



March 30, 2010
10-013

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

- References:
- 1) SNM-42, Docket 70-27
 - 2) Letter dated November 30, 2009, Cole (B&W) to NMSS (NRC), Request to Amend SNM-42, Chapter 10, *Decommissioning Update of Decommissioning Cost Estimate*

Subject: Request for Exemption from 10 CFR 70.25(f)

Dear Sir:

Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG) is requesting an exemption from 10 CFR 70.25(f) the method of financial assurance for the decommissioning cost estimate for the Research Test Reactor and former Targets facilities. The cost estimate of \$5,846,213 will remain unchanged; however, the present method of financial assurance is under a Letter of Credit (LOC).

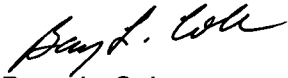
B&W NOG has enclosed several documents with this letter for the NRC's review. A list of the enclosures is contained on page 3 of this letter. Specifically B&W NOG requests a review the specific contract language contained in clause 4.7.1 of the basic ordering agreement between Battelle Energy Alliance and B&W NOG (Enclosure 1) and clause 6.20 of the basic ordering agreement between UT-Battelle and B&W NOG (Enclosure 3). These clauses outline the contractual obligation of the government to be responsible for the expenses incurred for decommissioning of our facilities. Therefore, B&W NOG is requesting to utilize these contract clauses as a method of financial assurance which would require an exemption under the current regulations.

Enclosures 1 through 4 contain proprietary contractual information per contract with the U. S. Department of Energy. Therefore, these enclosures in their entirety should be withheld from public disclosure under 10 CFR 2.390, and have been appropriately marked per 10 CFR 2.390. An affidavit from Mr. Roger Cochrane is included as Enclosure 5 for withholding under 10 CFR 2.390.

Should additional information be needed for this matter, please contact me at (434) 522-5665.

NMSS01
10-013

Sincerely,



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

cc: NRC, Resident Inspector
NRC, Merritt Baker
NRC, Region II

List of Enclosures

- Enclosure 1 – Basic Ordering Agreement No. 00000166 between BWX Technologies, Inc and Bechtel BWXT Idaho, LLC, which is now known as Battelle Energy Alliance, LLC.
- Enclosure 2 – Novation Agreement dated March 12, 2009 between Battelle Energy Alliance, LLC and BWX Technologies Inc., which transferred the agreement to Babcock & Wilcox Nuclear Operations Group.
- Enclosure 3 – Basic Ordering Agreement No. 4200000171 between UT-Battelle, LLC and BWX Technologies, Inc.
- Enclosure 4 – Modification No. 2 to Basic Ordering Agreement No. 4200000171 changing the vendor name from BWX Technologies, Inc. to Babcock & Wilcox Nuclear Operations Group. The novation agreement is included with this enclosure.
- Enclosure 5 – Affidavit from Mr. Roger Cochrane

ENCLOSURE 5

Affidavit from Mr. Roger Cochrane

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 Forest, Virginia. My birth date is June 30, 1958.

2. I am presently employed by Babcock & 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 in their entirety Enclosures 1 through 4 to letter dated March 29, 2010, Barry L. Cole to NMSS: Request for exemption from 10 CFR 70.25(f) as listed below from public disclosure in accordance with the provisions of 10 CFR 2.390:

- Enclosure 1: Basic Ordering Agreement No. 00000166 between BWX Technologies, Inc and Bechtel BWXT Idaho, LLC, which is now known as Battelle Energy Alliance, LLC.
 - Enclosure 2: Novation Agreement dated March 12, 2009 between Battelle Energy Alliance, LLC and BWX Technologies Inc., which transferred the agreement to Babcock & Wilcox Nuclear Operations Group.
 - Enclosure 3: Basic Ordering Agreement No. 4200000171 between UT-Battelle, LLC and BWX Technologies, Inc.
 - Enclosure 4: Modification No. 2 to Basic Ordering Agreement No. 4200000171 changing the vendor name from BWX Technologies, Inc. to Babcock & Wilcox Nuclear Operations Group.
- The novation agreement is included with this enclosure.

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 26th day of March 2010.

David C. Allison
Notary Public

My commission expires: July 31, 2013

