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April 1, 2010
10-026

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

Reference: License No. SNM-42, Docket No. 70-27

Subject: Request to Amend Chapter 1 of the License No. SNM-42 License Application

Dear Sir:

Babcock & Wilcox Nuclear Operations Group, Inc. ("B&W NOG") requests U. S. Nuclear Regulatory Commission ("NRC") approval for an amendment to Chapter 1 of the SNM-42 license application as shown in **Enclosure 1** (see **Enclosure 2** for a redacted version). This amendment request is in accordance with 10 CFR 70.34 and is primarily a result of the planned spin-off of The Babcock & Wilcox Company ("B&W") from McDermott International, Inc. The change to Section 1.1.3 involves removal of McDermott Incorporated and McDermott International, Inc. from the B&W NOG lineage. Other changes to Chapter 1 are "clean-up" changes from the January 11, 2009, transfer of SNM-42 from BWX Technologies, Inc. to B&W NOG, and are not related to the planned spin-off. **Enclosure 1** provides Chapter 1 in its entirety with proposed changes denoted by vertical lines in the right margin. Minor editorial changes that do not change the content of the document are not denoted.

B&W NOG has reviewed the following NRC documents and concluded that the planned spin-off does not constitute a transfer or change of control of B&W NOG's License, SNM-42:

- 10 CFR 70, with focus on § 70.36 and § 70.40
- NUREG-1556, with focus on Appendices C and D
- NRC REGULATORY ISSUE SUMMARY 2008-19
- NRC INFORMATION NOTICE 89-25, REV. 1

Per the February 22, 2010, closed meeting with the NRC to discuss the spin-off, additional documents have been provided for the NRC to review in order to make an informed decision in regards to this amendment request. As agreed with Merritt Baker, NRC Senior Project Manager, the following internet link is provided for viewing B&W's submittal of the U. S. Securities and Exchange Commission (SEC) Form 10 to the SEC:
http://www.sec.gov/Archives/edgar/data/1486957/000119312510055423/0001193125-10-055423-index.htm
Enclosure 3 provides a detailed explanation of the planned spin-off, addresses foreign ownership, control or influence, and also includes other information for consideration. **Enclosure 4** contains organizational charts that show the December 31, 2009, interim, and final corporate structures of B&W and McDermott. **Enclosure 5** provides a copy of the letter from Crédit Agricole Corporate and Investment Bank (formerly Calyon) confirming their understanding of the planned spin-off and that it does not impact the Letter of Credit held by the NRC for financial assurance of decommissioning of B&W NOG facilities.

Document transmitted herewith contains
OUO information

NMSS01

A letter from the U.S. Department of Energy, Naval Reactors Laboratory Field Office ("NRLFO"), confirming their understanding of the planned spin-off will be sent to the NRC as soon as B&W NOG receives it.

B&W NOG has evaluated the amendment in accordance with 10 CFR 51.22, specifically subsection (c)(11), and concluded that the amendment meets the criteria for categorical exclusion from environmental review because the changes are administrative in nature and that: 1) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; 2) there is no significant increase in individual or cumulative occupational radiation exposure; 3) there is no significant construction impact, and 4) there is no significant increase in the potential for or consequences from radiological accidents.

B&W NOG has also evaluated the amendment in accordance with 10 CFR 71, and concluded that the spin-off will not cause changes in the following quality assurance program document and Certificates of Compliance held by B&W NOG:

- Quality Assurance Program Approval for Radioactive Material Packages No. 0088, Revision No. 18, Docket No. 71-0088
- Certificate No. 5086, Model UNC-2600, Expiration Date–11/30/14
- Certificate No. 9250, Model 5x22, Expiration Date–10/31/14
- Certificate No. 9280, Model UBE-1, Expiration Date–5/31/13
- Certificate No. 9281, Model UBE-2, Expiration Date–8/31/13

Enclosure 1 contains Official Use Only information 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 is provided in **Enclosure 2** for public disclosure.

Should you have any questions in this regard, please contact me at 434.522.5665 or by email at blcole@babcock.com.

