities, as is required in the Reclamation and Decommissioning Plan, then the surety company will either pay the amount covered by the bond into a standby trust, or perform the responsibilities. The financial guarantee bond stipulates that the surety will fund the standby trust fund in the amount guaranteed by the bond, if the licensee fails to perform the activities specified in its NRC-approved Reclamation and Decommissioning Plan.

An acceptable bond for the purposes of this Technical Position should meet the following considerations, in addition to the general guidelines stated in Chapter 2.0.

- ° It is recommended that licensees wishing to use a surety bond should also establish a standby trust fund at the same time. Both the bond and standby trust agreement should be submitted as evidence of financial assurance.
- ° The surety bond should contain terms so that any funds drawn under this instrument should be placed directly into the standby trust fund by the institution making the payment. (In this regard, the Commission is

following the approach of EPA, who imposed this requirement after it found that without such a mechanism, any funds drawn under a surety bond which would be payable to the EPA would have to be paid into the U.S. Treasury and could not be used specifically to pay for closure and post-closure care of a hazardous waste facility(ies) (31 U.S.C. §3302(b)).

- ° Licensees wishing to use a surety bond should first enter into a contract with a qualified surety. The NRC staff considers qualified sureties to be those listed in the most currently issued-version of the U.S. Department of Treasury's Circular 570, which is "Surety Companies Acceptable on Federal Bonds."

Circular 570 is published approximately July 1 of each year, with periodic updates appearing in the Federal Register. Circular 570 specifies the amount of liability the surety can maintain at any point in time without reinsurance. Also, Circular 570 lists those States in which each qualified surety is licensed to enter into a surety bond. A surety bond used to meet the NRC financial assurance requirements should be signed in one of those States. The surety bond should certify that the surety company is listed in Circular 570 and has not exceeded its specified level of liability exposure.

- ° The wording for surety bonds should follow the sample in Appendix A of this Technical Position. The penal sum of a surety bond must be in an amount equal to or greater than the cost estimates in the current Reclamation and Decommissioning Plan, along with the cost estimates for long-term surveillance and control which should be adjusted to current dollars. The licensee wishing to use this instrument should verify that the amount and the terms and conditions are satisfactory to the NRC during the licensing review.

3.2 Irrevocable Standby Letters of Credit

A letter of credit is another financial assurance mechanism satisfactory to the NRC. The recommended language shown in Appendix B is for an irrevocable standby documentary type letter of credit. This type of letter of credit enables the NRC to provide written documentation to the issuing institution stipulating the deposit of funds in a standby trust, when the licensee fails to perform reclamation and stabilization activities.

A letter of credit is a binding arrangement by which the credit of one party, the ISSUER, such as a bank, is extended on behalf of a second party, called the ACCOUNT PARTY, to a third party the BENEFICIARY. The licensee would be the ACCOUNT PARTY, and the NRC (or suitable State agency) would be the BENEFICIARY.

The terms for letters of credits evolved from the Uniform Commercial Code and the Uniform Customs and Practice of Documentary Credits, published by the International Chamber of Commerce. The first party, the ISSUER, allows the BENEFICIARY to draw funds upon the presentation of documents in accordance with the terms of the letter of credit.

The letter of credit mechanism allowed for NRC licensees for financial assurance is different in major ways from standard commercial versions:

- The NRC version can only be cancelled with 90 days advance notice by certified mail to all parties before the current expiration date, and
- If the licensee cannot provide an alternative financial assurance mechanism within 30 days of notification of cancellation, the NRC will cause the letter of credit to be drawn upon for the necessary amount of reclamation, decommissioning, and any long-term surveillance cost, and
- The NRC version should be extended automatically for at least one year if it is not cancelled.

The issuer offers this assurance in exchange for a fee paid by the licensee. The licensee also agrees to repay, with interest, any funds drawn through the letter of credit. NRC highly recommends that the wording of the letter of credit closely follow the sample language shown in Appendix B, although the terms of the credit arrangement between the licensee and the issuer may depend on individual circumstances and negotiations.

Licensees should also establish a standby trust fund at the same time, if they wish to use a letter of credit, and if they do not wish to have the State as the named beneficiary. Under the terms of the letter of credit, any funds drawn under this instrument are to be placed directly into the standby trust fund by the institution making the payment. In this regard, the Commission is following the lead of EPA, who imposed this requirement after it found that without such a mechanism, any funds drawn under a surety bond which would be payable to the EPA would have to be paid into the U.S. Treasury and could not be used specifically to pay for closure and post-closure care of a hazardous waste facility(ies). (31 U.S.C. §3302(b))

In addition to the criteria specified in Chapter 2.0, the following terms and conditions should be met by a licensee wishing to use a letter of credit.

- The issuing institution for the letter of credit should be an entity that has the authority to issue a letter of credit, and whose letter of credit operations are regulated and examined by a Federal or State agency. (All domestic commercial banks and some mutual savings banks, domestic branches of foreign banks, credit unions, and savings and loan associations satisfy this requirement and should so certify.)
- Letters of credit should conspicuously state that they are irrevocable letters of credit and that the bank's undertaking should be limited to the amount of the instrument.
- The bank's obligation to pay should arise only upon the presentation of a draft or other document(s) as specified in the letter of credit, and the bank should not be called upon to determine questions of fact or law at issue between the account party and the beneficiary.
- Letters of credit should be effective and irrevocable the entire time they are in effect, during the coverage period specified in the license. If the letter of credit ends after a one-year period, it should be automatically renewed, unless the issuer notifies the NRC and the account party that it is cancelling 90 days before cancellation.

- The letter of credit should contain a definite time period over which it is effective.
- The letter of credit should include the letter of credit number, name of the insurer, date, license number, name and address of mill, and the amount of funds assured for decommissioning, reclamation and long-term surveillance and control of the site.
- The NRC or the State is the only party authorized to draw upon the letter of credit. If the licensee fulfills its obligations, the NRC will not draw upon the letter of credit.
- The letter of credit can be terminated by the licensee when: (1) alternate financial assurance has been established by the licensee and approved by the NRC; or (2) when the license has been terminated by the NRC. The only permissible evidence of termination of the license is a written termination notice by the NRC.

3.3 Parent Company Guarantees

The NRC financial assurance requirements for uranium recovery facilities may be satisfied by the use of a parent company guarantee: here, the licensee's parent company passes one of the two specified financial tests as detailed in Appendix C and agrees to guarantee the performance of or payment for decommissioning, reclamation, and long-term surveillance and control of the uranium recovery facility(ies).

A parent company guarantee acceptable to NRC should state that the parent company has adequate resources to cover the cost of decommissioning, reclamation, and long-term surveillance and control of the uranium recovery facility(ies). The tests used to determine that adequate resources are available are patterned after those developed by the EPA for sites permitted under the Resource Conservation and Recovery Act (RCRA).

However, because the domestic uranium industry currently is not economically viable, because the risk of default consequently is higher, and because of added requirements for ground-water remediation, the NRC is reevaluating the continued use of parent company guarantees as an allowable financial assurance mechanism by Part 40 licensees. Until such time as the NRC completes its reevaluation, it has enhanced the assurance provided by the parent company guarantee in two ways. First, all licensee subsidiaries whose performance/costs are being guaranteed by parent companies should show a positive tangible net worth. Second, the parent company providing the guarantee should show a tangible net worth of at least \$20 million, rather than the \$10 million previously required. The parent company, tangible net worth should be independent of the assets and liabilities of the subsidiary for which the guarantee is being issued.

Use of this instrument requires the NRC to completely re-evaluate every parent company at least annually, even if there has been no change in decommissioning, reclamation, and long-term surveillance and control cost estimates for the uranium recovery facility(ies).

