



Nuclear Operations Division

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June 27, 2008
08-080

Attn: Document Control Desk
Director, Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

- References:
- (1) License No. SNM-42, Docket 70-27
 - (2) Letter dated November 14, 2007, Morrell (BWXT) to Director, NMSS (NRC), Notification of Company Name Change and Request to Revise Chapters 1 through 7, 10, and 11 of License Application SNM-42
 - (3) Letter dated February 15, 2008, Cole (BWXT) to Director, NMSS (NRC), BWX Technologies, Inc. Reply to NRC's Request for Additional Information by Letter Dated February 1, 2008 and Request for Exemption from 10 CFR §70.25 (e) for DOE Contract Materials
 - (4) Letter dated April 24, 2008, Snyder (NRC) to Cole (BWXT), BWX Technologies, Inc. – Request for Additional Information (TAC L32657)
 - (5) Letter dated May 23, 2008, Cole (BWXT) to Director, NMSS (NRC), BWX Technologies, Inc. Reply to NRC's Request for Additional Information by Letter Dated April 24, 2008 and Request for Exemption from 10 CFR §70.25 (e) and (f) for its DOE Contract Materials.

Subject: BWX Technologies, Inc. Reply to NRC's Request for Additional Information by Letter Dated April 24, 2008 – Supplemental Information to BWXT's May 23, 2008 Letter. (TAC L32657)

Dear Sir:

At this time, BWX Technologies, Inc. (BWXT) is providing supplemental information to its May 23, 2008, letter response (Reference 5) to the NRC's request for additional information (RAI) in the NRC's April 24, 2008 letter (Reference 4). The additional information provided in the Enclosures is in support of BWXT's request for an indirect transfer of control of License SNM-42 to Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG).

The additional information includes completed responses to RAI questions #1 and #2. Also included is a revised unexecuted copy of the Certification of Financial Assurance for B&W NOG. This revised copy shows the new financial assurance amount as per the revised Letter of Credit. Please replace the copy that was provided as Enclosure 3 in BWXT's May 23, 2008, letter with this copy.

Also enclosed is a revised SNM-42, License Application Chapter 10, *Decommissioning*. Please replace the copy that was provided as part of Enclosure 2 in BWXT's November 14, 2007, letter (Reference 2) with this copy. The following changes to Chapter 10 are being submitted for approval (note: this list does not include changes to references that resulted from renumbering nor does it include corrections to typos unless the correction changed the meaning of the statement):

NM550.1

Changes	Justification
The following changes were submitted in BWXT's November 14, 2007, letter:	
Revised "BWXT" to "B&W NOG" and "NPD" to "NOG" throughout. Revised "BWXS" to "B&W Technical Services Group" and spell out "NOG". Appendix 10-4 revised to add the words "Operations" and "Lynchburg". (formerly Appendix 10-6 in BWXT's November 14, 2007, letter)	Transfer of License SNM-42 to B&W NOG, and company name change for BWXS.
Appendix 10-5 revised to correct typographical error in Rad Con Tech rate from \$6.45 to \$63.45 (formerly Appendix 10-7 in BWXT's November 14, 2007, letter)	Corrected typographical error in Rad Con Tech rate. No impact to calculations.
The following changes are in addition to those submitted in BWXT's November 14, 2007, letter:	
10-2: removed "estimated date of operation..." from Container Storage Facility.	This facility is now in operation.
10-3, Table 10.3: replaced "Contract" with "B&W NOG Letter of Credit" for Assurance for Research & Test Reactors. Adjusted the Total Letter of Credit Assurance.	These changes reflect BWXT's decision to provide financial assurance for Research & Test Reactors decommissioning via the Letter of Credit rather than via contracts. *
10.3.1: replaced the 1993 Letter of Attestation with a draft 2008 Letter of Attestation for financial assurance for decommissioning related to DOE contracts.	The draft 2008 Letter of Attestation was submitted as Enclosure 2 in BWXT's May 23, 2008, letter in response to RAI questions #3 and #6 in the NRC's April 24, 2007 letter.
10.3.2: removed all references to RTRT program contracts as a provision for financial assurance for decommissioning for RTRT.	These changes reflect BWXT's decision to provide financial assurance for Research & Test Reactors decommissioning via the Letter of Credit rather than via contracts. *
10.3.5: removed date for Standby Trust Agreement.	A new Standby Trust Agreement for B&W NOG has been submitted (Enclosure 3 in BWXT's February 15, 2008, letter and Enclosure 3 of this letter), therefore there is no amendment date.
10.4.1: removed reference to Amendment No. 40.	Amendment No. 40 is not valid for this transfer.
Appendix 10-2: replaced the 1993 Letter of Attestation with a draft 2008 Letter of Attestation for financial assurance for decommissioning related to DOE contracts	The draft 2008 Letter of Attestation was submitted as Enclosure 2 in BWXT's May 23, 2008, letter in response to RAI questions #3 and #6 in the NRC's April 24, 2007 letter.
Removed original Appendix 10-3, "Financial Assurance for Decommissioning Through RTRT Contract with Battelle Energy Alliance, LLC", and replaced with former Appendix 10-5 from BWXT's November 14, 2007, letter.	These changes reflect BWXT's decision to provide financial assurance for Research & Test Reactors decommissioning via the Letter of Credit rather than via contracts. *
Removed original Appendix 10-4, "Financial Assurance for Decommissioning Through RTRT Contract with UT Battelle, LLC", and replaced with former Appendix 10-6 from BWXT's November 14, 2007, letter.	These changes reflect BWXT's decision to provide financial assurance for Research & Test Reactors decommissioning via the Letter of Credit rather than via contracts. *
Appendix 10-4 (formerly Appendix 10-6): removed references to specific bay locations.	Specific bay locations are sensitive information. Such information is already included as needed in Section 10.2, and was removed here in order to minimize the amount of sensitive information in the document.

- * As shown in Table 10.3 on page 10-6, RTRT consists of two areas: 1. the Research & Test Reactors area, and 2. the Targets area. The cost estimate for each area is also shown in Table 10.3, and their separate breakdowns are shown in Appendix 10-4, page 10-27. The current Total Letter of Credit (LoC) Assurance on file with the NRC of \$24,531,906 includes the cost estimate for [REDACTED]. The assurance for the cost estimate for Research & Test Reactors is covered by contracts. For the indirect transfer of control, the LoC is revised to include the decommissioning costs related to the Research and Test Reactor area. This inclusion was discussed in a May 22, 2008 telephone conversation with Ms. Amy Snyder, NRC Senior Project Manager. As previously stated, the cost estimate for the Targets area was already included.

BWXT is requesting that B&W NOG be allowed to provide a revised SNM-42 License Application Chapter 10, *Decommissioning*, with an executed copy of the 2008 Letter of Attestation as part of the NRC Order approving the SNM-42 License transfer.

For legal contact information for the Federal Register Notice, please contact:

Beth Colling, Managing Attorney
BWXT Technologies, Inc., MC-57
2016 Mt. Athos Rd.
Lynchburg, VA 24504-5447
(434) 522-5641

Enclosure 4, SNM-42 License Application Chapter 10, *Decommissioning*, contains Official Use Only – Department of Energy information on pages 10-1 and 10-2 that has the potential to damage governmental, commercial, or private interests if disseminated to persons who do not need the information to perform their jobs or other DOE-authorized activities, and therefore these pages should be withheld from public disclosure. DOE G 471.3-1 was used for guidance. Multiple pages within the remainder of the document contain commercial and financial proprietary information of a type described in 10 CFR 9.17(a)(4), and also contains proprietary contractual information per contract with the U. S. Department of Energy. Therefore, these pages should be withheld from public disclosure under 10 CFR 2.390, and have been appropriately marked per 10 CFR 2.390. However, BWXT has provided a redacted copy for public disclosure purposes. An affidavit from Mr. Roger Cochrane is included as **Enclosure 6** for withholding under 10 CFR 2.390.

Enclosure 5, a revised unexecuted copy of the Certification of Financial Assurance, is Official Use Only – Department of Energy because it contains data that has the potential to damage governmental, commercial, or private interests if disseminated to persons who do not need the information to perform their jobs or other DOE-authorized activities, and therefore should be withheld from public disclosure. DOE G 471.3-1 was used for guidance. A redacted copy for public disclosure has also been included.

Should additional information be needed to support NRC's review of this matter, please contact me at (434) 522-5665. Thank you very much for your consideration.

Sincerely,



Barry L. Cole
Manager, Licensing & Safety Analysis
(Licensing Officer)

Enclosures

Cc: U.S. NRC Region II
NRC, Resident Inspector
NRC, Amy Snyder

List of Enclosures

Enclosure 1 – Information in Response to NRC Regulations and the NRC Request For Additional Information (RAI) in Letter Dated April 24, 2008 – Supplemental Information to BWXT's May 23, 2008 Letter

Enclosure 2 – Revised Unexecuted Copy of Letter of Credit

Enclosure 3 – Revised Unexecuted Copy of the Standby Trust Agreement

Enclosure 4 – Revised SNM-42 License Application Chapter 10, Decommissioning (redacted copy also included)

Enclosure 5 – Revised Unexecuted Copy of Certification of Financial Assurance (redacted copy also included)

Enclosure 6 – Affidavit from Mr. Roger Cochrane

ENCLOSURE 1

**Information in Response to NRC Regulations and the NRC Request For
Additional Information (RAI) in Letter Dated April 24, 2008 –
Supplemental Information to BWXT's May 23, 2008 Letter**

~~Proprietary Information - Withheld Under 10 CFR 2.390~~

Information Provided Pursuant to NRC Request For Additional Information (RAI) in Letter dated April 24, 2008 (TAC L32657)

Set forth below is information in response to NRC regulations and the NRC Request For Additional Information (RAI) in a letter dated April 24, 2008 (TAC L32657), to support the transfer of License SNM-42 and Certificates of Compliance from BWX Technologies, Inc. (BWXT) to Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG). This information supplements BWXT's May 23, 2008, letter response.