Sincerely,

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

Enclosures (5)

cc: NRC, Region II
NRC, M. Baker
NRC, Resident Inspector

List of Enclosures

Enclosure 1 – Proposed Changes to SNM-42 Chapter 1 of the License Application

Enclosure 2 – Proposed Changes to SNM-42 Chapter 1 of the License Application (Redacted Version)

Enclosure 3 – Detailed Explanation of Planned Spin-off, FOCI, and Other Information for Consideration

Enclosure 4 – Organizational Charts

Enclosure 5 – Copy of Letter from Crédit Agricole CIB

ENCLOSURE 2

Proposed Changes to SNM-42
Chapter 1 of the License Application
(Redacted Version)

[redacted]

SNM-42

CHAPTER 1

GENERAL INFORMATION

[redacted]

[redacted]

CHAPTER 1

GENERAL INFORMATION

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LICENSE CONDITIONS

1.0 GENERAL INFORMATION

1.1 Name, Address, and Corporate Information

1.1.1 Name

Babcock & Wilcox Nuclear Operations Group, Inc.

1.1.2 Mailing Address

P. O. Box 785
Lynchburg, Virginia 24505-0785

1.1.3 Corporate Information

The licensee is Babcock & Wilcox Nuclear Operations Group, Inc. ("B&W NOG"), a Delaware corporation, which is a wholly owned subsidiary of BWX Technologies, Inc., a Delaware corporation. BWX Technologies, Inc., is a wholly owned subsidiary of Babcock & Wilcox Investment Company ("BWICO"), a Delaware corporation. BWICO is a wholly owned subsidiary of Babcock & Wilcox Holdings, LLC ("BWH"), a Delaware corporation. BWH is a wholly owned subsidiary of The Babcock & Wilcox Company, a Delaware corporation, which is a publicly traded company on the New York Stock Exchange. The principal offices of B&W NOG are located at:

2016 Mt. Athos Road
Lynchburg, VA 24504

1.2 Site Location and Description

B&W NOG is located in Campbell County, Virginia, on an Oxbow of the James River, approximately five miles east of Lynchburg, Virginia.

The B&W NOG site is comprised of:

- The B&W NOG Manufacturing Facilities.
- The Lynchburg Technology Center ("LTC").
- The Waste Treatment Facility.
- Uranium Storage Facilities.

1.3 License Number and Period of License

1.3.1 License Number

SNM-42.

1.3.2 Period of License

This license is requested to be valid to the maximum time period permitted by the Atomic Energy Act of 1954.

1.4 Possession Limits

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 UF6	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. Doubly 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]

Material Type	Chemical and/or physical form	Maximum quantity possessed at any one time
L. Fission products & transuranium elements	L. Irradiated fuel	L. [redacted]
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	W. Sealed Sources	W. [redacted]
X. Transuranium elements in greater than Class C waste from Parks	X. Any	X.1 [redacted] X.2 X.3

1.5 Authorized Activities

1.5.1 B&W NOG may fabricate nuclear fuel, nuclear components for the Navy, components for research and university reactor programs, and components for compact reactors. B&W NOG may also perform recovery/disposal operations of scrap fuel generated by B&W NOG and other organizations, including irradiated fuel (see §1.4.L above).

1.5.2 B&W NOG may operate a waste compactor for processing waste generated at the site.

1.5.3 The fire water system may be utilized by local off-site fire fighting organizations during emergency conditions when fighting fires in the vicinity of the site, except as specified in Chapter 9, Paragraph 9.4.3.

1.5.4 Byproduct material in the form of sealed sources with activities of up to [redacted] may be possessed and used in locations other than the B&W NOG site for performing instrument calibration, electronic noise analysis, shielding studies, or similar operations.

1.5.5 A restricted zone shall be established on the area [redacted] main line right-of-way with a fence line based on radiation levels not exceeding an exposure dose rate of 500 millirem/year (see Chapter 9, Section 9.6.3).

1.5.6 Licensed material may be used in the performance of Research and Development and laboratory analyses (e.g., hot cell examination of irradiated and radioactive components including irradiated fuel; analytical activities for other companies or B&W NOG divisions including laboratory analysis, preparation of and testing of materials and equipment; preparation and modification of radiation sources; and preparation and decontamination of reactor related hardware for inspecting, evaluating, and measuring reactor components).

1.5.7 B&W NOG may transport and possess licensed material in private carriage to authorized NRC licensees and licensees licensed by agreement states pursuant to the regulations in 10 CFR 71 and 49 CFR.

1.5.8 Licensed material may be used in connection with the operation of two laundries that shall be used for cleaning contaminated and uncontaminated clothing.

1.5.9 B&W NOG shall inform the NRC within 30-days of receiving official notification when the State-permitting agency issues violations or modifies the requirements of the State-issued National Pollution Discharge Elimination System (NPDES) permit or Air Quality permit.

1.5.10 The possession and use of the types, forms, and quantities of material listed in §1.4; I, K, M, R, S, T, U, V, W and X shall be restricted to designated areas at [redacted].

