



November 30, 2009  
09-118

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

Reference: SNM-42, Docket 70-27

Subject: Request to Amend SNM-42, Chapter 10, *Decommissioning*  
Update of Decommissioning Cost Estimate

Gentlemen:

Babcock & Wilcox Nuclear Operations Group, Inc. (NOG) is submitting the revised Chapter 10 of the license application in accordance with 10 CFR 70.25(e). Please note that there is an overall 16.7% increase in the cost estimate due primarily to inflationary effects on labor rates, disposal and transportation costs. The amendment to the current Letter of Credit will be sent directly to the U.S. NRC, c/o Kenneth Kline, from the issuing bank, Calyon. Amendments to the Standby Trust Agreement and the Certificate of Financial Assurance are to follow under separate cover letter at a later date.

**Enclosure 1** contains a revised SNM-42, License Application Chapter 10, *Decommissioning*. The following changes to Chapter 10 are being submitted for approval:

<b>Changes</b>	<b>Justification</b>
Revised "Research Test Reactors and Targets" to "Research Test Reactors and Former Targets" throughout.	B&W NOG does not presently manufacture Targets.
10-3, Table 10.3: Revised cost estimates for RTRT, Downblend, and LTC. Revised Total Letter of Credit Assurance.	These changes reflect the updated cost estimates required to be submitted by the licensee every three years.
10.3.1: removed the word "draft" in front of letter agreement	The signed 2008 Letter of Attestation has been approved by NRC.
10.4.1: removed reference to Amendment No. 40.	Amendment No. 40 is not valid for this transfer.
Appendix 10-2: replaced the draft 2008 Letter of Attestation for financial assurance for decommissioning related to DOE contracts with the Signed letter of Attestation.	NRC approved the letter of attestation. Therefore, we have placed a signed copy by the parties in Chapter 10.
Appendix 10-3: Replaced cost estimates with the newly updated costs throughout this Appendix.	These changes reflect the updated cost estimates required to be submitted by the licensee every three years.
Appendix 10-4: Replaced cost estimates with the newly updated costs throughout this Appendix.	These changes reflect the updated cost estimates required to be submitted by the licensee every three years.

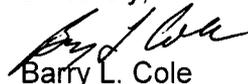
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Changes	Justification
Appendix 10-5: Stored Waste Section changed	These changes were made to reflect the roles of B&W TSG, and the appropriate DOE office with this material.
Appendix 10-5: Replaced cost estimates with the newly updated costs throughout this Appendix.	These changes reflect the updated cost estimates required to be submitted by the licensee every three years.

**Enclosure 1** also contains multiple pages with 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, B&W NOG has provided as **Enclosure 2** a redacted copy for public disclosure purposes. An affidavit from Mr. Roger Cochrane is included as **Enclosure 3** for withholding under 10 CFR 2.390. Please note that **Enclosure 3** contains Personally Identifiable Information and should also be withheld under 10 CFR 2.390.

If you have questions or require further information, please contact me at 434-522-5665.

Sincerely,



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

Enclosures

cc: NRC, Kenneth Kline  
NRC, Resident Inspector  
NRC, Merritt Baker  
NRC, Region II, Regional Administrator

## **List of Enclosures**

Enclosure 1 – Revised SNM-42 License Application Chapter 10, Decommissioning

Enclosure 2 – Revised SNM-42 License Application Chapter 10, Decommissioning (redacted copy)

Enclosure 3 – Affidavit from Mr. Roger Cochrane

## **ENCLOSURE 2**

Revised SNM-42 License Application Chapter 10, Decommissioning  
(Redacted Copy)

SNM-42

CHAPTER 10

DECOMMISSIONING

CHAPTER 10  
DECOMMISSIONING  
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## 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

- Bays 1A – 3A
- Alloy Shop Area (including Vapor Blast)
- Vault 1
- Central Storage Vault
- Met/Chem Labs
- Bays 13A – 15A
- Drum Count Area
- Waste Treatment
- Bays 1-14 and 17
- Bays 4A-10A
- Waste Operations Areas
- Vault 6
- Vault 7
- Railyard Storage Facility
- Container Storage Facility

- Research Test Reactor and Former Targets (RTRT)
  - Bays 14, 15, and 16
- Lynchburg Technology Center (LTC)
  - Building B Labs
  - Building B Hot Cell Facilities
  - Liquid Waste Handling Facilities
  - Radioactive Waste Storage Areas
- Downblending Areas
  - Bay 15A
  - Building FF
  - 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

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 excess of 5 kgs 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.
- 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.

- 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.

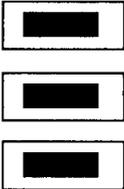
10.2.3.3 Release to unrestricted use is anticipated upon prompt approval by NRC.