RAI #1: In accordance with NUREG-1757, Vol. 3, Appendix A.10.4, the U.S. Nuclear Regulatory Commission (NRC) staff asked BWX Technologies, Inc. (BWXT) to provide a draft Letter of Credit (LoC) in the new corporation's name (B&W NOG). BWXT provided a draft LoC to the NRC in a letter dated February 15, 2008. The NRC staff reviewed this draft and found technical deficiencies. Update the LoC to reflect that B&W NOG will hold a Part 70 license. Note that there are two such references in the LoC that should be updated. In addition, there is a typo pertaining to one of these references in which the LoC states "IU CFR Parts." Correct this to state "10 CFR Part" and only refer to Part 70. Also, update the expiration date, if it is to change. Currently, it is listed as January 23, 2009. (See Attachment 1 - Mark-up of the Unexecuted Copy of the Letter of Credit.)

Basis: A LoC guarantees that decommissioning costs will be paid. The LoC must be acceptable to the Commission and meet the requirements of Paragraph 70.25(f)(2).

Provided in **Enclosure 2** is a revised unexecuted copy of a Letter of Credit (LoC) issued by Compass Bank in the name of B&W NOG. The technical deficiencies that were noted by the NRC have been corrected. Although Compass Bank is not the same credit facility that is the holder of the current LoC for BWXT, Compass Bank is a U. S. Federally regulated bank. As agreed in a 5/13/08 teleconference between BWXT and NRC representatives, references to 10 CFR Parts 30, 40 and 72 were not removed from the LoC because B&W NOG will assume responsibility from BWXT for the materials regulated by these Parts. Also, the LoC has been revised to include the decommissioning costs related to our Research and Test Reactor area which was discussed in a May 22, 2008 telephone conversation with Ms. Amy Snyder, NRC Senior Project Manager.

This LoC will become operable as soon as the existing LoC is terminated. Consequently, there will be no gap in coverage. As specifically stated by representatives of the NRC, BWXT expects that any Order issued by the NRC granting permission to transfer the License SNM-42 will be conditional upon final execution of this document prior to transfer of control of the license. BWXT can agree with that stipulation.

RAI #2: The NRC staff previously asked BWXT to provide a draft Standby Trust Agreement in the new corporation's name (B&W NOG) and referred BWXT to the current NRC guidance on Standby Trust Agreements, found in NUREG-1757, Vol. 3, Appendix A.17.4 (Standby Trust Agreement).

BWXT provided a draft Standby Trust Agreement, to the NRC, in a letter dated February 15, 2008. The NRC staff reviewed this draft and found technical deficiencies. The NRC staff's concerns with the draft Standby Trust Agreement pertain to Sections 5, 6, and 12, of the draft Standby Trust Agreement, the Specimen Certificate of Events, the lack of the Specimen Certificate of Resolution, and Schedule A. The staff determined that word changes to the Standby Trust Agreement are necessary to satisfy the NRC's financial assurance requirements. These changes are found in Attachment 2. Please revise the Standby Trust Agreement as shown in the mark-up. (See Attachment 2 - Mark-up of Unexecuted Copy of the Standby Trust Agreement.) In addition, a Specimen Certificate of Resolution, as illustrated in NUREG-1757, Appendix A. 17.7, needs to be added.

Basis; Paragraph 70.25(f)(2)(ii) states that the trustee and trust must be acceptable to the Commission.

Provided in **Enclosure 3** is a revised unexecuted copy of a Standby Trust Agreement (STA) in the name of B&W NOG. The technical deficiencies that were noted by the NRC have been corrected, and a Certificate of Resolution has been added. Also, the cost estimate in Schedule A has been revised to reflect the new LoC amount which was revised as noted in the above response to RAI #1.

This STA will become operable as soon as the existing STA is terminated. Consequently, there will be no gap in coverage. As specifically stated by representatives of the NRC, BWXT expects that any Order issued by the NRC granting permission to transfer the License SNM-42 will be conditional upon final execution of this document prior to transfer of control of the license. BWXT can agree with that stipulation.

ENCLOSURE 2

Revised Unexecuted Copy of Letter of Credit

U.S. NUCLEAR REGULATORY COMMISSION
11545 ROCKVILLE PIKE
ROCKVILLE, MD 20852-2738

DRAFT

DATE: [INSERT ISSUE DATE]
L/C NO: [INSERT L/C NUMBER]

DEAR SIR OR MADAM:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. [INSERT L/C NUMBER] IN YOUR FAVOR, AT THE REQUEST OF OUR CLIENT, BABCOCK & WILCOX NUCLEAR OPERATIONS GROUP, INC. ("B&W NOG"), 1570 MOUNT ATHOS ROAD, LYNCHBURG, VA 24504-5447, UP TO THE AGGREGATE AMOUNT OF USD 28,873,500.00 (UNITED STATES DOLLARS TWENTY EIGHT MILLION, EIGHT HUNDRED SEVENTY THREE THOUSAND, FIVE HUNDRED DOLLARS AND 00/100 ONLY), AVAILABLE UPON PRESENTATION OF:

YOUR SIGHT DRAFT, BEARING REFERENCE TO THIS LETTER OF CREDIT NO. [INSERT L/C NUMBER], AND

YOUR SIGNED STATEMENT READING AS FOLLOWS: "I CERTIFY THAT THE AMOUNT OF THE DRAFT IS PAYABLE PURSUANT TO REGULATIONS ISSUED UNDER AUTHORITY OF THE U.S. NUCLEAR REGULATORY COMMISSION RELATING TO LICENSE NO. SNM-42."

THIS LETTER OF CREDIT IS ISSUED IN ACCORDANCE WITH REGULATIONS ISSUED UNDER THE AUTHORITY OF THE U.S. NUCLEAR REGULATORY COMMISSION ("NRC"), AN AGENCY OF THE U.S. GOVERNMENT PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, AND THE ENERGY REORGANIZATION ACT OF 1974. THE NRC HAS PROMULGATED REGULATIONS IN TITLE 10, CHAPTER 1 OF THE CODE OF FEDERAL REGULATIONS, PARTS (30, 40, 70 OR 72), WHICH REQUIRE THAT A HOLDER OF OR AN APPLICANT FOR A LICENSE ISSUED UNDER 10 CFR PARTS (30, 40, 70 OR 72) PROVIDE ASSURANCE THAT FUNDS WILL BE AVAILABLE WHEN NEEDED FOR DECOMMISSIONING.

THIS LETTER OF CREDIT IS EFFECTIVE AS OF DATE OF ISSUE AND SHALL EXPIRE ON JUNE 10, 2009, BUT SUCH EXPIRATION DATE SHALL BE AUTOMATICALLY EXTENDED FOR A PERIOD OF ONE (1) YEAR ON JUNE 10, 2009 AND ON EACH SUCCESSIVE EXPIRATION DATE UNLESS, AT LEAST 90 DAYS BEFORE THE THEN CURRENT EXPIRATION DATE, WE NOTIFY BOTH YOU AND B&W NOG BY CERTIFIED MAIL OR COURIER, AS SHOWN ON THE SIGNED RETURN RECEIPTS, THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT FOR ANY SUCH ADDITIONAL PERIOD.

CONTINUED ON PAGE TWO WHICH FORMS AN INTEGRAL PART OF THIS LETTER OF CREDIT.

PAGE TWO

LETTER OF CREDIT NUMBER:

DATE:

IF B&W NOG IS UNABLE TO SECURE ALTERNATIVE FINANCIAL ASSURANCE TO REPLACE THIS LETTER OF CREDIT WITHIN 30 DAYS OF THE NOTICE 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 APPLICANT AND THE NRC OF ANY NOTICE RECEIVED OR ACTION FILED ALLEGING (1) THE INSOLVENCY OR BANKRUPTCY OF THE FINANCIAL INSTITUTION OR 2) ANY VIOLATIONS OF REGULATORY REQUIREMENTS THAT COULD RESULT IN SUSPENSION OR REVOCATION OF THE BANK'S CHARTER OR LICENSE TO DO BUSINESS. THE FINANCIAL INSTITUTION ALSO SHALL GIVE IMMEDIATE NOTICE IF THE BANK, FOR ANY REASON, BECOMES UNABLE TO FULFILL ITS OBLIGATION UNDER THE LETTER OF CREDIT.

WHENEVER THIS LETTER OF CREDIT IS DRAWN ON UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT, WE SHALL 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 B&W NOG IN ACCORDANCE WITH YOUR INSTRUCTIONS.

EACH DRAFT MUST BEAR ON ITS FACE THE CLAUSE: "DRAWN UNDER LETTER OF CREDIT NO. [INSERT L/C NUMBER] DATED [INSERT ISSUE DATE]" AND THE TOTAL OF THIS DRAFT AND ALL OTHER DRAFTS PREVIOUSLY DRAWN UNDER THIS LETTER OF CREDIT DOES NOT EXCEED U.S. DOLLARS 28,873,500.00 (UNITED STATES DOLLARS TWENTY EIGHT MILLION, EIGHT HUNDRED SEVENTY THREE THOUSAND, FIVE HUNDRED DOLLARS AND 00/100 ONLY).

THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 2007 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600.

VERY TRULY YOURS,

COMPASS BANK

DRAFT

ENCLOSURE 3

Revised Unexecuted Copy of the Standby Trust Agreement

TRUST AGREEMENT, the Agreement entered into as of [Insert Date of Agreement] by and between Babcock & Wilcox Nuclear Operations Group, Inc., a Delaware corporation, herein referred to as the "Grantor", and Citibank, N.A, a national banking association organized and existing under the laws of the United States of America, 388 Greenwich Street, New York, N.Y. 10013, the "Trustee".

WHEREAS, the U.S. Nuclear Regulatory Commission (NRC), an agency of the U.S. Government, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 70. These regulations, applicable to the Grantor, require that a holder of, or an applicant for a Part 70 license provide assurance that funds will be available when needed for required decommissioning activities.

WHEREAS, the Grantor has elected to use a letter of credit to provide financial assurance for the facilities identified herein; and

WHEREAS, when payment is made under a letter of credit, this standby trust shall be used for the receipt of such payment; and

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

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

Section 1. Definitions.