An acceptable parent company guarantee for the purposes of this Technical Position should have the following characteristics:

- The authorization and capacity of the parent company to enter into the guarantee should be certified and documentation included in the submission.
- The parent company guarantee should be signed by the authorized representative of the parent firm's Board of Directors and by the firm's legal counsel, who shall certify that the firm can legally engage in the guarantee.
- If the guarantor is a corporation, the authorizing documentation should include a Board of Directors' resolution or shareholders' vote or similar verification and proof that the corporation can validly execute a guarantee under the laws of the State of its incorporation, and its bylaws and articles of incorporation.
- If the guarantor is a partnership, joint venture, syndicate, or other business entity, each party or an authorized representative for the parties with a beneficial interest, direct or indirect, should sign the agreement.
- The parent company guarantee should specify that all bound parties shall be jointly and severally liable for all litigation costs incurred by the beneficiary in any successful effort to enforce the agreement against the guarantor.
- If a registered agent for service of process is used, its name, address, and telephone number should be listed in the parent company guarantee.
- To qualify for a parent company guarantee, the parent company should hold at least 51 percent of the voting stock of the licensee's firm.
- The parent company's financial statements should be audited by an independent certified public accountant and the accountant's certification provided to NRC as shown in Appendix C. If the accountant gives an adverse opinion or a disclaimer of opinion of the financial statements, the parent company can not qualify for the financial test. Furthermore, if the accountant gives a qualified opinion of the financial statements, the NRC may disallow the use of the financial test.
- The parent company guarantee's financial test requirements may be satisfied by meeting one of the two alternative sets of test criteria specified in Appendix C. The tests have a number of points in common, but there are two important differences.

First, Alternative I requires the parent company guarantor to demonstrate financial soundness by passing at least two of three financial ratios, while Alternative II requires the parent company guarantor to demonstrate financial soundness with an investment grade bond rating. Second, Alternative I requires the parent company guarantor to have a large amount of working capital relative to reclamation, decommissioning and long-term surveillance and control cost estimates, while Alternative II has no such requirement. Both tests require the parent company to have a large amount of tangible net worth and U.S. assets relative to reclamation and closure estimates,

and a minimum absolute level of tangible net worth (\$20 million). Also, the licensed subsidiary whose performance/cost is being guaranteed should show a positive tangible net worth.

- o To use the parent company guarantee as a means of satisfying a licensee's financial requirements for reclamation, decommissioning and long-term surveillance and control, the licensee should submit the following documents on an annual basis to the NRC.

(a) Chief Financial Officer's Letter Including Cost Estimates and Data from Audited Financial Statements

The parent company should provide the NRC with a letter signed by its chief financial officer. The wording should be equivalent to the wording in the example provided in Appendix C.

The chief financial officer of the parent company should certify in the letter that the parent company meets the criteria of the financial test. The letter should also:

- specify the facilities to be covered by the test, including NRC license number, name, address, and current decommissioning, reclamation, and long-term surveillance and control cost estimates to be covered by the test;
- indicate the date on which the required documents will, if currently unavailable, be submitted (at the latest, within 90 days of the end of the fiscal year);
- certify that the year-end financial statements of the firm will be audited by an independent certified public accountant.
- attest that the licensee(s) for which the guarantee is being made has a positive tangible net worth.

(b) Accountant's Opinion

The licensee should submit to the NRC a copy of the independent certified public accountant's opinion of the parent company's year-end financial statements and footnotes for the latest complete fiscal year. A SEC 10Q form is acceptable. Additionally, the following SEC reports should be submitted, if applicable: SEC Forms 8-K and 13D. There is no NRC suggested form or wording for this accountant's opinion.

(c) Auditor's Special Report

The parent company should submit a special report from an independent certified public accountant to the NRC that contains the accountant's confirmation that the financial data contained in the letter from the chief financial officer can be derived from the independently audited year-end financial statements and footnotes for the latest complete fiscal year. The auditor's special report should also state that no matters came to the attention of the independent certified public accountant which caused him to believe that the information in the chief financial

officer's letter should be adjusted. Appendix C contains a sample auditor's special report.

(d) Parent Company Guarantee Document

A licensee wishing to use the parent company guarantee should also submit a written guarantee agreement to the NRC completed by the parent company, using language as specified in Appendix C. The written guarantee states that the guarantor meets or exceeds all the requirements of the financial test criteria, including the submittal of the accountant's opinion, the special report, and the letter from the chief financial officer. The written guarantee specifies that if the licensee fails to perform the required decommissioning and reclamation activities at the uranium recovery facility(ies), then the parent company guarantor must do so, or set up a standby trust fund for the amount of the cost estimates for these activities.

- The licensee should submit revised information annually within 90 days of the close of the parent company's fiscal year. As with the initial submittal, the revised information should consist of a letter from the chief financial officer, the accountant's opinion, and the auditor's special report from an independent certified public accountant. Except for the accountant's opinion, examples of these documents can be found in Appendix C.
- NRC staff may determine that a report of financial conditions, in addition to the required annual reports, is necessary.
- The NRC, based on the parent company's financial reports or any other materials, may, at any time, determine that the parent company no longer meets the financial test criteria. If so, the licensee should provide alternate financial assurance within 30 days after receiving notification of this determination. The existing mechanism should not be terminated until the alternate mechanism is effective.
- The Parent company, in conjunction with the licensee, should comply with 10 CFR Part 40, §40.41, Paragraph (f) regarding bankruptcy notification. Also, if either the company holding the uranium recovery facility license or the parent company is sold or merged, the new parent company should meet all the criteria for the financial test or the licensee should provide an alternate financial assurance.
- A parent company wishing to cancel its guarantee of financial assurance should notify the NRC and the licensee by certified mail of its intent to cancel. Actual cancellation is not allowed for 90 days from the receipt date of the notice of cancellation by both the licensee and the NRC, as evidenced by the return receipts. If the licensee fails to provide an alternate financial mechanism within 30 days of the above notification, the NRC may collect the guaranteed monies.
- The parent guarantor may request NRC approval to terminate the parent company guarantee in two situations:

- (1) when alternate financial assurance has been substituted and approved by the NRC; or,
 - (2) when the license has been terminated by the NRC.
- Licensees should ensure that the financial test criteria are still satisfied if cost estimates increase or decrease.
 - Two officers of uranium recovery facility(ies) and two officers of the parent guarantor who are authorized to bind the respective organizations should sign the agreements. A copy of such authorization for each person signing should be attached to the parent company guarantee. The corporate seal should be affixed.
 - The parent company guarantor should certify and demonstrate that it has full authority under the laws of the State of its incorporation, its articles of incorporation and bylaws to enter into this guarantee; and, that the guarantor has full approval from its Board of Directors to enter into this guarantee.

3.4 Assets Held by a Third Party, Such as a State Fund

Licensees may demonstrate financial assurance by depositing assets such as cash, certificates of deposits, or deposits of government securities with a third party, such as a trust fund, or the State Fund, where the uranium recovery facility(ies) is located. If a licensee purchases several \$100,000 certificates of deposits from the same institution, it should be structured so that each is eligible for Federal Deposit Insurance Corporation's (FDIC) insurance.

It is beyond the scope of this Technical Position to attempt to address the variety of possible contractual mechanisms that a State could set up. However, if a licensee proposes to have a State hold its assets, the NRC would evaluate each on a case-by-case basis. Additionally, if such a State-administered trust fund had a combined feature, then the NRC will need to carefully evaluate it to ascertain that the trust has funds clearly dedicated to meet the licensee's requirements for funding of decommissioning, reclamation, and long-term surveillance and control of the uranium recovery facility(ies).

3.5 Trusts

A trust is a three-party agreement whereby one party, called the GRANTOR (also called the truster) transfers some assets to a second party called the TRUSTEE, to hold on behalf of a third party, called the BENEFICIARY. The entire arrangement is governed by a trust agreement that sets out the responsibilities and rights of each party. Appendix D contains recommending wording for this type of instrument.

For a uranium recovery facility licensee, the licensee is the GRANTOR, a bank or other entity would be the TRUSTEE, and the NRC (or the State where the uranium recovery facility(ies) is located) would be the BENEFICIARY. The

licensee, as grantor, deposits assets into the trust fund which is held in trust by the trustee. The funds are then available if necessary to pay for decommissioning, reclamation, and long-term surveillance and control of the uranium recovery facility(ies).

The trustee is empowered to invest the funds during the existence of the trust. Trustee investments may be limited by State law. Any investment income accrues to the trust, and reduces the amount the licensee must put into it. The licensee usually pays a fee for the trust services provided.

An acceptable trust for the purposes of this Technical Position should comply with the following criteria.