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 & Former Targets	[REDACTED]	B&W NOG Letter of Credit
Downblend	[REDACTED]	B&W NOG Letter of Credit
LTC	[REDACTED]	B&W NOG Letter of Credit



Total Letter of Credit Assurance = \$33,699,571

10.3.1 Financial Assurance for Naval Reactors Areas

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 letter agreement signed by W. D. Nash for Babcock & Wilcox Nuclear Operations Group, Inc. and H. A. Cardinali for the Department of Energy as approved by the NRC (Appendix 10-2).

10.3.2 Financial Assurance for RTRT Areas

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

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 B&W NOG was granted an exemption from providing cost estimates for Naval Reactors areas by letter dated November 12, 2008 Michael Tschiltz (NRC) to Barry Cole (BWXT).

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.

APPENDIX 10-1

Financial Assurance for  
Decommissioning through NR Contract with DOE

PAC 194 A16  
DE-AC11-03PN38222 CONTRACT

<b>AWARD/CONTRACT</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DFARS (15 CFR 350)	RATING DO-A-3	PAGE OF PAGES 1   119
2. CONTRACT (Proc. Inst. Ident.) NO. DE-AC11-03PN38222		3. EFFECTIVE DATE SEE BLOCK 20C.	4. REQUISITION/PURCHASE REQUEST/PROJECT NO.	
5. ISSUED BY CODE AC11 U.S. Department of Energy Pittsburgh Naval Reactors Office P.O. Box 109 West Mifflin, PA 15122-0109 PHONE: (Area Code) (412) 476-7270		6. ADMINISTERED BY (if other than Item 5) CODE cc: SC Boileau Estimating E Gunter/BJ Burch Doc. Systems JB Carter PNR Resident GW Gilliam		
7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code)  BWX 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) 9. DISCOUNT FOR PROMPT PAYMENT		
11. SHIP TO/MARK FOR CODE FACILITY CODE  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: <b>RECEIVED</b> JAN 03 2003 CONTRACT SERVICES		
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)		12. PAYMENT WILL BE MADE BY CODE Accounts Payable Division U.S. Department of Energy, Germantown, MD 20874-0500		
15A. ITEM NO.		15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT
15E. UNIT PRICE		15F. AMOUNT		
Furnish and deliver the items listed in the Continuation Sheets included in Part I, Section B, Supplies or Services and Prices/Costs, of this contract.		<b>RECEIVED</b> DEC 13 2002 CONTRACT SERVICES		

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	6	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				

CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

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 herein.)		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 amendments or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates 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) <b>H. E. Preble Manager, Contract Services</b>		20A. NAME OF CONTRACTING OFFICER <b>H. A. Cardinali, Contracting Officer Manager, Pittsburgh Naval Reactors Office</b>	
19B. NAME OF CONTRACTOR BY <i>[Signature]</i> (Signature of person authorized to sign)	19C. DATE SIGNED <b>12/19/02</b>	20A. UNITED STATES OF AMERICA BY <i>[Signature]</i> (Signature of Contracting Officer)	20C. DATE SIGNED <b>12/26/02</b>

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**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 remediation 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.

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## 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

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(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.

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APPENDIX 10-2

Letter of Attestation  
Between B&W and DOE



**babcock & wilcox nuclear operations group**  
 ▶ 2018 mt. athos road ▶ lynchburg, va 24505-5447 usa  
 ▶ phone 434.522.6000 ▶ fax 434.522.6805 ▶ www.babcock.com

December 11, 2008

Mr. H. A. Cardinali  
 US Department of Energy  
 Naval Reactors Laboratory Field Office  
 DOE  
 P.O. Box 1069  
 Schenectady, NY 12301-1069

**Subject: Reservation 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 Company, 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, B&W NOG 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. The 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.

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

*babcock & wilcox nuclear operations group, inc., a Babcock & Wilcox company*



**ENCLOSURE 3**  
Affidavit from Mr. Roger Cochrane

AFFIDAVIT 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 Forest, Virginia. My birth date is June 30, 1958. (PII)

2. I am presently employed by Babcock and Wilcox in Lynchburg, Virginia. I am the General Manager of the Nuclear Operations Group (NOG). I have held this position since August 1, 2006. 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. Babcock and Wilcox Nuclear Operations Group, Inc. (B&W NOG) requests that NRC withhold the specific locations within the document, SNM-42 License Application Chapter 10, *Decommissioning*, which is Enclosure 1 to letter dated November 30, 2009, Barry L. Cole to NMSS: Request to Amend SNM-42, Chapter 10, Decommissioning Update of Decommissioning Cost Estimate as listed below from public disclosure in accordance with the provisions of 10 CFR 2.390:

Specific locations within the document that contain proprietary information are: Page 10-6, Appendix 10-3 in its entirety, Appendix 10-4 in its entirety, and Appendix 10-5 in its entirety.

B&W NOG 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 Babcock and

Wilcox Nuclear Operations Group, Inc., 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 Babcock and Wilcox Nuclear Operations Group, Inc. 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 30<sup>th</sup> day of November 2009.

David C. Allison

Notary Public

My commission expires: July 31, 2013