As used in this Agreement:

- (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. Costs of Decommissioning.

This Agreement pertains to the cost of decommissioning the materials and activities identified in License Number SNM-42 issued pursuant to 10 CFR Part 70 as shown in Schedule A.

Section 3. Establishment of Fund.

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

Section 4. Payments Constituting the Fund.

Payments made to the Trustee for the Fund shall consist of cash, securities, or other liquid assets 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 are 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, 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 the NRC.

Section 5. Payment for Required Activities Specified in the Plan.

The Trustee shall make payments from the Fund to the Grantor upon presentation to the Trustee of the following:

- a. A certificate duly executed by an authorized representative of the Grantor attesting to the occurrence of the events, and in the form set forth in the attached Specimen certificate, and
- b. A certificate duly executed by an authorized representative of the Grantor attesting to the following conditions:
 1. that decommissioning is proceeding pursuant to an NRC approved plan,
 2. that the funds withdrawn will be expended for activities undertaken pursuant to that Plan, and
 3. that the NRC has been given 30 days prior notice of Grantor's intent to withdraw funds from the Fund.

No withdrawal from the fund can exceed 10 percent of the outstanding balance of the Fund unless NRC approval is attached.

In the event of the Grantor's default or inability to direct decommissioning activities, as determined by the NRC, the Trustee shall make payments from the Fund as the NRC shall direct, in writing, to provide for the payment of the costs of required activities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the NRC from the Fund for expenditures for required activities 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. Trust 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 its 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:

- (a) 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.
- (b) 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 government, and in obligations of the Federal government such as GNMA, FNMA, and FHLM bonds and certificates or State and Municipal bonds rated BBB or higher by Standard & Poor's or Baa or higher by Moody's Investment Services; and
- (c) For a reasonable time, not to exceed 60 days, the Trustee is authorized to hold uninvested cash, awaiting investment or distribution, without the liability for the payment of interest thereon.

Section 7. Express Powers of Trustee.

Without in any way limiting the powers and discretion 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, as necessary for prudent management of the Fund;
- 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 of the same issue held by the Trustee in other fiduciary capacities, to reinvest interest payments and funds from matured and redeemed instruments, to file proper forms concerning securities held in the Fund in a timely fashion with appropriate government agencies, 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 or such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the U.S. 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; and
- d. to compromise or otherwise adjust all claims in favor of or against the Fund.

Section 8. 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 reasonable out-of-pocket expenses incurred by the Trustee in connection with the administration of this Trust, including reasonable fees for legal services rendered to the Trustee, and the compensation of the Trustee shall be paid from the Fund.

Section 9. Annual Valuation.

After payment has been made into this standby trust fund, the Trustee shall annually, at least 30 days before the anniversary date of receipt of payment into the standby trust 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 the matters disclosed in the statement.

Section 10. Advice of Counsel.

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

Section 11. 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 12. Successor Trustee.

Upon 90 days notice to the NRC and the Grantor, the Trustee may resign. Upon 90 days notice to the NRC and the Trustee, the Grantor may replace the Trustee; but such resignation or replacement shall not be effective until the Grantor has appointed (and the NRC has approved in writing) 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 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 8.

Section 13. Instructions to the Trustee.

All orders, request and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are signatories to this agreement or such other designees as the Grantor may designate in writing. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's written orders, requests, and instructions. If the NRC issues orders, requests, or instructions to the Trustee these 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 written 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 the NRC hereunder has occurred. The Trustee shall have no duty to act in the absence of such written orders, requests, and instructions from the Grantor and/or the NRC, except as provided for herein.

Section 14. 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 15. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 14, 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, to the extent not paid directly to the Trustee, shall be delivered to the Grantor or its successor.

Section 16. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, that is made in good faith and does not constitute negligence or willful misconduct by the Trustee or its directors, officers, employees or agents, 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 from the trust fund from and against any personal liability to which the Trustee may be subject by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense, except for any such personal liability that is due to the negligence or willful misconduct of the Trustee or its directors, officers, employees or agents.

Section 17.

This Agreement shall be administered, construed, and enforced according to the laws of the State of New York.

Section 18. Interpretation and Severability.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement. If any part of this Agreement is invalid, it shall not affect the remaining provisions which will remain valid and enforceable.

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

ATTEST

Babcock & Wilcox Nuclear Operations Group, Inc.

Winfred D. Nash

Title: President

Seal:

ATTEST

Citibank, N.A.

Title:

Seal:

Specimen Certificate of Events

Citibank, N.A.
388 Greenwich Street,
New York, N.Y. 10013

Gentlemen:

In accordance with the terms of the Agreement with you dated [Insert Date of Agreement], I _____ of Babcock & Wilcox Nuclear Operations Group, Inc., hereby certify that the following events have occurred:

1. Babcock & Wilcox Nuclear Operations Group, Inc., is required to commence the decommissioning of the licensed activity relating to license SNM-42.
2. The plans and procedures for the commencement and conduct of the decommissioning have been approved by the United States Nuclear Regulatory Commission, or its successor, on _____. A copy of the approval is attached.
3. The Board of Directors of Babcock & Wilcox Nuclear Operations Group, Inc., has adopted the attached resolution authorizing the commencement of the decommissioning

Babcock & Wilcox Nuclear Operations Group, Inc.

Winfred D. Nash

Title: President

Date:

SCHEDULE A

U.S. NUCLEAR REGULATORY COMMISSION LICENSE NUMBER

SNM-42

NAME AND ADDRESS OF LICENSEE

Babcock & Wilcox Nuclear Operations Group, Inc.
2016 Mount Athos Road
Lynchburg, Virginia 24504-5447

ADDRESS OF LICENSED ACTIVITY

Babcock & Wilcox Nuclear Operations Group, Inc.
1570 Mount Athos Road
Lynchburg, Virginia 24504

COST ESTIMATE FOR REGULATORY ASSURANCES DEMONSTRATED BY THIS
AGREEMENT

SNM-42 - \$28,873,500.00 (\$24,531,906 approved by NRC in April 2007. [REDACTED] added for
Research & Test Reactors cost estimate.)

SCHEDULE B

As of the execution date, [Insert Date of Agreement], this Standby Trust Agreement does not require the deposit of any funds.

SCHEDULE C
ESCROW ADMINISTRATION

Trustee: Citibank, N.A.
388 Greenwich Street,
New York, N.Y. 10013
Telephone: 212 – 816 – 5621
Fax: 212 – 657 – 2762

Acceptance Fee:	Waived
Annual Administration Fee:	\$7,500.00
Annual (or portion thereof) minimum Escrow Fee:	\$7,500.00

Certificate of Resolution

I, Robert E. Stumpf, do hereby certify that I am Assistant Secretary of Babcock & Wilcox Nuclear Operations Group, Inc., a Delaware corporation, and that the resolution listed below was duly adopted by this Corporation's Board of Directors pursuant to a unanimous written consent of the Board of Directors dated May 19, 2008.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of this Corporation this ___ day of _____, 20__.

Assistant Secretary

RESOLVED, that this Board of Directors of Babcock & Wilcox Nuclear Operations Group, Inc. (the "Company"), that the President, or such other employee of the Company as he may designate, be and hereby is authorized in the name, and on behalf of the Company, to commence decommissioning activities at the Company's Lynchburg, Virginia facility in accordance with such terms and conditions as the President, or his designee, shall approve with and upon the advice of Counsel.

ENCLOSURE 4

**Revised SNM-42 License Application Chapter 10, Decommissioning
(redacted copy also included)**

~~Proprietary Information - Withhold Under 10 CFR 2.390~~

SNM-42, CHAPTER 10

SNM-42

CHAPTER 10

DECOMMISSIONING



SNM-42, CHAPTER 10

DECOMMISSIONING

10.0 Introduction

Within 60 days of terminating licensed activities in any separate building or outdoor area, as provided for in 10 CFR 70.38, B&W NOG shall notify the NRC of its intention to discontinue such use. A detailed survey and decommissioning plan, meeting the requirements of 10 CFR 70.38, shall be submitted to the NRC within 12 months after the initial notification.

10.1 Performance Objective

The performance objective is to assure that the health and safety of the general public are protected by decontaminating NOG facilities to levels which do not exceed those specified by NRC at the time of decommissioning.

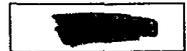
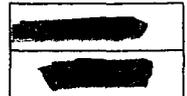
Methods and techniques different from those described herein may be employed to achieve this performance Objective.

10.2 Plan

Unclad radioactive materials have been stored or processed in several areas on the NOG site. These areas are summarized below. Detailed records are maintained on-site in accordance with 10CFR70.25.

Naval Reactors Areas

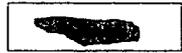
- 
- Alloy Shop Area (including Vapor Blast)
- Vault 1
- Central Storage Vault
- Met/Chem Labs
- 
- Drum Count Area
- Waste Treatment
- 
- 
- Waste Operations Areas
- Vault 6
- Vault 7
- Railyard Storage Facility
- Container Storage Facility





SNM-42, CHAPTER 10

- Research Test Reactor and Targets (RTRT)
 - 
- Lynchburg Technology Center (LTC)
 - Building B Labs
 - Building B Hot Cell Facilities
 - Liquid Waste Handling Facilities
 - Radioactive Waste Storage Areas
- Downblending Areas
 - 
 - 
 - Waste Pretreatment Systems



Additionally, radioactive materials have been buried on site in accordance with the requirements of 10.CFR 20.304 in an NRC (AEC) approved burial ground.

Accordingly, the procedures specified in this plan will be applied only to those areas where survey results indicate the presence of residual radioactive material in concentrations exceeding the limits specified by NRC at the time of decommissioning. The remaining areas at the NOG site will not require decontamination, and therefore, are not affected or covered by this plan.