- ° A trustee should be an entity that has the legal authority to act as trustee and whose trust operations are regulated and examined by a Federal or State agency. The trustee should certify that it has this legal authority.
- ° The wording of the trust language should be irrevocable; that is, it cannot be changed or terminated by the licensee, except with the written agreement of both the trustee and the beneficiary.
- ° The trust should contain at all times sufficient assets to accomplish decommissioning, reclamation, and long-term surveillance and control of the site. The licensee remains responsible at all times for the full amount of decommissioning, reclamation, and any long-term surveillance and control of the uranium recovery facility(ies).
- ° The trust agreement should be signed by both the licensee and the trustee. It should also identify the uranium recovery facility and the cost estimates, as well as identifying the liquid assets used to establish the trust fund.
- ° A trust fund can contain more than interest-bearing cash deposits. Liquid assets such as government securities or notes can be placed in trusts. However, if a non-cash item such as trust receipts are placed in it, then special consideration should be given to ensure proper asset evaluation. (A trust receipt is an instrument acknowledging that the licensee holds items of inventory for sale in trust for the trustee.) If other types of assets were allowed, the trustees should agree to pay the governmental authority a stipulated cash amount. NRC will refuse to allow assets of a speculative nature or of uncertain value to be placed in trust. NRC may require a licensee submitting non-cash assets to pay for an independent appraiser to periodically evaluate the value of such assets. If assets other than cash are deposited into the trust fund, it may be necessary for the trustee to buy and sell securities with the approval of government staff, or to take other steps to manage the assets in order to maximize their value. However, unless specified under the terms of the trust, a trustee should invest under a "reasonably prudent" investor standard as defined by statute or case law of the jurisdiction where the trust is located.

- The NRC staff would consider any individual or organization for the position of trustee in addition to financial institutions, who can succeed in obtaining insurance for the position. (This type of insurance is currently available and is commonly obtained by banks and by other financial institutions.)
- The terms of the trust should define the investment responsibilities of the trustee.
- The trustee should have possession of the assets or funds placed in trust by the party who created the trust. The trustee should have the legal interest in the funds, since he has control over it, can sue to protect it, and is responsible for its preservation.
- The trustee should be under a fiduciary duty to comply with the terms of the trust, and, unless the trust provides otherwise, should be liable for breaches of this duty.
- The trustee is allowed to invest in time or demand deposits of the trustee institution, up to the amount insured by law. The trustee is permitted to put trust fund assets into any appropriate, "common, commingled, or collective trust fund created by the Trustee," in other words, a common trust.
- Once the trust fund is established, the licensee should make additional necessary payments into the trust fund so that sufficient funds are available to reflect any changes in the cost estimates for site decommissioning, reclamation, and long-term surveillance and control.
- The trust agreement should contain language requiring the trustee to submit annually to the licensee and NRC a statement of the valuation of the assets in the trust funds, detailing the results of investment activity and the expenses levied against the fund. Securities in the trust fund should be valued at their market value no more than 60 days before the anniversary date of the fund. The licensee may object, in writing, to the trustee's investment activities or to expenses levied against the trust fund within 90 days of receiving the valuation statement. However, if objections do exist, the licensee is still obligated to deposit the necessary funds into the trust to ensure that the amount available is equal to the cost estimates in the approved Plan.
- If the licensee sells or transfers operating responsibility for the facility(ies) for which the trust fund provides financial assurance, the trust fund will not automatically transfer to the next owner. The NRC would have to approve a new financial assurance through the license condition for the facility(ies). The new licensee could enter into an agreement with the old licensee, by which the trust fund is transferred to the new owner. This, however, would require amendments to the trust agreement that should be approved by the trustee and the NRC.
- The licensee should alert the trustee that it is responsible for annual valuations of the trust; for notifying the NRC if the licensee fails to

make payment when directed to do so by the Commission; and for making payments out of the trust fund at the direction of the NRC.

- A change in trustee will not affect the existence of the trust itself. The trustee may be changed if the licensee is dissatisfied with the performance of the trustee or if the trustee resigns; the trustee should be changed if the trustee institution enters bankruptcy or ceases to meet the trustee qualifications. For either case, the trustee can be changed only upon agreement by the licensee, the new trustee, and the NRC.
- The trust agreement should be signed by the licensee and the trustee and be properly notarized.
- The amount of coverage should reflect NRC-approved cost estimates for reclamation, decommissioning, and long-term surveillance and control for the uranium recovery facility(ies).
- The licensee, its successors or the trustee has the responsibility for completing reclamation, decommissioning and providing for long-term surveillance and control. The trust agreement should state that disbursements by the trustee for reclamation, decommissioning, and long-term surveillance and control expenses shall be approved by the NRC (or other Beneficiary) before release.

3.6 Other Considerations Such as Standby Trusts

It is recommended that a licensee include a standby trust fund when submitting a letter of credit or surety bond (performance or financial guarantee) to comply with the financial assurance requirements of 10 CFR Part 40, Appendix A. A recommended format for a standby trust is found in Appendix E of this document. In the event of a licensee failure to reclaim the licensed site in accordance with its approved reclamation and decommissioning plan, monies from surety bonds and letters of credit should be paid to a standby trust. Parent company guarantors also have the option of submitting (and funding) a standby trust fund, instead of actually performing such activities.

The purpose of the standby trust is to receive any funds that may eventually be paid by the surety company, financial institution issuing the letter of credit, or parent company. NRC recommends the use of standby trusts because without such an instrument, 31 U.S.C. §3302(b) requires NRC to deposit any assets received from the surety bond or letter of credit (or, if applicable, the parent company guarantee) directly into the U.S. Treasury.

Standby trust funds are similar to trust funds as described in Section 3.5, except that the following activities are not required with the standby trust:

- regular payments into the standby trust; (it is only funded if the surety bond, parent company guarantee, or letter of credit is collected);
- updating the trust agreement to show current cost estimates and annual valuations; and,
- notices of nonpayment to the NRC.

3.7 Other Financial Assurances

NRC considers the previously described financial assurances to be common, standardized financial mechanisms that would adequately provide financial security for the purposes of this Technical Position. Additionally, the staff will consider other financial assurances on a case-by-case basis, provided the licensee can demonstrate that the method provides an adequate degree of security, and also meets the generic guidelines mentioned in Chapter 2.0. Licensees may propose a combination of the financial assurances discussed above, with the exception of parent company guarantees, which may not be used in combination with other financial mechanisms. However, NRC would have to approve such combinations.

4.0 DETERMINING SITE-SPECIFIC RECLAMATION AND DECOMMISSIONING COST ESTIMATES

As required under Criteria 9 and 10 of 10 CFR Part 40, Appendix A, the licensee shall supply sufficient information for NRC to verify that the amount of coverage provided by the financial assurance accounts for all necessary activities required under the license to allow the license to be terminated. Cost estimates for the following activities (where applicable) should be submitted to NRC with the initial license application or reclamation plan and updated annually, as specified in the license and as provided in the technical criteria of Appendix A of 10 CFR Part 40. Cost estimates should be calculated on the basis of completion of all activities by a third party. Unit costs, calculations, references, assumptions on equipment and operator efficiencies, etc., should be provided.

4.1 Detailed Cost Information Breakdown for Mills and In-Situ Facilities

The detailed cost information necessary to verify the cost estimates for the above categories of closure work is described in the following outline.

4.1.1 Facility Decommissioning

Mill Site Decommissioning - This includes dismantling, decontamination and/or disposal of all structures and equipment; this includes excavation and burial of contaminated earth (in the vicinity of the mill site, ore storage area, access roads around the perimeter of the tailings disposal site, evaporation pond residues, etc.); and reclamation of disturbed areas from the above cleanup activities.

In Situ Facility Decommissioning - This includes dismantling, decontamination and disposal of all structures and equipment. This may be accomplished in two phases. In the first phase, only the equipment not used for ground-water restoration is removed. The remaining equipment would be removed in a second phase, when ground-water restoration and well plugging are complete. The buildings used for the in-situ operations may be decontaminated and released for unrestricted use.

- A. Salvageable building and equipment decontamination (list). For each building or pieces of equipment listed, the following data should be provided.