1.5.11 The possession and use of unirradiated and unencapsulated SNM at the [redacted] and [redacted] facility shall each total less than one effective kilogram, as defined in 10 CFR 70.4.

1.5.12 Licensed material may be used in the performance of repairs and modifications to radioactive and contaminated components received from other companies or B&W NOG divisions.

1.5.13 B&W NOG may utilize licensed material in the fabrication of targets for irradiation in reactors.

1.5.14 Notwithstanding the requirements in 10 CFR 20.1904 for labeling containers of licensed material, B&W NOG may post a sign at all entrances to the B&W NOG Manufacturing Facility warning that any container within the B&W NOG Manufacturing Facility may contain licensed material, or words to that effect. The requirements of 10 CFR 20.1904 shall apply to all other areas at the B&W NOG site.

1.5.15 The limits specified in "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material," April, 1993, shall be used for determining the acceptability of levels of contamination on materials and equipment released for unrestricted use.

1.5.16 In addition to the financial assurance mechanisms specified in 10 CFR 70.25 for decommissioning funding, B&W NOG may provide such financial assurance through provisions in contracts and subcontracts with federal government agencies. B&W NOG is not required, until decommissioning is imminent, to submit decommissioning cost estimates, as required by 10 CFR 70.25(e), for work conducted under contracts with the U.S. Department of Energy.

1.5.17 B&W NOG may perform enrichment adjustment operations of authorized material.

1.5.18 B&W NOG may receive and perform cleaning operations for the purpose of recovering uranium from UF_6 shipping containers that have been exhausted of UF_6 in gaseous form prior to receipt (see Section 1.4.B, above).

1.5.19 B&W NOG may process Uranium/Beryllium materials for the purpose of recovering Uranium.

1.5.20 B&W NOG may receive and store greater than Class C waste from the B&W NOG facility located in Leechburg, PA, (Parks) as provided for in Items W and X of §1.4 above.

1.5.21 DAC and ALI values based on dose coefficients published in ICRP Publication No. 68 shall be used in lieu of values in 10 CFR 20 Appendix B in accordance with internal procedures.

1.5.22 B&W NOG may perform dissolution of uranium in metal form.

1.5.23 B&W NOG is authorized for long-term storage of Naval Reactors components in a storage facility.

1.6 Technical Qualifications and Experience

The technical qualifications and experience of staff members to engage in the proposed activities are provided in Chapter 2 of this application.

1.7 Health and Safety Procedures

The procedures to protect health and to minimize danger to life and property are specified in Chapters 2 - 9 of this license.

1.8 Safeguards and Emergency Plans

Plans for material control, physical security and emergencies are provided as separate documents that are independent from this application. However, the "Emergency Plan," "Fundamental Nuclear Material Control Plan," "Safeguards and Security Plan," "Safeguards Contingency Plan," and "Security Training, Qualification, and Equipment Plan" are license documents that may be referenced in this application.

Coordination and administration of these plans in relation to the license application will be under the direction of the Manager, Nuclear Safety & Licensing.

1.9 Integrated Safety Analysis

B&W NOG will perform an Integrated Safety Analysis (ISA) (Chapter 3) for facility operations, processes, and structures to identify hazards that could directly or indirectly affect radiation safety, or which might arise as a result of processing licensed nuclear material.

1.10 Ownership and Control

B&W NOG is not owned, controlled, or dominated by an alien or foreign corporation nor a foreign government.

1.11 Definitions

Weekly, any calendar week containing five consecutive work days.

Monthly, 12 intervals per year, each interval consisting of 30 days ± 10 days.

Quarterly, 4 intervals per year, each interval consisting of 90 days ± 30 days.

Biannually or Semi-annually, 2 intervals per year, each interval consisting of 183 days ± 60 days.

Annually, 1 interval per year, consisting of 365 days ± 60 days.

Biennially, 1 interval per 2 years, consisting of 730 days ± 90 days.

Triennially, 1 interval per 3 years, consisting of 1095 days ± 120 days

Safety Sections, Nuclear Safety & Licensing Section and Environmental Protection & Industrial Safety Section.

Controlled Area, means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason.

ENCLOSURE 3

Detailed Explanation of Planned Spin-off, FOCI, and Other Information for Consideration

I. DETAILED EXPLANATION OF PLANNED SPIN-OFF

Babcock & Wilcox Nuclear Operations Group, Inc. ("B&W NOG") was incorporated in Delaware in November 2007. B&W NOG is a wholly-owned subsidiary of BWX Technologies, Inc. ("BWXT"), which is a wholly-owned subsidiary of Babcock & Wilcox Investment Company ("BWICO"), formerly The Babcock & Wilcox Company. BWICO is an indirect, wholly-owned subsidiary of McDermott International, Inc., a New York Stock Exchange-listed public company ("McDermott"). (See **Enclosure 4** for the December 31, 2009, interim, and post-spin corporate structure.)