10.2.1 General Considerations

- 10.2.1.1 Decontamination will be to levels not to exceed those specified by NRC at the time of decommissioning. In addition, a reasonable effort will be made to further reduce contamination to as low as reasonably achievable (ALARA).
- 10.2.1.2 A detailed survey plan shall be submitted to the NRC specifying the number, location, and type of samples to be analyzed to determine affected and unaffected areas. Affected areas will be remediated.
- 10.2.1.3 No covering will be applied to radioactive surfaces (e.g., paint, plating, etc.) until it is known that contamination levels are below those specified by NRC and until it is known that reasonable efforts have been made to further reduce contamination below said levels.
- 10.2.1.4 The radioactivity of interior surfaces of pipes, ductwork, etc., will be determined by taking measurements at all traps and other appropriate access points, provided contamination at these locations is likely to be



SNM-42, CHAPTER 10

representative of interior contamination. If such access locations are not likely to be representative, or if interior surfaces are inaccessible, then such interior surfaces shall be assumed to be contaminated in excess of levels specified by NRC.

- 10.2.1.5 Security consistent with the provisions of the facility's physical security plan currently incorporated in License SNM-42 will be maintained until strategic special nuclear material in [REDACTED] has been removed from the licensed areas. Thereafter, access control shall be maintained to preclude unrestricted access to contaminated areas pending release for unrestricted use under 10.2.3 below.

10.2.2 Procedure

- 10.2.2.1 This procedure shall apply after all readily removable sources and special nuclear material has been removed from the NOG site. [REDACTED]

- 10.2.2.2 A radiological survey will be made to determine affected areas and unaffected areas. This survey will be reviewed with NRC and will include:

- a. floor core samples
- b. core samples of earth beneath the floor
- c. roof smear samples
- d. block and concrete wall samples at a depth of 1/8 inch or more.
- e. smears of sheet metal and ceramic walls both on and below paint
- f. smears of glass and plastic windows
- g. smears of roof trusses and supports
- h. core samples of earth beneath and adjacent to underground sewer lines.

Records and drawings of sample locations and results will be maintained.

- 10.2.2.3 Contaminated equipment will be disposed of at an NRC licensed or DOE disposal facility. Equipment disposed of by burial will not be decontaminated; rather, the equipment will be cleaned in a manner comparable to the cleaning performed in preparation for a physical inventory.

Contaminated equipment may be sold for use at another fuel cycle facility. In such instances, all exterior surfaces will be cleaned to levels

permissible for restricted areas. The equipment will be packaged and transported in accordance with DOT and NRC regulations.

Equipment may be sold for use at non-nuclear facilities. In such instances, all surfaces (interior and exterior) will be decontaminated to levels not to exceed those specified by NRC.

- 10.2.2.4 Roof trusses, walls, pipes, floors, and non-process equipment will be wet-cleaned to remove loose surface contamination following disposal of process equipment.
- 10.2.2.5 Removal of surface contamination from walls will then follow. Material removed will be disposed of by burial.
- 10.2.2.6 All contaminated tanks in the liquid effluent system will then be removed and disposed of by burial or resale. Underground contaminated sewer lines will be excavated and removed for burial. If sampling indicates contaminated soil above NRC limits, removal and burial of soil will also be performed.

In addition, the cold pickle acid system shall be removed from the premises to an authorized hazardous waste disposal site to ensure compliance with Resource Conservation and Recovery Act regulations.

- 10.2.2.7 Decontamination of floors will follow. Depending upon the extent of contamination, surface cleaning, surface removal, or removal of entire section of the floor may be required. In the case of the Recovery area, it is anticipated that removal of the entire floor and even some of the earth below may be required.
- 10.2.2.8 The contaminated area ventilation system will remain intact until all of the above steps have been completed. It will then be removed and buried.
- 10.2.2.9 In the event that it is necessary to raze an area or part of an area, then one of two courses of action will be followed:
 - a. The area or part thereof may be wholly decontaminated as outlined above and then leveled. In this case the walls and roof may be disposed of by sanitary landfill.

SNM-42, CHAPTER 10

- b. Surface cleaning, rather than surface removal and/or decontamination of walls may be performed, in which case the walls will be disposed of by burial.

10.2.2.10 The above events may not necessarily proceed one upon the completion of another. For example, it may be beneficial to retain scrap recovery equipment until the cleaning of roof trusses, walls, pipes, etc. has been completed. Alternatively, two efforts may proceed simultaneously, such as removal of source and special nuclear materials and radiological survey. In general, however, decontamination of the areas identified above will follow this outline.

10.2.2.11 Disposition of sites on NOG property where radioactive material was previously buried will be in accordance with current NRC regulations at the time of decommissioning.

10.2.3 Final Report and Release

10.2.3.1 Upon completion of the decontamination of NOG, comprehensive radiological surveys will be made. If necessary, additional decontamination will be performed.

10.2.3.2 When it has been finally established that residual contamination is within the limits specified by NRC at the time of decommissioning, a final survey report will be filed with the Director, Office of Nuclear Materials Safety and Safeguards, and a copy of the survey report will be sent to the Director of Region II. The survey report will:

- a. Identify the premises;
- b. Show that a reasonable effort has been made to reduce residual contamination below the levels specified by NRC;
- c. Describe the scope of the survey and the general procedures followed, and;
- d. State the results of the final survey in units specified by NRC.

10.2.3.3 Release to unrestricted use is anticipated upon prompt approval by NRC.

Proprietary Information – Withhold Under 10 CFR 2.390

SNM-42, CHAPTER 10

10.3 Financial Assurance

Overall financial assurance for B&W NOG is summarized in the following table.

Table 10.3

Area	Cost Estimate	Assurance
NR	Exempt	Contract
RTRT		
Research & Test Reactors	[REDACTED]	B&W NOG Letter of Credit
Targets	[REDACTED]	B&W NOG Letter of Credit
Downblend	[REDACTED]	B&W NOG Letter of Credit
LTC	[REDACTED]	B&W NOG Letter of Credit

[REDACTED]

financial

financial

financial

financial

Total Letter of Credit Assurance = \$28,873,500

10.3.1 Financial Assurance for Naval Reactors Areas

[REDACTED]

Financial assurance to cover the cost of decommissioning equipment and facilities used in the production of components for the Naval Reactors program shall be provided through provisions in contracts with the Department of Energy (Appendix 10-1). This financial assurance is attested to by the draft letter agreement which will be signed by W. D. Nash for The Babcock & Wilcox Nuclear Operations Group and H. A. Cardinali for the Department of Energy upon NRC approval (Appendix 10-2).

[REDACTED]

10.3.2 Financial Assurance for RTRT Areas

The decommissioning costs for the RTRT (Research Test Reactor and Targets) are covered through the B&W NOG Letter of Credit, referenced in Table 10.3 above.

SNM-42, CHAPTER 10

10.3.3 Financial Assurance for LTC

Funding assurance to cover the cost of decommissioning the facilities and equipment at the Lynchburg Technology Center shall be provided through the Letter of Credit (LOC). LOCs exist that cover the total decommissioning liability.

10.3.4 Financial Assurance for Downblending Area

Funding assurance to cover the cost of decommissioning of facilities and equipment associated with the performance of downblending projects shall be provided through the Letter of Credit referenced in Table 10.3, above.

10.3.5 Standby Trust Agreement

B&W NOG's Standby Trust Agreement establishes a fund for decommissioning funding assurance.

10.4 Cost Estimates

The cost estimates to be used for the purpose of determining the amount of financial assurance required shall be based on currently available cost and technical information. Burial volume estimates and cost projections may be based on reasonable assumptions with respect to the technological advances and alternatives to disposal. Disposal will be accomplished at a licensed burial within the Southeast Compact or at another site available to licensees within the Southeast Compact.

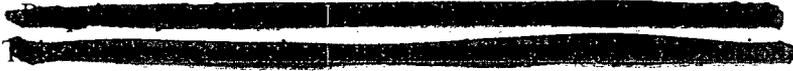
10.4.1 BWXT/B&W NOG was granted an exemption from providing cost estimates for Naval Reactors areas.

10.4.2 The cost estimate for decommissioning the facilities and equipment associated with the performance of downblending projects is presented in Appendix 10-3.

10.4.3 The cost estimate for decommissioning the RTRT facility is presented in Appendix 10-4.

10.4.4 The cost estimate for decommissioning the facilities and equipment at LTC is presented in Appendix 10-5.

NOG will update the cost estimates every three years.



SNM-42, CHAPTER 10

APPENDIX 10-1

Financial Assurance for
Decommissioning through NR Contract with DOE



SNM-42, CHAPTER 10

PAC 194 A16
DE-AC11-03PN38222 CONTRACT

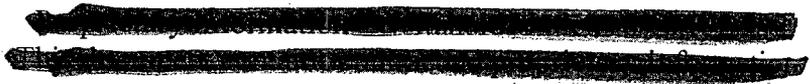
AWARD/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER EPAS (15 CFR 150)	RATING DO-A-3	PAGE OF PAGES 1 119
2. CONTRACT (Proc. Inv. Ident.) NO. DE-AC11-03PN38222		3. EFFECTIVE DATE SEE BLOCK 20C.	4. REQUISITION/PURCHASE REQUEST/PROJECT NO.	
5. ISSUED BY U.S. Department of Energy Pittsburgh Naval Reactors Office P.O. Box 109 West Mifflin, PA 15122-0109 PHONE: (Area Code) (412) 476-7270		AC11	6. ADMINISTERED BY (If other than Item 3) cc: SC Boileau Estimating E Gunter/BJ Burch Doc. Systems JB Carter PNR Resident CW Gilliam	
7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code) EWX Technologies, Incorporated Nuclear Products Division P.O. Box 785 Lynchburg, VA 24505-0785 TIN NO.: 54-1845387 DUNS NO.: 11-124-2293		8. DELIVERY <input checked="" type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below)		
CODE		9. DISCOUNT FOR PROMPT PAYMENT		
11. SHIP TO/MARK FOR F.O.B. Contractor's Plant Lynchburg, Virginia in accordance with the Requirements of this contract		10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN: RECEIVED JAN 03 2003 CONTRACT SERVICES		
12. PAYMENT WILL BE MADE BY Accounts Payable Division CP-54/SNR U.S. Department of Energy, Germantown, MD 20874-0500		13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304(c) <input checked="" type="checkbox"/> 41 U.S.C. 253(c) (1)		
14. ACCOUNTING AND APPROPRIATION DATA		RECEIVED		
15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE
Furnish and deliver the items listed in the Continuation Sheets included in Part I, Section B, Policies or Services and Prices/Costs, of this contract.				
15G. AMOUNT OF CONTRACT > \$				