1. Labor for dismantling and decontamination
 - a. Person-hours and categories of labor
 - b. Average hourly wage for each category
 - c. Total labor cost (benefits, insurance, etc., and all labor overhead should be included here or calculated on the basis of total project labor)
 2. Equipment and material for dismantling and decontamination
 - a. Itemization of equipment and material to be used for decontamination
 - b. Itemized cost for material and equipment cost per hour listed in (a) above (equipment costs should include hourly operating, ownership and overhead expenses)
 - c. Operating hours for each piece of equipment
 - d. Total equipment and material cost
- B. Non-salvageable building and equipment disposal
1. List of major categories of building and equipment to be disposed of and their corresponding quantities
 - a. Structures (list each major) (tons of material and building volume in cubic feet)
 - b. Foundation concrete (cubic yards)
 - c. Process equipment (tons)
 - d. Piping & insulation (lump sum)
 - e. Electrical & instrumentation (lump sum)
 2. Unit cost of disposal for each item above (include equipment, labor, material, transportation, and disposal costs)
 3. List and state how each chemical solution within the mill area will be disposed, along with the associated cost of disposal
 4. Total cost
- C. Restoration of contaminated areas (ore storage pad, access roads, process area, evaporation pond residues, etc.)

Removal and Disposal of Evaporation Pond and Residues - These materials should be transported to a licensed tailings area or licensed disposal site. The quantity of material to be removed, the distance to the disposal site, and the fees charged by the

receiving facility are important considerations in determining the costs of disposal.

Reclamation - This entails recontouring the well fields and evaporation ponds and placing top soil or other materials acceptable to NRC. This may also include revegetation.

1. Removal

- a. Area, depth and quantity of material to be removed (cubic yards--or size of liner if appropriate)
- b. Unit cost (include excavation, loading, transportation and deposition)
- c. Total cost (equipment and labor)

2. Revegetation

- a. Area to be revegetated (acre)
- b. Unit cost (include fill material, replacing topsoil, and revegetation cost)
- c. Total cost (equipment, labor and materials)

4.1.2 Ground-Water Restoration and Well Plugging

Mill Site Ground-Water Restoration - A major concern in the termination of a mill license is the restoration of aquifers that have been contaminated by the operation of a tailings impoundment. As this concern is added to the site-specific reclamation plans, the licensee should include these costs in its surety until the licensee is released from further ground-water restoration activities.

In Situ Site Ground-Water Restoration - In most cases, ground-water restoration consists of ground water sweeping and water treatment with partial reinjection. The water treatment equipment used during the uranium recovery phase of the operation is generally suitable for the restoration phase. The capital cost of this equipment is usually absorbed during the initial stages of the operation, leaving only the costs of operation, maintenance and replacement filters for the restoration phase. However, if additional or replacement equipment will be required for restoration, associated costs should be detailed here.

A. Method of restoration

1. Projected length of time required to complete restoration

- B. Volume of aquifer required to be restored - area and thickness of aquifer -- number of required pumping cycles -- cycling time
- C. Labor and equipment cost estimates associated with aquifer restoration (e.g., reverse osmosis unit)
- D. Verification sample analysis
 - 1. number of samples
 - 2. unit cost for sample collection and analysis (per sample)
 - 3. total cost for verification sample analysis
- E. Well plugging
 - 1. number of drill holes to be plugged
 - 2. depth and size of each drill hole
 - 3. material to be used for plugging--include acquisition, transportation, and plugging
 - 4. Total cost for well plugging
- F. Total cost for ground-water restoration

4.1.3 Interim Stabilization of Tailings during the Drying-Out Phase

Interim Stabilization of the Tailings during Drying - Placement of soil, chemical spraying, snow fences or other control measures over dry tailings to minimize dusting or dispersal of particulates.

- A. Drying time
- B. Area of dry exposed tailings for each year during the drying period (acres for _____ years)
- C. Unit cost for placement of soil, chemical spraying or other methods (price per acre) (include material, labor, and equipment)
- D. Cost for an enhanced evaporation system, where included in the reclamation and decommissioning plan. - Capital cost, labor and operating cost
- E. Seepage control costs where necessary to alleviate adverse ground-water impacts
- F. Total cost of interim tailings stabilization

4.1.4 Tailings Impoundment Area Reclamation

Tailings Impoundment Area Reclamation - Earthwork necessary to recontour the tailings in order to prepare for cover placement. - Placement of cover materials - Revegetation and/or placement of riprap. - Construction of diversion channels or other measures required for long-term stability.

- A. Area and quantity of cover material (acres, cubic yards)
- B. Location and size of borrow area that serves as a source of cover material. (Include distance from borrow area to tailings impoundment, grade and quantity of material from each borrow area)
- C. Labor and equipment unit cost for each type of material (include excavation, loading, transportation, depositing, spreading, and compacting; detail costs and equipment types, and calculations for each function)
- D. Estimated costs for revegetation of tailings pile, if applicable, and borrow areas (labor, equipment and materials)
- E. Estimated costs for riprap/rock armor, if applicable (labor, materials, transportation and equipment)
- F. Estimated costs for special engineered features - diversion channels, spillways, etc. (in unit costs) (labor, materials and equipment)
- G. Estimated costs for a quality assurance program, including field and laboratory testing to assure that the "as built" system conforms to design specifications. Indicate number and type of tests, labor and equipment costs.
- H. Fencing costs if applicable (unit costs for labor and materials) total length and type of material
- I. Additional control measures, if necessary (guard service, etc.)
- J. Total cost

If the reclamation plan calls for different layers of soil, such as clay, etc., Items IVA. through IVF. above should be provided for each layer. Reclamation estimates may not always have to include the entire project area (i.e., operations which involve phased reclamation need only include coverage for the maximum area affected during the period of the license.)

4.1.5 Radiological Survey and Environmental Monitoring

Radiological Survey - Gamma surveys and soil samples for radium in areas to be released for unrestricted use. Soils around the mill building, tailings piles, well field, evaporation ponds and process buildings should be analyzed for radium content. A gamma survey of all areas should be made before release for unrestricted use. All equipment released for unrestricted use should be surveyed and records maintained.

- A. Soil samples for radium - 226
- B. Decommissioning equipment and building smear samples
- C. Gamma survey
- D. Environmental monitoring

Costs of labor, materials and analysis for continuation of environmental monitoring and inspection program throughout reclamation.

- E. Total cost
 - 1. Number of each kind of sample listed above
 - 2. Unit cost for sample and analysis (price per sample)
 - 3. Total cost for radiological survey

4.1.6 Project Management and Miscellaneous Costs

Itemize estimated costs associated with project management, engineering changes, mobilization costs, legal expenses, power costs during reclamation, quality control radiological safety costs, etc.

4.1.7 Labor and Equipment Overhead, Contractor Profit

Overhead costs for labor and equipment and contractor profit may be calculated as separate items or loaded into hourly rates. If included in hourly rates, the unit costs should identify the percentages applied for each area.

4.1.8 Long-Term Surveillance and Control (for Mills Only)--Criterion 10 Specifies a Minimum of \$250,000 in 1978 Dollars (\$407,960 in December 1986 Dollars)

Long-term surveillance and control fund covers the cost of government agency site inspection, monitoring, and control measures, if necessary.

Certain additional measures may be required at some sites. The cost of these measures should be added to the basic cost of annual inspection of the site by government authorities, as required under Criterion 10. Costs for these measures should be funded entirely from earnings of the long-term surveillance and control fund, without using fund principal. These measures include, but are not limited to:

- A. Unit cost of repairing or replacing fencing, including length of fence;

- B. Limited long-term ground-water monitoring to confirm that no ground-water problems exist at the site; and
- C. Additional control measures, if needed.

4.1.9 Contingency

The licensee should include a contingency amount to the total cost estimate for the final site closure. The staff currently considers a 15 percent engineering contingency to be an acceptable minimum amount. Additionally, the licensee should include a 10 percent minimum contingency for contract administration, in the event the licensee defaults, and the State or Federal Government is required to administer a contract to carry out the licensee's reclamation and decommissioning responsibility.

4.1.10 Adjustments to Surety Amounts

The licensee is required by 10 CFR 40, Appendix A, Criteria 9 and 10 to adjust its cost estimates annually to account for inflation and changes in reclamation plans. The submission should be in the form of a request for amendment to the license.

A. Adjustments for inflation

The licensee should submit a revised surety incorporating adjustments to the cost estimates for inflation ninety (90) days before each anniversary of the effective date of the surety instrument or as specified in the license. The adjustment should be made using the inflation rate indicated by the change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics.

B. Changes in Plans

- Changes in the process such as size or method of operation.
- Licensee-initiated changes in reclamation plans or reclamation/decommissioning activities performed.
- Adjustments to reclamation plans required by the NRC.
- Proposed revisions to reclamation plans should be thoroughly documented and cost estimates and the basis for cost estimated detailed for NRC review and approval. Where a licensee is authorized by the NRC to secure a surety arrangement with the State, no reduction to the surety amount shall be initiated without prior NRC approval. Copies of all correspondence relating to the surety between the licensee and the State shall be provided to the NRC. If authorized by the NRC to maintain a surety with the State as the beneficiary, it is the responsibility of the licensee to provide the NRC with verification of same, ensure that the agreement with the State specifically identifies the

financial surety's application to the mill facility, in situ leach facility, tailings and related area decommissioning/reclamation and transfer of the long-term surveillance and control fee to the U.S. Department of the Treasury or State authority before license termination.

All costs (unit and total) are to be estimated on the basis of independent contractor costs (include overhead and profit in unit costs or as a percentage of total). Equipment owned by the licensee and the availability of licensee staff should not be considered in the estimate, to reduce cost calculations. All costs should be based on current year dollars. Credit for salvage value is generally not acceptable on the estimated costs.

The NRC staff review may include a comparison of unit cost estimates with standard construction cost guides (e.g., Dodge Guide, Data Quest) and discussions with appropriate State or local authorities (highway cost construction). The licensee should provide supporting information or the basis for its selection of the unit cost figures used in its estimates.

APPENDICES

- A1 Recommended Wording for a Performance Bond
- A2 Recommended Wording for a Financial Guarantee Bond
- B Recommended Wording for an Irrevocable Standby Letter of Credit
- C Recommended Wording for a Parent Company Guarantee
- D Recommended Wording for a Trust Fund Agreement
- E Recommended Wording for a Standby Trust

APPENDIX A-1
RECOMMENDED WORDING FOR A PERFORMANCE BOND
AND
APPENDIX A-2
RECOMMENDED WORDING FOR A FINANCIAL GUARANTEE BOND

APPENDIX A-1

RECOMMENDED WORDING FOR A PERFORMANCE BOND

Date bond executed: _____

Effective date _____

Principal: [legal name and business address of ~~owner or operator~~ ^{person}]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety(ies): [name(s) and business address(es)]

NRC Source Material License Number, name, address, and reclamation, decommissioning, stabilization, and long-term surveillance and control amount(s) for each uranium recovery facility guaranteed by this bond: _____

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Present, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Nuclear Regulatory Commission (hereinafter called NRC), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, the NRC, an agency of the United States Government, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Uranium Mill Tailings Radiation Control Act of 1978, has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 40, Appendix A, Criteria 9 and 10. These regulations, applicable to the Principal, require that a licensee of a uranium recovery facility shall provide assurance that funds will be available when needed in accordance with the approved Reclamation and Decommissioning Plan and also for the long term surveillance and control of the uranium recovery facility.

WHEREAS, said Principal is required under these regulations, to have license in order to own or operate each uranium recovery facility identified above, and

APPENDIX A-1

RECOMMENDED WORDING FOR A PERFORMANCE BOND (CONT.)

WHEREAS, said Principal is required to provide financial assurance for decommissioning, reclamation and long-term surveillance and control as a condition of the license, and

WHEREAS, said Principal shall establish a standby trust fund when a surety bond is used to provide such financial assurance;

NOW, THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully perform reclamation and decommissioning and make arrangements to transfer funds for long-term surveillance and control to an approved regulatory authority, whenever required to do so, of each uranium recovery facility for which this bond guarantees reclamation and decommissioning in accordance with license conditions, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

Or, if the Principal shall provide alternate financial assurance, and obtain the NRC's written approval of such assurance, within 30 days after the date notice of cancellation is received by both the Principal and the NRC from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by NRC that the Principal has been found in violation of the license conditions of 10 CFR Part 40, Appendix A, for a uranium recovery facility for which this bond guarantees performance of reclamation, decommissioning, and long-term surveillance and control, the Surety(ies) or their agents shall either perform in accordance with license requirements, or place the amount guaranteed for the uranium recovery facility into the standby trust fund, as directed by the NRC.

Upon notification by the NRC that the Principal has failed to provide alternate financial assurance and obtain written approval of such assurance from the NRC during the 90 days following receipt by both the Principal and the NRC of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the uranium recovery facility(ies) into the standby trust fund, as directed by the NRC.

The Surety(ies) hereby waive(s) notification of amendments to decommissioning and reclamation plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

APPENDIX A-1

RECOMMENDED WORDING FOR A PERFORMANCE BOND (CONT.)

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the uranium recovery licensee and to the NRC, provided, however, that cancellation shall not occur during the 90 days beginning on the date of receipt of the notice of cancellation by both the Principal and the NRC, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond from the NRC.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new reclamation, decommissioning, and long-term surveillance and control amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the NRC.

In Witness Whereof, The Principal(s) and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

APPENDIX A-1

RECOMMENDED WORDING FOR A PERFORMANCE BOND (CONT.)

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Name(s) and address]

State of incorporation: _____

Liability limit: \$ _____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ _____

APPENDIX A-2

RECOMMENDED WORDING FOR A FINANCIAL GUARANTEE BOND

Date bond executed: _____

Effective date: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety(ies): [name(s) and business address(es)]

NRC Source Material License Number, name, address, and reclamation, decommissioning and long-term surveillance and control amount(s) for each uranium recovery facility guaranteed by this bond: _____

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Present, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Nuclear Regulatory Commission (NRC), (hereinafter called NRC), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, the NRC, an agency of the United States Government, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Uranium Mill Tailings Radiation Control Act of 1978, has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 40, Appendix A, Criteria 9 and 10. These regulations, applicable to the Principal, require that a licensee of a uranium recovery facility shall provide assurance that funds will be available when needed in accordance with the approved Reclamation and Decommissioning Plan and also for any long-term surveillance and control of the uranium recovery facility.

WHEREAS, said Principal shall establish a standby trust fund when a surety bond is used to provide such financial assurance.

NOW, THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of reclamation and decommissioning of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

APPENDIX A-2

RECOMMENDED WORDING FOR A FINANCIAL GUARANTEE BOND (CONT.)

Or, if the Principal shall fund the standby trust fund in such amount(s) after an order to begin reclamation and decommissioning is issued by an NRC or a U.S. District Court or other court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, and obtain the NRC's written approval of such assurance, within 30 days after the date notice of cancellation is received by both the Principal and the NRC from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by NRC that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund, as directed by NRC.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the NRC provided, however, that cancellation shall not occur during the 90 days beginning on the date of receipt of the notice of cancellation by both the Principal and the NRC, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the NRC.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new reclamation, decommissioning, and long term surveillance and control amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the NRC.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

APPENDIX A-2

RECOMMENDED WORDING FOR A FINANCIAL GUARANTEE BOND (CONT.)

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Surety(ies)]

[Name and address]

State of incorporation: _____

Liability limit: \$ _____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ _____

APPENDIX B

RECOMMENDED WORDING FOR AN IRREVOCABLE STANDBY LETTER OF CREDIT

APPENDIX B

RECOMMENDED WORDING FOR AN IRREVOCABLE STANDBY LETTER OF CREDIT
CREDIT NO. [Insert No.]
This Credit Expires [insert date]

Issued To: United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [Licensee's name and address] up to the aggregate amount of [in words] U.S. dollars \$ _____, available upon presentation of

- (1) your sight draft, bearing reference to this letter of credit No. _____, and
- (2) your signed statement reading as follows: "I certify that that the amount of the draft is payable pursuant to regulations issued under authority of the Uranium Mill Tailings Radiation Control Act of 1978."