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
X	A	SOLICITATION/CONTRACT FORM	1	X	I	CONTRACT CLAUSES	34
X	B	SUPPLIES OR SERVICES AND PRICES/COST	4	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
X	C	DESCRIPTION/SPECS /WORK STATEMENT	51	X	J	LIST OF ATTACHMENTS	12
X	D	PACKAGING AND MARKING	1	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
X	E	INSPECTION AND ACCEPTANCE	1	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERS			
X	F	DELIVERIES OR PERFORMANCE	3				
X	G	CONTRACT ADMINISTRATION DATA	1				
X	H	SPECIAL CONTRACT REQUIREMENTS	11				

17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 2 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, as are attached or incorporated by reference herein. (Attachments are listed below)		18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you with additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award encompasses the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.	
19A. NAME AND TITLE OF SIGNER (Type or Print) H. E. Preble Manager, Contract Services		20A. NAME OF CONTRACTING OFFICER E. A. Cardinali, Contracting Officer Manager, Pittsburgh Naval Reactors Office	
19B. NAME OF CONTRACTOR BY <i>H. E. Preble</i> (Signature of person authorized to sign)	19C. DATE SIGNED 12/19/02	20A. UNITED STATES OF AMERICA BY <i>E. A. Cardinali</i> (Signature of Contracting Officer)	20C. DATE SIGNED 12/20/02

NSN 7540-01-152-8069 26-107 STANDARD FORM 26 (REV. 1-85)
PREVIOUS EDITION UNUSABLE GPO: 1985 O - 469-794 Prescribed by GSA FAR (48 CFR) 53.211(a)

Document transmitted herewith contains Restricted Data
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SNM-42, CHAPTER 10

1222 CONTRACT

UNCLASSIFIED

Page 3

6. COST OF FACILITIES CAPITAL PROVISIONS

a. Facilities Capital Cost of Money

- (1) Facilities capital cost of money will be an allowable cost under the contemplated contract, but only if the prospective Contractor elects to claim it below. If the prospective Contractor elects to claim this cost, the Waiver of Facilities Capital Cost of Money will be excluded from the contract. If the prospective Contractor does not elect to claim this cost, the contract will include the Waiver of Facilities Capital Cost of Money.
- (2) By including an item of proposed allowable cost in response to the solicitation, the prospective Contractor will be deemed to have elected to claim facilities capital cost of money.

b. Waiver of Facilities Capital Cost of Money

If the Contractor did not include facilities capital cost of money as a proposed allowable cost, it shall be deemed that the Contractor waives the right to claim it under this contract.

7. BASIC AGREEMENT AND LETTER AGREEMENT

a. Basic Agreement

Basic Agreement No. DE-AA11-90PN38188 is hereby made a part of this contract. The provisions of Basic Agreement No. DE-AA11-90PN38188 shall be fully binding on the Contractor separately from the provisions or requirements of this contract and any default under this contract will be actionable only in accordance with the provisions and requirements of this contract.

b. Letter Agreement

Letter Agreement No. DE-GM11-96PN38202 is hereby made a part of this contract. The provisions of Letter Agreement No. DE-GM11-96PN38202 shall be fully binding on the Contractor separately from the provisions or requirements of this contract and any default under this contract will be actionable only in accordance with the provisions and requirements of this contract.

8. CLEANUP EXPENSES

The price of this contract does not include any amounts for costs that may be incurred for any investigation or remedial action with respect to disposal sites for low level radioactive wastes disposed of by Contractor under this contract. In the event that costs applicable to the foregoing are found to be allocable to this contract and Contractor has taken reasonable efforts to reduce such costs, and subject to the availability of appropriated funds, an equitable adjustment to the price of this contract, exclusive of profit, shall be made for such allocable costs. Provided however, nothing may be construed as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

UNCLASSIFIED



SNM-42, CHAPTER 10

UNCLASSIFIED

"ZZZ CONTRACT"

Page 4

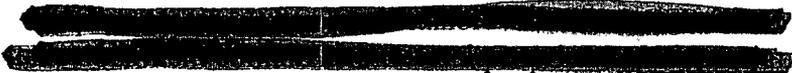
9. DECOMMISSIONING EXPENSES

- a. As part of the consideration for the manufacture and delivery of all items under this contract, the Government hereby assumes the obligation to pay the expenses incurred in decommissioning of Contractor's facilities as set forth in paragraph c. of this clause, and as required by Contractor's license with the Nuclear Regulatory Commission (NRC). The Government's liability for said expenses is subject to the availability of appropriated funds at the time a contingency occurs. When said event occurs, the DOE will pursue the necessary funding, however, nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet said deficiencies.
- b. Payment of decommissioning expenses shall only be made for decommissioning activities that have been approved by NRC. Payments will be made on a progressive basis; however, they will only be made after the Contractor has taken all reasonable efforts to reduce such decommissioning costs. This maximum liability is subject to the "Compliance with Laws and Regulations" provisions and all other provisions of this contract. Any disagreement between the parties concerning this maximum liability provision shall be considered a dispute within the terms of the "Disputes" clause of this contract.
- c. *Memorandum of Understanding Concerning Decommissioning of the BWX Technologies, Inc., Nuclear Products Division*

The BWX Technologies, Inc., Naval Nuclear Products Division (NPD) and the Pittsburgh Naval Reactors Office (PNR) agree to the following clarifications with regard to the financial responsibilities related to future decommissioning activities of BWX Technologies at its NPD facilities pursuant to this clause:

- (1) The Naval Nuclear Propulsion Program (NNPP) is not obligated and shall not be liable for expenses related to:
- (i) Decommissioning any NPD facilities which are acquired or added to the site and which are utilized solely for non-Naval Reactors activities.
 - (ii) Decommissioning any currently non-contaminated portion of the NPD site where non-Naval Reactors activities occurring after June 12, 1997 give rise to the need for decommissioning.
- (2) In the event:
- (i) Necessary appropriated funds are available to decommission the NPD site in accordance with this clause; and
 - (ii) BWXT elects to continue utilizing a particular portion of the NPD site for non-Naval Reactors purposes; and
 - (iii) Such use would delay the decommissioning activities; then, the parties will negotiate in good faith to determine NNPP's specific liability for the decommissioning costs for that portion of the NPD site.
- (3) In the event:
- (i) BWXT uses the NPD site, or portions thereof for non-Naval Reactors purposes; and
 - (ii) NNPP is otherwise responsible for decommissioning the site in

UNCLASSIFIED



SNM-42, CHAPTER 10

UNCLASSIFIED

1222 CONTRACT

Page 5

(iii) accordance with this clause; and
Such work by BWX increases the scope of the decommissioning work; then, the parties will negotiate in good faith to determine what NNPP's specific liability for decommissioning would have been absent BWXT-NPD's subsequent use of the NPD site, or portion thereof.

d. This provision shall survive the completion of the contract and shall continue until decommissioning is completed as determined by the NRC and any successor agency, or until alternative arrangements are agreed by the parties, in separate contracts, or otherwise.

10. GOVERNMENT-SUPPLIED PROPERTY

a. Components and equipment, in the form and quantities specified in Part I, Section C, Description/Specifications/Work Statement, of this contract, shall be delivered F.O.B. Contractor's Plant, and shall be held in accordance with the provisions of the clause, Government Property (Fixed-Price Contracts), included in Part II, Section I, Contract Clauses, of this contract.

b. When the Contractor is authorized by the Government under this contract to work on Government property and the Government considers any item of work to be the responsibility of a third party by reason of a warranty in favor of the Government or otherwise, the Government shall so inform the Contractor. In each such case the Contractor agrees to obtain compensation for the performance of such work from such third party and agrees that such compensation shall be in lieu of an equitable adjustment in the price of the contract as provided herein. If the Contractor is unable to obtain compensation for any such item from such third party, he shall so inform the Government together with the reason therefor, so that the Government may protect its interest directly against such third party and the Contractor may present a written request for an equitable adjustment and the Government shall not be liable for damages or loss of profit.

11. SHIPMENTS OF STRATEGIC QUANTITIES OF SPECIAL NUCLEAR MATERIAL

a. All shipments of strategic quantities of special nuclear material made in performance of subject contract shall be made by the U.S. Department of Energy (DOE). Shipments, as referred to herein, shall include all movements of strategic quantities of special nuclear material to, from, and between facilities of DOE, the Contractor, and/or subcontractors.

b. Contractors and subcontractors shall provide a written notice 3 weeks in advance of any required shipment date to the following:

U.S. Department of Energy
Albuquerque Operations Office
Director, Transportation Safeguards Division
Attention: Chief, Shipping Planning Branch

c. Each written notice provided for above shall be made in accordance with and shall include all data, as set forth in the document Transportation Services Request, dated October 1, 1993, revised April 4, 1995, included in Part III, Section J, List of Attachments, of this contract.

UNCLASSIFIED



SNM-42, CHAPTER 10

APPENDIX 10-2

Draft Letter of Attestation
Between B&W and DOE



SNM-42, CHAPTER 10

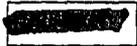


2016 Mt. Athos Road • Lynchburg, VA 24504-5447 • Phone: 434.522.6000 • Web site: www.bwxt.com

Draft Letter of Agreement

May , 2008

Mr. H. A. Cardinali
US Department of Energy
Naval Reactors Laboratory Field Office
P.O. Box 109
West Mifflin, PA 15122-0109



Subject: Reservations of Rights Regarding Financial Responsibility for Cleanup of Low Level
Radioactive Disposal Sites and Decommissioning Financial Assurance

Dear Mr. Cardinali:

As you know, BWX Technologies, Inc. (BWXT), and its parent company, The Babcock & Wilcox Companies, have undergone a rebranding of its name. In connection therewith, BWXT has created a wholly-owned subsidiary, Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG), to which it plans to transfer the assets of BWXT's Nuclear Operations Division.

Due to this restructuring, we are obligated to notify the Nuclear Regulatory Commission (NRC) and provide decommissioning financial assurance for the Lynchburg site. Pursuant to a previous Letter Agreement dated February 17, 1993, BWXT is requesting that the DOE provide renewed assurance for B&W NOG that this longstanding agreement will continue once the restructuring is complete and evidence that intent by returning a signed copy of this Letter Agreement to document our mutual understandings. This renewed Letter Agreement will take effect upon the closing date of the restructuring transaction.

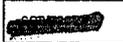
Reservation of Rights Regarding Financial Responsibility for Cleanup of Low-Level Radioactive Disposal Sites

DOE acknowledges B&W NOG's desire to preserve its rights to pursue recovery after contract closeout of any costs it may incur in the future related to the cleanup of disposal sites which may have received low-level radioactive waste from B&W NOG as a result of its performance of contracts for DOE. DOE hereby agrees that B&W NOG shall retain the right to submit claims in the future to DOE for any costs related to the cleanup of low-level radioactive waste disposal sites, which claims have not been perfected as of the date on which B&W NOG executes a release of claims.

BWX Technologies, Inc., a McDermott company



SNM-42, CHAPTER 10

DOE agrees, subject to the availability of appropriated funds, decommissioning costs allocable to contracts which contain the clause Decommissioning Expenses shall be reimbursed to B&W NOG by the DOE. DOE further agrees, subject to the availability of appropriated funds, decommissioning costs allocable to contracts which do not contain the clause Decommissioning Expenses shall be reimbursed pursuant to the Compliance with Laws and Regulations clause contained in the contracts. The foregoing affirmations pertain to only those amounts applicable to Naval Reactors Program contracts and/or subcontracts. 

B&W NOG's special method for allocation of decommissioning costs remains unchanged and is hereby approved by DOE as follows: B&W NOG will treat decommissioning costs as "period costs;" that is, such costs will be allocated to contracts active in a period when such costs are incurred. Excluded from this allocation will be any contract active during the "period" which does not have any causal connection to the contaminated facilities being decommissioned.

In the event there are no active DOE NR contracts at the time decommissioning expenses are incurred, and DOE and B&W NOG have not otherwise executed an agreement or entered into a mutually acceptable  alternative arrangement through which decommissioning expenses will be reimbursed to B&W NOG, DOE agrees the most recent active NR contract awarded to B&W NOG which contains the above described "Decommissioning Expenses" clause, regardless of its status as to closeout, will receive the full allocation of "period" expenses associated with decommissioning.

The DOE agrees with B&W NOG that the term of this Agreement is indefinite and that it will not terminate.

IN WITNESS HEREOF, the parties hereby execute this Letter Agreement, effective _____

The Babcock & Wilcox Nuclear Operations Group

U.S. Department of Energy

BY

BY

Title

Title

(wdn0810)

Proprietary Information – Withhold Under 10 CFR 2.390
This document contains contractual and financial proprietary information
SNM-42, CHAPTER 10

APPENDIX 10-3

Decommissioning Cost Estimate for Downblending Areas

Proprietary Information – Withhold Under 10 CFR 2.390
This document contains financial, commercial, and contractual proprietary information
SNM-42, CHAPTER 10

APPENDIX 10-4

Decommissioning Cost Estimate for Research Test Reactor and
Targets (RTRT) Facility

Proprietary Information – Withhold Under 10 CFR 2.390
This document contains financial, and commercial proprietary information
SNM-42, CHAPTER 10

APPENDIX 10-5

Decommissioning Cost Estimate for
the Lynchburg Technology Center

REDACTED COPY OF ENCLOSURE 4

NRC did not agree with redactions regarding BWXT's Redacted Copy of Enclosure 4
See ML08210047 for NRC's decision on withholding information.

Enclosure 4 - reflects NRC's decision on withholding information from Enclosure 4.



SNM-42, CHAPTER 10

SNM-42

CHAPTER 10

DECOMMISSIONING

SNM-42, CHAPTER 10

CHAPTER 10
DECOMMISSIONING
TABLE OF CONTENTS

<u>Chapter</u>	<u>Title</u>	<u>Page</u>
10.0	Introduction	10-1
10.1	Performance Objective	10-1
10.2	Plan	10-1
10.2.1	General Considerations	10-2
10.2.2	Procedure	10-3
10.2.3	Final Report and Release	10-5
10.3	Financial Assurance	10-6
10.3.1	Financial Assurance for [REDACTED] Areas	10-6
10.3.2	Financial Assurance for RTRT Areas	10-6
10.3.3	Financial Assurance for LTC	10-7
10.3.4	Financial Assurance for Downblending Areas	10-7
10.3.5	Standby Trust Agreement	10-7
10.4	Cost Estimates	10-7
Appendix 10-1	Financial Assurance for Decommissioning through [REDACTED] Contract with DOE	10-8
Appendix 10-2	Letter of Attestation Between B&W and DOE	10-13
Appendix 10-3	Decommissioning Cost Estimate for Downblending Areas	10-16
Appendix 10-4	Decommissioning Cost Estimate for Research Test Reactor and Targets (RTRT) Facility	10-22
Appendix 10-5	Decommissioning Cost Estimate for the Lynchburg Technology Center	10-32



SNM-42, CHAPTER 10

DECOMMISSIONING

10.0 Introduction

Within 60 days of terminating licensed activities in any separate building or outdoor area, as provided for in 10 CFR 70.38, B&W NOG shall notify the NRC of its intention to discontinue such use. A detailed survey and decommissioning plan, meeting the requirements of 10 CFR 70.38, shall be submitted to the NRC within 12 months after the initial notification.

10.1 Performance Objective

The performance objective is to assure that the health and safety of the general public are protected by decontaminating NOG facilities to levels which do not exceed those specified by NRC at the time of decommissioning.

Methods and techniques different from those described herein may be employed to achieve this performance Objective.

10.2 Plan

Unclad radioactive materials have been stored or processed in several areas on the NOG site. These areas are summarized below. Detailed records are maintained on-site in accordance with 10CFR70.25.

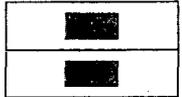
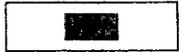
<u>Areas</u>	
• Bays [redacted]	[redacted]
• Alloy Shop Area (including Vapor Blast)	[redacted]
• Vault 1	
• Central Storage Vault	
• Met/Chem Labs	
• Bays [redacted]	[redacted]
• Drum Count Area	
• Waste Treatment	
• Bays [redacted]	[redacted]
• Bays [redacted]	[redacted]
• Waste Operations Areas	
• Vault 6	
• Vault 7	
• Railyard Storage Facility	
• Container Storage Facility	





SNM-42, CHAPTER 10

- Research Test Reactor and Targets (RTRT)
 - Bay 
- Lynchburg Technology Center (LTC)
 - Building B Labs
 - Building B Hot Cell Facilities
 - Liquid Waste Handling Facilities
 - Radioactive Waste Storage Areas
- Downblending Areas
 - Bay 
 - Buildings 
 - Waste Pretreatment Systems



Additionally, radioactive materials have been buried on site in accordance with the requirements of 10 CFR 20.304 in an NRC (AEC) approved burial ground.

Accordingly, the procedures specified in this plan will be applied only to those areas where survey results indicate the presence of residual radioactive material in concentrations exceeding the limits specified by NRC at the time of decommissioning. The remaining areas at the NOG site will not require decontamination, and therefore, are not affected or covered by this plan.

10.2.1 General Considerations

- 10.2.1.1 Decontamination will be to levels not to exceed those specified by NRC at the time of decommissioning. In addition, a reasonable effort will be made to further reduce contamination to as low as reasonably achievable (ALARA).
- 10.2.1.2 A detailed survey plan shall be submitted to the NRC specifying the number, location, and type of samples to be analyzed to determine affected and unaffected areas. Affected areas will be remediated.
- 10.2.1.3 No covering will be applied to radioactive surfaces (e.g., paint, plating, etc.) until it is known that contamination levels are below those specified by NRC and until it is known that reasonable efforts have been made to further reduce contamination below said levels.
- 10.2.1.4 The radioactivity of interior surfaces of pipes, ductwork, etc., will be determined by taking measurements at all traps and other appropriate access points, provided contamination at these locations is likely to be



SNM-42, CHAPTER 10

representative of interior contamination. If such access locations are not likely to be representative, or if interior surfaces are inaccessible, then such interior surfaces shall be assumed to be contaminated in excess of levels specified by NRC.

- 10.2.1.5 Security consistent with the provisions of the facility's physical security plan currently incorporated in License SNM-42 will be maintained until strategic [REDACTED] in excess of [REDACTED] has been removed from the licensed areas. Thereafter, access control shall be maintained to preclude unrestricted access to contaminated areas pending release for unrestricted use under 10.2.3 below: [REDACTED]

10.2.2 Procedure

- 10.2.2.1 This procedure shall apply after all readily removable sources and [REDACTED] has been removed from the NOG site. [REDACTED]

- 10.2.2.2 A radiological survey will be made to determine affected areas and unaffected areas. This survey will be reviewed with NRC and will include:

- a. floor core samples
- b. core samples of earth beneath the floor
- c. roof smear samples
- d. block and concrete wall samples at a depth of 1/8 inch or more.
- e. smears of sheet metal and ceramic walls both on and below paint
- f. smears of glass and plastic windows
- g. smears of roof trusses and supports
- h. core samples of earth beneath and adjacent to underground sewer lines.

Records and drawings of sample locations and results will be maintained.

- 10.2.2.3 Contaminated equipment will be disposed of at an NRC licensed or DOE disposal facility. Equipment disposed of by burial will not be decontaminated; rather, the equipment will be cleaned in a manner comparable to the cleaning performed in preparation for a physical inventory.