This letter of credit is issued in accordance with regulations issued under authority of the United States Nuclear Regulatory Commission, (NRC), an agency of the United States Government, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Uranium Mill Tailings Radiation Control Act of 1978. NRC has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 40, Appendix A, Criteria 9 and 10. These regulations require that a licensee of a uranium recovery facility shall provide assurance that funds will be available when needed in accordance with the approved Reclamation and Decommissioning Plan and also for any long-term surveillance and control of the uranium recovery facility.

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 90 days before the current expiration date, we notify both you and [licensee's name], as shown on the signed return receipts. If [licensee's name] is unable to secure alternative financial assurance to replace this letter of credit within 30 days of notification of cancellation, the NRC may draw upon the full value of this letter of credit prior to cancellation.

The bank shall give immediate notice to the licensee and the NRC of any notice received or action filed alleging the (1) insolvency or bankruptcy of the bank or (2) any violations of regulatory requirements that could result in suspension or revocation of the bank's charter or license to do business. It also should give immediate notice if it, for any reason, becomes unable to fulfill its obligation under the letter of credit.

APPENDIX B

RECOMMENDED WORDING FOR AN IRREVOCABLE STANDBY LETTER OF CREDIT (CONT.)

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us within 30 days, and we shall deposit the amount of the draft directly into the standby trust fund of [licensee's name] in accordance with your instructions.

Each draft must bear upon its face the clause "Drawn under Letter of Credit No. _____, dated _____, and the total of this draft and all other drafts previously drawn under this Letter of Credit does not exceed [fill in amount]."

[Signatures(s) and title(s) of official(s) of issuing institution] [date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or the "Uniform Commercial Code"].

APPENDIX C

RECOMMENDED WORDING AND DOCUMENTS FOR A PARENT COMPANY GUARANTEE

APPENDIX C

RECOMMENDED WORDING AND DOCUMENTS FOR A PARENT COMPANY GUARANTEE

This appendix contains the following documentation recommended to support a parent company guarantee where the U.S. Nuclear Regulatory Commission (NRC) is the Beneficiary (or Obligee):

- Recommended wording for a letter from the Chief Financial Officer of the Parent Company; and
- Example of auditor's special report by certified public accountant, on confirmation of Chief Financial Officer's letter; and
- Attachment to example of auditor's special report, sample schedule reconciling amounts contained in Chief Financial Officer's letter to amounts in financial statements; and
- Recommended wording for a Parent Company guarantee.

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE

RECOMMENDED WORDING FOR LETTER FROM CHIEF FINANCIAL OFFICER OF THE PARENT COMPANY
(Address to U.S. Nuclear Regulatory Commission)

I am the chief financial officer of [name and address of firm], a [insert "individual," "joint venture," "partnership," or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 10 CFR Part 40, Appendix A.

[Fill out the following paragraph on facilities and associated cost estimates. For each facility, include its license number, name, address, and current cost estimates found for reclamation, decommissioning and long-term surveillance and control.]

This firm guarantees, through the parent company guarantee submitted for compliance under 10 CFR Part 40, Appendix A, the decommissioning, reclamation, and long-term surveillance and control of the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the reclamation, decommissioning, and long-term surveillance and control so guaranteed are shown for each facility

NAME OF
FACILITY

LOCATION OF
FACILITY

CURRENT COST
ESTIMATE

I further attest that the licensee(s) for which this parent company guarantee is being made has (have) a positive tangible net worth.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Fill in Alternative I or Alternative II.]

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)

RECOMMENDED WORDING FOR LETTER FROM CHIEF FINANCIAL OFFICER OF THE PARENT COMPANY

ALTERNATIVE I

- | | | | |
|-----|---|------------|-----------|
| 1. | Sum of current decommissioning, reclamation, and long-term surveillance and control cost estimates for facility [insert license number] [total of all cost estimates shown in previous paragraphs above] | \$ | _____ |
| 2.* | Total liabilities [if any portion of decommissioning reclamation, or long-term surveillance and control cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4] | \$ | _____ |
| 3.* | Tangible net worth | \$ | _____ |
| 4.* | Net worth | \$ | _____ |
| 5.* | Current assets | \$ | _____ |
| 6.* | Current liabilities | \$ | _____ |
| 7.* | Net working capital [line 5 minus line 6] | \$ | _____ |
| 8.* | The sum of net income plus depreciation, depletion, and amortization | \$ | _____ |
| 9.* | Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) | \$ | _____ |
| | | <u>Yes</u> | <u>No</u> |
| 10. | Is line 3 at least \$20 million? | ___ | ___ |
| 11. | Is line 3 at least 6 times line 1? | ___ | ___ |
| 12. | Is line 7 at least 6 times line 1? | ___ | ___ |
| 13. | Are at least 90 percent of firm's assets located in the U.S.? If not, complete line 14. | ___ | ___ |
| 14. | Is line 9 at least 6 times line 1? | ___ | ___ |
| 15. | Is line 2 divided by line 4 less than 2.0? | ___ | ___ |
| 16. | Is line 8 divided by line 2 greater than 0.1? | ___ | ___ |
| 17. | Is line 5 divided by line 6 greater than 1.5? | ___ | ___ |

* Denotes figures derived from financial statements.

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)
RECOMMENDED WORDING FOR LETTER FROM CHIEF FINANCIAL OFFICER OF THE PARENT COMPANY

ALTERNATIVE II

- | | | | |
|-----|--|------------|-----------|
| 1. | Sum of current decommissioning, reclamation, and long-term surveillance and control cost estimates for facility [insert license number] [total of all cost estimates shown in previous paragraphs above] | \$ _____ | |
| 2: | Current bond rating of most recent issuance of this firm and name of rating service | \$ _____ | |
| 3. | Date of issuance of bond | _____ | |
| 4. | Date of maturity of bond | _____ | |
| 5.* | Tangible net worth [if any portions of the reclamation, decommissioning, and long-term surveillance and control estimates are included in "total liabilities" on your firm's financial statements, add the amount of that portion to this line]. | \$ _____ | |
| 6.* | Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) | \$ _____ | |
| | | <u>Yes</u> | <u>No</u> |
| 7. | Is line 5 at least \$20 million? | ___ | ___ |
| 8. | Is line 5 at least 6 times line 1? | ___ | ___ |
| 9.* | Are at least 90 percent of firm's assets located in the U.S.? If not, complete line 10. | ___ | ___ |
| 10. | Is line 6 at least 6 times line 1? | ___ | ___ |

* Denotes figures derived from financial statements.

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)

RECOMMENDED WORDING FOR LETTER FROM CHIEF FINANCIAL OFFICER OF THE PARENT COMPANY

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]

[Name]

[Title]

[Date]

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)

EXAMPLE OF AUDITOR'S SPECIAL REPORT BY CERTIFIED PUBLIC ACCOUNTANT CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER

We have examined the financial statements of [company name] for the year ended [date], and have issued our report thereon dated [date]. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The [Company] has prepared documents to demonstrate its financial responsibility under the NRC's financial assurance regulations, in compliance with Appendix A, of 10 CFR Part 40. This letter is furnished to assist the licensee [insert NRC license number and name] in complying with these regulations and should not be used for other purposes.

The attached schedule, in response to the regulations, reconciles the specified information furnished in the Chief Financial Officer's Letter with the Company's financial statements. In connection therewith, we have:

1. Confirmed that the amounts in the column "per financial statements" agree with amounts contained in the Company's financial statements for the year ended [date].
2. Confirmed that the amount in the column "per Chief Financial Officer's Letter" agree with the Letter prepared in response to the NRC's request.
3. Confirmed that the amounts in the column "reconciling items" agree with analyses prepared by the Company setting forth the indicated items.
4. Recomputed the totals and percentages.

Because the above procedures do not constitute an examination made in accordance with generally accepted auditing standards, we do not express an opinion on any amounts or items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe the Chief Financial Officer's Letter and supporting information should be adjusted.