Contaminated equipment may be sold for use at another fuel cycle facility. In such instances, all exterior surfaces will be cleaned to levels

permissible for restricted areas. The equipment will be packaged and transported in accordance with DOT and NRC regulations.

Equipment may be sold for use at non-nuclear facilities. In such instances, all surfaces (interior and exterior) will be decontaminated to levels not to exceed those specified by NRC.

- 10.2.2.4 Roof trusses, walls, pipes, floors, and non-process equipment will be wet-cleaned to remove loose surface contamination following disposal of process equipment.
- 10.2.2.5 Removal of surface contamination from walls will then follow. Material removed will be disposed of by burial.
- 10.2.2.6 All contaminated tanks in the liquid effluent system will then be removed and disposed of by burial or resale. Underground contaminated sewer lines will be excavated and removed for burial. If sampling indicates contaminated soil above NRC limits, removal and burial of soil will also be performed.

In addition, the cold pickle acid system shall be removed from the premises to an authorized hazardous waste disposal site to ensure compliance with Resource Conservation and Recovery Act regulations.

- 10.2.2.7 Decontamination of floors will follow. Depending upon the extent of contamination, surface cleaning, surface removal, or removal of entire section of the floor may be required. In the case of the Recovery area, it is anticipated that removal of the entire floor and even some of the earth below may be required.
- 10.2.2.8 The contaminated area ventilation system will remain intact until all of the above steps have been completed. It will then be removed and buried.
- 10.2.2.9 In the event that it is necessary to raze an area or part of an area, then one of two courses of action will be followed:
 - a. The area or part thereof may be wholly decontaminated as outlined above and then leveled. In this case the walls and roof may be disposed of by sanitary landfill.

SNM-42, CHAPTER 10

- b. Surface cleaning, rather than surface removal and/or decontamination of walls may be performed, in which case the walls will be disposed of by burial.

10.2.2.10 The above events may not necessarily proceed one upon the completion of another. For example, it may be beneficial to retain scrap recovery equipment until the cleaning of roof trusses, walls, pipes, etc. has been completed. Alternatively, two efforts may proceed simultaneously, such as removal of source and [REDACTED] and radiological survey. In general, however, decontamination of the areas identified above will follow this outline.

10.2.2.11 Disposition of sites on NOG property where radioactive material was previously buried will be in accordance with current NRC regulations at the time of decommissioning.

10.2.3 Final Report and Release

10.2.3.1 Upon completion of the decontamination of NOG, comprehensive radiological surveys will be made. If necessary, additional decontamination will be performed.

10.2.3.2 When it has been finally established that residual contamination is within the limits specified by NRC at the time of decommissioning, a final survey report will be filed with the Director, Office of Nuclear Materials Safety and Safeguards, and a copy of the survey report will be sent to the Director of Region II. The survey report will:

- a. Identify the premises;
- b. Show that a reasonable effort has been made to reduce residual contamination below the levels specified by NRC;
- c. Describe the scope of the survey and the general procedures followed, and;
- d. State the results of the final survey in units specified by NRC.

10.2.3.3 Release to unrestricted use is anticipated upon prompt approval by NRC.

SNM-42, CHAPTER 10

10.3 Financial Assurance

Overall financial assurance for B&W NOG is summarized in the following table.

Table 10.3

Area	Cost Estimate	Assurance
█	Exempt	Contract
RTRT		
Research & Test Reactors	█	B&W NOG Letter of Credit
Targets	█	B&W NOG Letter of Credit
Downblend	█	B&W NOG Letter of Credit
LTC	█	B&W NOG Letter of Credit

█
█
█
█
█

Total Letter of Credit Assurance = \$28,873,500

10.3.1 Financial Assurance for █ Areas

█

Financial assurance to cover the cost of decommissioning equipment and facilities used in the production of components for the █ program shall be provided through provisions in contracts with the Department of Energy (Appendix 10-1). This financial assurance is attested to by the draft letter agreement which will be signed by W. D. Nash for The Babcock & Wilcox Nuclear Operations Group and H. A. Cardinali for the Department of Energy upon NRC approval (Appendix 10-2).

█

10.3.2 Financial Assurance for RTRT Areas

The decommissioning costs for the RTRT (Research Test Reactor and Targets) are covered through the B&W NOG Letter of Credit, referenced in Table 10.3 above.

SNM-42, CHAPTER 10

10.3.3 Financial Assurance for LTC

Funding assurance to cover the cost of decommissioning the facilities and equipment at the Lynchburg Technology Center shall be provided through the Letter of Credit (LOC). LOCs exist that cover the total decommissioning liability.

10.3.4 Financial Assurance for Downblending Area

Funding assurance to cover the cost of decommissioning of facilities and equipment associated with the performance of downblending projects shall be provided through the Letter of Credit referenced in Table 10.3, above.

10.3.5 Standby Trust Agreement

B&W NOG's Standby Trust Agreement establishes a fund for decommissioning funding assurance.

10.4 Cost Estimates

The cost estimates to be used for the purpose of determining the amount of financial assurance required shall be based on currently available cost and technical information. Burial volume estimates and cost projections may be based on reasonable assumptions with respect to the technological advances and alternatives to disposal. Disposal will be accomplished at a licensed burial within the Southeast Compact or at another site available to licensees within the Southeast Compact.

10.4.1 BWXT/B&W NOG was granted an exemption from providing cost estimates for [REDACTED] areas.

10.4.2 The cost estimate for decommissioning the facilities and equipment associated with the performance of downblending projects is presented in Appendix 10-3.

10.4.3 The cost estimate for decommissioning the RTRT facility is presented in Appendix 10-4.

10.4.4 The cost estimate for decommissioning the facilities and equipment at LTC is presented in Appendix 10-5.

NOG will update the cost estimates every three years.



SNM-42 CHAPTER 10

APPENDIX 10-2

Draft Letter of Attestation
Between B&W and DOE

SNM-42 CHAPTER 10

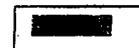


2016 Mt. Ainos Road • Lynchburg, VA 24504-5447 • Phone: 434.522.6000 • Web site: www.bwxt.com

Draft Letter of Agreement

May , 2008

Mr. H. A. Cardinali
US Department of Energy
Laboratory Field Office
P.O. Box 109
West Mifflin, PA 15122-0109



Subject: Reservations of Rights Regarding Financial Responsibility for Cleanup of Low Level Radioactive Disposal Sites and Decommissioning Financial Assurance

Dear Mr. Cardinali:

As you know, BWX Technologies, Inc. (BWXT), and its parent company, The Babcock & Wilcox Companies, have undergone a rebranding of its name. In connection therewith, BWXT has created a wholly-owned subsidiary, Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG), to which it plans to transfer the assets of BWXT's Nuclear Operations Division.

Due to this restructuring, we are obligated to notify the Nuclear Regulatory Commission (NRC) and provide decommissioning financial assurance for the Lynchburg site. Pursuant to a previous Letter Agreement dated February 17, 1993, BWXT is requesting that the DOE provide renewed assurance for B&W NOG that this longstanding agreement will continue once the restructuring is complete and evidence that intent by returning a signed copy of this Letter Agreement to document our mutual understandings. This renewed Letter Agreement will take effect upon the closing date of the restructuring transaction.

Reservation of Rights Regarding Financial Responsibility for Cleanup of Low-Level Radioactive Disposal Sites

DOE acknowledges B&W NOG's desire to preserve its rights to pursue recovery after contract closeout of any costs it may incur in the future related to the cleanup of disposal sites which may have received low-level radioactive waste from B&W NOG as a result of its performance of contracts for DOE. DOE hereby agrees that B&W NOG shall retain the right to submit claims in the future to DOE for any costs related to the cleanup of low-level radioactive waste disposal sites, which claims have not been perfected as of the date on which B&W NOG executes a release of claims.

BWX Technologies, Inc., a McDermott company

Date: 6/2/08

Page 10-14



SNM-42 CHAPTER 10

DOE agrees, subject to the availability of appropriated funds, decommissioning costs allocable to contracts which contain the clause Decommissioning Expenses shall be reimbursed to B&W NOG by the DOE. DOE further agrees, subject to the availability of appropriated funds, decommissioning costs allocable to contracts which do not contain the clause Decommissioning Expenses shall be reimbursed pursuant to the Compliance with Laws and Regulations clause contained in the contracts. The foregoing affirmations pertain to only those amounts applicable to [redacted] Program contracts and/or subcontracts. [redacted]

B&W NOG's special method for allocation of decommissioning costs remains unchanged and is hereby approved by DOE as follows: B&W NOG will treat decommissioning costs as "period costs;" that is, such costs will be allocated to contracts active in a period when such costs are incurred. Excluded from this allocation will be any contract active during the "period" which does not have any causal connection to the contaminated facilities being decommissioned.

In the event there are no active DOE [redacted] contracts at the time decommissioning expenses are incurred, and DOE and B&W NOG have not otherwise executed an agreement or entered into a mutually acceptable [redacted] alternative arrangement through which decommissioning expenses will be reimbursed to B&W NOG, DOE agrees the most recent active [redacted] contract awarded to B&W NOG which contains the above described "Decommissioning Expenses" clause, regardless of its status as to closeout, will receive the full allocation of "period" expenses associated with decommissioning.

The DOE agrees with B&W NOG that the term of this Agreement is indefinite and that it will not terminate.

IN WITNESS HEREOF, the parties hereby execute this Letter Agreement, effective _____

The Babcock & Wilcox Nuclear Operations Group

U.S. Department of Energy

BY

BY

Title

Title

(wdn0810)

ENCLOSURE 5

**Revised Unexecuted Copy of Certification of Financial Assurance
(redacted copy also included)**

CERTIFICATION OF FINANCIAL ASSURANCE

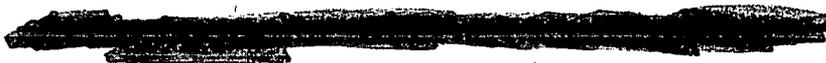
Principal: Babcock & Wilcox Nuclear Operations Group, Inc.
P.O. Box 785
Lynchburg, Virginia 24505

License Number: SNM-42
Babcock & Wilcox Nuclear Operations Group, Inc.
1570 Mt. Athos Road
Lynchburg, Virginia 24504

Issued to: Nuclear Regulatory Commission

I certify that, effective upon transfer of License SNM-42, Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG) is licensed to possess the following types of Byproduct, Source, and/or Special Nuclear Material licensed under 10 CFR Part 70 in the following amounts:

	Material Type	Chemical and/or physical form	Maximum quantity possessed at any one time
A.	Uranium enriched in U-235	A. Any enrichment or form except UF ₆	A. [REDACTED]
B.	Uranium enriched in U-235	B. Any enrichment in UF ₆	B. [REDACTED]
C.	U-233	C. Any	C. [REDACTED]
D.	Plutonium	D. Unencapsulated & unirradiated	D. [REDACTED]
E.	Plutonium	E. Encapsulated foils in nuclear accident dosimeters	E. [REDACTED]
F.	Source Material	F. Any except metal powder	F. [REDACTED]
G.	Am-241	G. Am-Be sealed neutron sources	G. [REDACTED]
H.	NP-237	H. Double encapsulated foils	H. [REDACTED]
I.	Any byproduct material	I. Irradiated structural materials	I. [REDACTED]
J.	Byproduct material with At. Nos. 1-83	J. Any	J. [REDACTED]
K.	Fission products & transuranium elements	K. Irradiated fuel	K. [REDACTED]
L.	Fission products & transuranium elements	L. Irradiated fuel	L. [REDACTED]



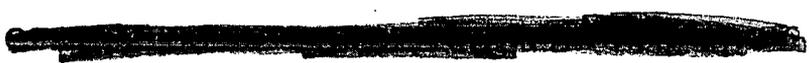
	Material Type	Chemical and/or physical form	Maximum quantity possessed at any one time
M.	Fission products & transuranium elements	M. Irradiated fuel	M. [REDACTED]
N.	Fission products & transuranium elements	N. Any	N. [REDACTED]
O.	In-114m	O. Sealed sources	O. [REDACTED]
P.	Yb-169	P. Sealed sources	P. [REDACTED]
Q.	Cf-252	Q. Sealed sources	Q. [REDACTED]
R.	H-3	R. Sealed sources	R. [REDACTED]
S.	H-3	S. Oxide	S. [REDACTED]
T.	H-3	T. Ni Plated Sc tritide foil	T. [REDACTED]
U.	U-232	U. Any	U. [REDACTED]
V.	Po-210	V. Oxide	V. [REDACTED]
W.	Pu-239 in greater than Class C waste from Parks Township	W. Sealed Sources	W. [REDACTED]
X.	Transuranium elements in greater than Class C waste from Parks Township	X. Any	X.1 [REDACTED] X.2 [REDACTED] X.3 [REDACTED]

I also certify that financial assurance in the amount of \$28,873,500.00, as approved by the U.S. Nuclear Regulatory Commission by letter dated [date of Order], to [B&W NOG Licensing Officer] (B&W NOG) from [NRC Representative] (NRC), [subject of letter], has been obtained for the purpose of decommissioning as prescribed by 10 CFR 70. I certify further that the U.S. Department of Energy (DOE) has agreed, subject to the availability of funds, to reimburse B&W NOG for decommissioning costs allocable to Naval Reactors program contracts and/or subcontracts.

Signature _____
Nicholas J. Dimoff, Controller, Babcock & Wilcox Nuclear Operations Group, Inc.

Corporate Seal

Date _____



REDACTED COPY OF ENCLOSURE 5

NRC did not agree with redactions regarding BWXT's Redacted Copy of Enclosure 5
See ML08210047 for NRC's decision on withholding information.

Enclosure 5- reflects NRC's decision on withholding information from Enclosure 5.

[REDACTED]
CERTIFICATION OF FINANCIAL ASSURANCE

Principal: Babcock & Wilcox Nuclear Operations Group, Inc.
P.O. Box 785
Lynchburg, Virginia 24505

License Number: SNM-42
Babcock & Wilcox Nuclear Operations Group, Inc.
1570 Mt. Athos Road
Lynchburg, Virginia 24504

Issued to: Nuclear Regulatory Commission

I certify that, effective upon transfer of License SNM-42, Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG) is licensed to possess the following types of Byproduct, Source, and/or Special Nuclear Material licensed under 10 CFR Part 70 in the following amounts:

	Material Type	Chemical and/or physical form	Maximum quantity possessed at any one time
A.	Uranium enriched in U-235	A. Any enrichment or form except UF ₆	A. [REDACTED]
B.	Uranium enriched in U-235	B. Any enrichment in UF ₆	B. [REDACTED]
C.	U-233	C. Any	C. [REDACTED]
D.	Plutonium	D. Unencapsulated & unirradiated	D. [REDACTED]
E.	Plutonium	E. Encapsulated foils in nuclear accident dosimeters	E. [REDACTED]
F.	Source Material	F. Any except metal powder	F. [REDACTED]
G.	Am-241	G. Am-Be sealed neutron sources	G. [REDACTED]
H.	NP-237	H. Double encapsulated foils	H. [REDACTED]
I.	Any byproduct material	I. Irradiated structural materials	I. [REDACTED]
J.	Byproduct material with At. Nos. 1-83	J. Any	J. [REDACTED]
K.	Fission products & transuranium elements	K. Irradiated fuel	K. [REDACTED]
L.	Fission products & transuranium elements	L. Irradiated fuel	L. [REDACTED]

	Material Type	Chemical and/or physical form	Maximum quantity possessed at any one time
M.	Fission products & transuranium elements	M. Irradiated fuel	M. [REDACTED]
N.	Fission products & transuranium elements	N. Any	N. [REDACTED]
O.	In-114m	O. Sealed sources	O. [REDACTED]
P.	Yb-169	P. Sealed sources	P. [REDACTED]
Q.	Cf-252	Q. Sealed sources	Q. [REDACTED]
R.	H-3	R. Sealed sources	R. [REDACTED]
S.	H-3	S. Oxide	S. [REDACTED]
T.	H-3	T. Ni Plated Sc tritide foil	T. [REDACTED]
U.	U-232	U. Any	U. [REDACTED]
V.	Po-210	V. Oxide	V. [REDACTED]
W.	Pu-239 in greater than Class C waste from Parks Township	W. Sealed Sources	W. [REDACTED]
X.	Transuranium elements in greater than Class C waste from Parks Township	X. Any	X.1 [REDACTED] X.2 [REDACTED] X.3 [REDACTED]

I also certify that financial assurance in the amount of \$28,873,500.00, as approved by the U.S. Nuclear Regulatory Commission by letter dated [date of Order], to [B&W NOG Licensing Officer] (B&W NOG) from [NRC Representative] (NRC), [subject of letter], has been obtained for the purpose of decommissioning as prescribed by 10 CFR 70. I certify further that the U.S. Department of Energy (DOE) has agreed, subject to the availability of funds, to reimburse B&W NOG for decommissioning costs allocable to [REDACTED] contracts and/or subcontracts.

Signature _____
Nicholas J. Dimoff, Controller, Babcock & Wilcox Nuclear Operations Group, Inc.

Corporate Seal

Date _____



AFFADAVIT OF ROGER P. COCHRANE

STATE OF VIRGINIA)
)
COUNTY OF CAMPBELL)

I, ROGER P. COCHRANE, being duly sworn, do hereby depose and say:

1. I am a citizen of the United States of America. I am a resident of [REDACTED]. My birth date is [REDACTED].

2. I am presently employed by BWX Technologies, Inc. (BWXT) in Lynchburg, Virginia. I am the General Manager of the Nuclear Operations Division (NOD). I have held this position since [REDACTED]. I have personal knowledge of the facts set forth in this affidavit, and if called and sworn as a witness in a deposition or before any court, I could and would testify competently under oath to these facts.

3. BWX Technologies, Inc. Nuclear Operations Division (BWXT-NOD) requests that NRC withhold the following document from public disclosure in accordance with the provisions of 10 CFR 2.390:

SNM-42 License Application Chapter 10, *Decommissioning*, which is Enclosure 4 to letter dated June 27, 2008, Barry L. Cole to Director, NMSS: BWX Technologies, Inc. Reply to NRC's Request for Additional Information by Letter Dated April 24, 2008 – Supplemental Information to BWXT's May 23, 2008 Letter. (TAC L32657)

Specific locations within the document that contain proprietary information are: Pages 10-i, 10-3, 10-5, 10-6, 10-7, Appendix 10-1 in its entirety, pages 10-14 & 10-15 of Appendix 10-2, Appendix 10-3 in its entirety, Appendix 10-4 in its entirety, and Appendix 10-5 in its entirety.

BWXT requests that the NRC publish the provided redacted version of this document. This request is made to protect commercial and financial information that could be of great value to our competitors and may result in the loss of a competitive advantage, and to protect contractual information per contract with the U. S. Department of Energy. The public disclosure of the information contained in the document(s) cited above is likely to cause

substantial economic harm to the competitive advantage held by BWX Technologies, and potentially violate contractual agreements with the U. S. Department of Energy.

4. The information contained in the documents described above has been held in confidence by BWX Technologies in that it is commercial and financial information as specified in Title 10 Code of Federal Regulations, Part 2.390(a), and proprietary contractual information as specified by contracts with the U. S. Department of Energy. The top of the first page of the document and the top of each page containing such information is marked "Proprietary Information – Withhold Under 10 CFR 2.390" in accordance with 10 CFR 2.390(b)(1)(i)(A). The basis for requesting that this document be withheld from public disclosure is explicitly marked on the top of each affected page or adjacent to the proprietary information on the affected page in accordance with 10 CFR 2.390(b)(1)(i)(B). By handling this proprietary information in accordance with 10 CFR 2.390 the confidential nature of the information can be maintained and yet provide NRC with the information in a form that can be conveniently handled within the agency.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is a true and correct statement of facts.

Roger P. Cochrane

Roger P. Cochrane

Subscribed and sworn to before me this 26th day of June 2008.

David C. Allison

Notary Public

My commission expires: July 31, 2009