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)

ATTACHMENT TO EXAMPLE OF AUDITOR'S SPECIAL REPORT

SAMPLE SCHEDULE RECONCILING AMOUNTS CONTAINED IN
CHIEF FINANCIAL OFFICER'S (CFO'S) LETTER TO AMOUNTS IN FINANCIAL STATEMENTS

		<u>XYZ COMPANY</u>		
		<u>YEAR ENDED DECEMBER 31, 19XX</u>		
<u>Line Number in CFO's Letter</u>		<u>Per Financial Statements</u>	<u>Recon- ciling Items</u>	<u>Per CFO's Letter</u>
6	Current liabilities	X		
	Long-term debt	X		
	Deferred income taxes	X		
	Total	<u>XX</u>		
	Accrued decommissioning, reclamation, and long-term surveillance and control costs included in current liabilities		X	
	Total liabilities (less accrued decommissioning, reclamation, and long-term surveillance and control costs)			X
4	Net worth	XX		
	less: Cost in excess of value of tangible assets acquired	<u>X</u>		
	Accrued decommissioning, reclamation, and long-term surveillance and control costs included in current liabilities		X	
	Tangible net worth (plus accrued decommissioning, reclamation, and long-term surveillance and control costs)			XX

[balance of schedule not illustrated]

[This illustrates the form of schedule which is contemplated. Details and reconciling items will differ in specific situations.]

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE

Guarantee made this (date) by [name of guaranteeing entity], a [insert "individual," "joint venture," "partnership," or "corporation"] organized under the laws of the State of [insert name of State, herein referred to as guarantor, to the United States Nuclear Regulatory Commission (hereafter NRC), or State agency found acceptable to the NRC, [insert name of State agency] obligee, on behalf of our subsidiary [licensee] of [business address].

Recitals

1. Guarantor has full authority and capacity to enter into this guarantee [(If the guarantor is a corporation, add the following phrase) under its bylaws, articles of incorporation, and the laws of the State of [insert guarantor's state of incorporation], its State of incorporation. [Guarantor should indicate which financial test is being used.]
2. This guarantee is being issued to comply with regulations issued by the NRC, an agency of the United States Government, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Uranium Mill Tailings Radiation Control Act of 1978. NRC has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 40, Appendix A, Criteria 9 and 10. These regulations require that a licensee of a uranium recovery facility shall provide assurance that funds will be available when needed in accordance with the approved Reclamation and Decommissioning Plan and also for any long-term surveillance and control of the uranium recovery facility.
3. Guarantor meets or exceeds the following financial test criteria [insert statement indicating which financial test is being used] and agrees to comply with all notification requirements for sureties as specified in 10 CFR Part 40, Appendix A:

Guarantee shall meet one of the following two financial tests:

(a) (i) The guarantor's most recently issued senior credit obligations are rated "BBB" or higher by Standard and Poor's Corporation, or "Baa" or higher by Moody's Investors Service, Inc.; and

(ii) The guarantor's tangible net worth is at least \$20 million and is equal to or greater than six times the sum of current NRC-approved cost estimates for decommissioning, reclamation, and long-term surveillance and control; and

(iii) The guarantor's assets located in the United States amount to at least 90 percent of its total assets or at least six times the amount of the current NRC-approved cost estimates for decommissioning, reclamation, and long-term surveillance and control required by the license;

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)

OR

(b) (i) Guarantor's tangible net worth and net working capital are each equal to or greater than six times the sum of the current cost estimates for decommissioning, decontamination, reclamation, stabilization, and long-term surveillance and control required by the license; and

(ii) Guarantor's assets located in the United States amount to at least 90 percent of its total assets or at least six times the amount of the current NRC-approved cost estimates for decommissioning, reclamation, and any long-term surveillance and control required by the license; and

(iii) Guarantor meets two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(iv) Guarantor's tangible net worth is at least \$20 million dollars.

4. Guarantor owns 51 percent or more of the voting stock of the following licensee(s) covered by this guarantee. List for each licensee: Name, address, the uranium recovery facilities owned or operated by each licensee, and the corresponding license numbers.] Guarantor also certifies that the licensee(s) for which this guarantee is being made has (have) a positive tangible net worth.
5. "Reclamation and Decommissioning Plans" as used below refers to the plans maintained as required by 10 CFR Part 40, Appendix A, for the decommissioning, reclamation, and long-term surveillance and control of facilities identified above.
6. For value received from [licensee], [(If the guarantor is a corporation, add) and pursuant to the authority conferred upon the guarantor by (the unanimous resolution of its directors) (or) (the majority vote of its shareholders), a certified copy of which is attached,] guarantor guarantees to NRC that in the event the licensee fails to perform the activities required in the NRC approved Reclamation and Decommissioning Plan, as required by License No. [insert numbers], the guarantor shall:
 - a. Carry out the required activities, or
 - b. Set up a trust fund in favor of the above identified beneficiary in the amount of these current NRC-approved cost estimates for these activities, and
 - c. In addition, the licensee or guarantor shall cover the eventual payment of the amount for long-term surveillance and control, if any, as required by 10 CFR Part 40, Appendix A.

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)

[If the licensee is an NRC licensee but a State is the named beneficiary, the guarantee documentation should include written verification from the State agreeing to use the trust funds to carry out the required activities described in the NRC approved Reclamation Decommissioning Plan for the named facility(ies).]

7. Guarantor agrees to submit revised financial statements, financial test data, and a special auditor's report and reconciling schedule annually, within 90 days of the close of the parent company guarantor's fiscal year.
8. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 60 days, by certified mail, notice to the NRC and to [the licensee] that it intends to provide alternate financial assurance as specified in Appendix A of 10 CFR Part 40, in the name of [licensee]. Within 90 days after the end of the fiscal year, the guarantor shall establish such financial assurance unless [licensee] has done so.
9. The guarantor also agrees to notify the beneficiary promptly if the ownership of the licensee or the parent firm is transferred and to maintain this guarantee until the new parent firm or the licensee provides alternate financial assurance acceptable to the beneficiary.
10. The guarantor agrees to notify the NRC, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.
11. Guarantor agrees that within 30 days after being notified by NRC of a determination that guarantor no longer meets the financial test criteria or that it is disallowed from continuing as a guarantor for the uranium recovery facility under license number [insert license number], it shall establish an alternate financial assurance, as specified in 10 CFR Part 40, Appendix A, as applicable in the name of [licensee], unless [licensee] has done so.
12. Guarantor as well as its successors and assigns agrees to remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of license or NRC-approved Reclamation and Decommissioning Plan for that facility, the extension or reduction of the time of performance of reclamation, decommissioning, and or for long-term surveillance and control or any other modification or alteration of an obligation of the licensee pursuant to 10 CFR Part 40.
13. Guarantor agrees to remain bound under this guarantee for so long as [licensee] must comply with the applicable financial assurance requirements of 10 CFR Part 40, Appendix A, for the previously listed facilities, except that guarantor may cancel this guarantee by sending notice by

APPENDIX C

RECOMMENDED WORDING FOR A PARENT COMPANY GUARANTEE (CONT.)

certified mail to the NRC and to [licensee], such cancellation to become effective no earlier than 90 days after receipt of such notice by both NRC and [licensee], as evidenced by the return receipts.

14. Guarantor agrees that if [licensee] fails to provide alternate financial assurance as specified in 10 CFR Part 40, Appendix A as applicable, and to obtain written approval of such assurance from the NRC within 60 days after a notice of cancellation by the guarantor is received by the NRC from the guarantor, guarantor shall provide such alternate financial assurance in the name of [licensee] or make full payment under the guarantee. The guarantor and the licensee agrees to be jointly and severally liable for all litigation costs incurred by the beneficiary in any successful effort to enforce the agreement against the guarantor.
15. Guarantor expressly waives notice of acceptance of this guarantee by the NRC or by [licensee]. Guarantor also expressly waives notice of amendments or modifications of the Reclamation and Decommissioning Plan and of amendments or modifications of the license.
16. If the guarantor files Financial Reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to the NRC during each year in which this guarantee is in effect.

I hereby certify that this guarantee is true and correct to the best of my knowledge.

Effective Date: _____

[Name of Guarantor]

[Authorized Signatures for guarantor] (2)

[Names of persons signing] (2)

[Titles of persons signing] (2)

[Name of licensee] (2)

[Authorized Signatures for licensee] (2)

[Names of persons signing] (2)

[Titles of persons signing] (2)

Signature of witness or notary: _____

APPENDIX D
RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT

TRUST AGREEMENT, [the Agreement], entered into as of [date] by and between [name of NRC licensee], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of _____" or "a national bank"], the "Trustee."

WHEREAS, the United States Nuclear Regulatory Commission, (NRC), an agency of the United States Government, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Uranium Mill Tailings Radiation Control Act of 1978, has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 40, Appendix A, Criteria 9 and 10. These regulations, applicable to the Grantor, require that a licensee of a uranium recovery facility shall provide assurance that funds will be available when needed in accordance with the approved Reclamation and Decommissioning Plan and also for any long-term surveillance and control of the uranium recovery facility.

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

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:

(a) The term "Grantor" means the NRC licensee who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Uranium Recovery Facilities and Cost Estimates.

This Agreement pertains to the facilities and NRC-approved cost estimates identified in license number [insert license number] and shown in Schedule A. [On Schedule A, for each facility, list the NRC license number, name, address, and the current reclamation, decommissioning, and long-term surveillance and control estimates or portions thereof, for which financial assurance is demonstrated by this Agreement.]

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund (the "Fund") for the benefit of NRC. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided.

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

Section 4. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such Property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount of adequacy of the Fund, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by NRC.

Section 5. Payment for Reclamation, Decommissioning, and Long-Term Surveillance and Control. The Trustee shall make payments from the Fund as NRC shall direct, in writing, to provide for the payment of the costs of reclamation, decommissioning, and long-term surveillance and control of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the NRC from the Fund for reclamation, decommissioning and long-term surveillance and control expenditures, in such amounts as the NRC shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the NRC specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the Fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government, and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund.

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days before the anniversary date of establishment of the Fund, furnish to the Grantor and to the NRC a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days before the anniversary date of the establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the NRC shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee, with respect to matters disclosed in the statement.

Section 11. 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 upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor. (See Schedule C.)

Section 13. Successor Trustee The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee and this successor 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 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. The successor trustee shall specify the date in which it assumes administration of the trust in a writing sent to the Grantor, the NRC and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

Section 14. Instructions to the Trustee All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests and instructions by the NRC to the Trustee shall be in writing, signed by the NRC, or its designees, and the Trustee shall act and shall be fully protected in acting in accordance with such 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 or NRC hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor or the NRC, except as provided for herein.

Section 15. Notice of Nonpayments. The Trustee shall notify the Grantor and the NRC by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the NRC or by the Trustee and the NRC, if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the NRC or by the Trustee and the NRC, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the NRC issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of [insert name of State].

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

Section 20. Interpretation. 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.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written.

[Signature of Grantor]

Attest:

[Title]

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

[Title]

[Seal]

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

SAMPLE
EXHIBIT A

The following is an example of the certification of acknowledgment which must accompany the trust agreement for a trust fund.

STATE OF _____

COUNTY OF _____

On this [date], before me, personally came [name of licensee] known, who, being by me duly sworn did depose and say that she/he resides at [address], that she/he is [title] of [(corporation)], the corporation described in and which executed the above instrument; that he/she knows the seal of said Association, that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Notary Public Signature]

My Commission Expires:

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

SAMPLE SCHEDULE A

This Agreement demonstrates financial assurance for the following cost estimates(s) for the following uranium recovery facility(ies):

<u>U.S. NUCLEAR REGULATORY COMMISSION LICENSE NUMBER</u>	<u>NAME OF FACILITY</u>	<u>ADDRESS OF FACILITY</u>	<u>COST ESTIMATES DEMONSTRATED BY THIS AGREEMENT</u>
--	-----------------------------	--------------------------------	--

The cost estimates listed here were last adjusted and approved by the NRC on [date].

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

SAMPLE SCHEDULE B

The fund is established initially as consisting of the following property: [\$ dollar amount] as evidenced by [property].

APPENDIX D

RECOMMENDED WORDING FOR A TRUST FUND AGREEMENT (CONT.)

SAMPLE SCHEDULE C

_____, Trustee's fees shall be \$ _____.

APPENDIX E
RECOMMENDED WORDING FOR A STANDBY TRUST

APPENDIX E

RECOMMENDED WORDING FOR A STANDBY TRUST

TRUST AGREEMENT, [the Agreement] entered into as of [date] by and between [name of licensee], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of a "national bank]," the "Trustee."

WHEREAS, the United States Nuclear Regulatory Commission, (NRC), an agency of the United States Government, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Uranium Mill Tailings Radiation Control Act of 1978, has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 40, Appendix A, Criteria 9 and 10. These regulations, applicable to the Grantor, require that a licensee of a uranium recovery facility shall provide assurance that funds will be available, when needed in accordance with the approved Reclamation and Decommissioning Plan, and also for any long term surveillance and control of the uranium recovery facility.

WHEREAS, the Grantor has elected to establish a [insert "letter of credit," "surety bond," or "parent guarantee"] to provide all or part of such financial assurance for the facilities identified herein, and

WHEREAS, when payment is made under a [insert "letter of credit," "surety bond," or "parent guarantee"] this standby trust shall be used for the receipt of such payment, and

WHEREAS the Grantor has elected to establish a standby trust to provide all or part of such financial assurance for the facilities identified herein,

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:

(a) the term "Grantor" means the licensee who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Uranium Recovery Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified in license number [insert license number] and shown in Schedule A.

APPENDIX E

RECOMMENDED WORDING FOR A STANDBY TRUST (CONT.)

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a standby trust fund (the "Fund") for the benefit of NRC. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided.

Section 4. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee. The fund is funded initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of the Fund, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by NRC.

Section 5.

Payment for Reclamation, Decommissioning, and Long Term Surveillance and Control. The Trustee shall make payments from the Fund, as the NRC shall direct, in writing, to provide for the payment of the costs of reclamation, decommissioning, and if necessary, long term surveillance and control of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the NRC from the Fund for reclamation, decommissioning, and long term surveillance and control expenditures in such amounts as the NRC shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the NRC specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the Fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstance then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that: (i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

APPENDIX E

RECOMMENDED WORDING FOR A STANDBY TRUST (CONT.)

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provision thereof, to be commingled with the assets of other trusts participating therein, and

(b) To purchase shares in any investment company registered under the Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issued held by the Trustee in other fiduciary capacities or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books, and records of the Trustee shall at all times show that all such securities are part of the Fund;

APPENDIX E

RECOMMENDED WORDING FOR A STANDBY TRUST (CONT.)

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commission incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. After Payment has been made into the Fund, the Trustee shall annually, at least 30 days before the anniversary date of receipt of payment into the Fund, furnish to the Grantor and to the NRC, a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days before the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the NRC shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to the matters disclosed in the statement.

Section 11. 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 upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor. (See Schedule C.)

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder.

APPENDIX E

RECOMMENDED WORDING FOR A STANDBY TRUST (CONT.)

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 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. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the NRC, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the NRC to the Trustee shall be in writing, signed by the NRC, or its designees, and the Trustee shall act and shall be fully protected in acting in accordance with such 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 or NRC hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and the instructions from the Grantor or NRC, except as provided for herein.

Section 15. Amendment by Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the NRC, or by the Trustee and the NRC, if the Grantor ceases to exist.

Section 16. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 15, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the NRC, or by the Trustee and the NRC, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property less final trust administration expenses shall be delivered to the Grantor.

Section 17. Immunity and Indemnification. The trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the NRC issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official

APPENDIX E

RECOMMENDED WORDING FOR A STANDBY TRUST (CONT.)

capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 18. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of [insert name of state].

Section 19. Interpretation. 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.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written.

[Signature of Grantor]

Attest:

[Title]

[Title]

[Seal]

[Signature of Trustee]

[Title]

APPENDIX E

RECOMMENDED WORDING FOR A STANDBY TRUST (CONT.)

SAMPLE
EXHIBIT A

The following is an example of the certification of acknowledgment which must accompany the trust agreement for a trust fund.

STATE OF _____

To Wit:

CITY OF _____

On this _____ day of _____, before me, a notary public in and for the City and State aforesaid, personally appeared _____, and he did depose and say that he is the _____ of _____, national banking association, Trustee, and who executed the above instrument; that he knows the seal of said Association, that the seal affixed to such instrument is such Corporate Seal; that it was so affixed by order of the Association, and that he signed his name thereto by like order.

[Notary Public]

My Commission Expires: _____