McDermott has announced the planned spin-off of the Babcock & Wilcox group of companies through a pro rata stock distribution to holders of McDermott common stock. To accomplish the spin-off, a new subsidiary of McDermott has been created, so that all B&W-related entities, including B&W NOG, can be aggregated under that new subsidiary. The new subsidiary has been named The Babcock & Wilcox Company ("B&W"). The entity formerly named "The Babcock & Wilcox Company" has been renamed "Babcock & Wilcox Investment Company". The attached structure charts explain the process more clearly.

As a result of the spin-off, each McDermott stockholder will receive one share of B&W common stock for every [TBD] shares of McDermott common stock held as of the record date. Following the spin-off, B&W common stock is expected to trade on the New York Stock Exchange.

B&W NOG does not view the spin-off as a transfer of control, as defined in NUREG-1556, Volume 15, "Consolidated Guidance About Materials Licenses: Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses." We base this conclusion on analysis of the Definition of Control provided in Section 5 of NUREG-1556, and on Appendices C ("Legal Definition of Transfer of Control") and D ("Examples of Change of Control").

The key consideration in evaluating whether a change in structure constitutes a transfer of control appears to be the introduction of a new party, the "transferee" of that control. For example, in Section 5 of NUREG-1556, the assessment of a change of ownership hinges on "whether the authority over the license has transferred from one person to another." In Appendix C of Section 5, the Commission found <u>no</u> change of control when "[t]he parent corporation's indirect control of the license was eliminated (as opposed to transferred to another entity)." The spin-off of B&W does not involve any transferee, and the elimination of the parent corporation's indirect control is precisely what will occur at the spin-off.

The identity of the shareholders is key to the analysis. In the *Safety Light Corporation* case, cited in the same Section 5, "control is to be found in the person or persons who, because of ownership [or authority explicitly delegated by the owners] possess the power to determine corporate policy and thus the direction of the activities under the license." In B&W's case, the public shareholders who indirectly own B&W NOG through their ownership of McDermott stock prior to the spin-off will, immediately after the spin-off, continue to indirectly own B&W NOG through their ownership of B&W stock. Consequently, the ultimate ownership of B&W NOG will generally be unchanged immediately following the spin-off. As with McDermott, we expect the shareholders of B&W will consist of a diverse group of public shareholders, including individuals, institutions, and other investors, none of whom acting individually or as a group will "control" B&W, in the sense that none will possess the power to determine B&W's corporate policy and thus the direction or activity under the license on their own.

Based on the NRC's guidance and examples, we concluded that the spin-off of B&W to the shareholders of its parent does not constitute a transfer or change of control of B&W NOG's license.

II. FOREIGN OWNERSHIP, CONTROL OR INFLUENCE

B&W NOG's ultimate parent, McDermott International, Inc., is a corporation registered in Panama, as is at least one other entity in the current ownership chain between B&W NOG and McDermott. After the spin-off, the ultimate parent of B&W NOG will be The Babcock & Wilcox Company, a Delaware corporation. All entities in the ownership chain between B&W NOG and B&W will likewise be U.S. corporations.

Although B&W NOG has historically dealt with its indirect control by a foreign entity by means of measures that deny access by non-U.S. persons and entities to classified information, the spin-off will completely eliminate any risk that may have existed because of B&W NOG's indirect foreign ownership. In this respect, by removing foreign ownership of B&W NOG, the spin-off furthers the Commission's goal of ensuring that issuance of a license for materials is not "inimical to the common defense and security," as set forth in Section 5 of NUREG-1556.

As a result of the spin-off, there will be no changes in personnel named as responsible for the License and QAPA. B&W NOG will remain a Delaware corporation, and all of its principal officers are United States citizens.

III. OTHER INFORMATION FOR CONSIDERATION

Although we concluded that the spin-off of B&W to the shareholders of its parent does not constitute a transfer or change of control of B&W NOG's license, we have answered the following questions from NRC INFORMATION NOTICE 89-25, REV. 1, in order to provide additional information that may be of concern to the NRC:

1. ***The new name of the licensed organization. If there is no change, the licensee should so state.***

   There will be no change; the licensee will continue to be Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG).

2. ***The new licensee contact and telephone number(s) to facilitate communications.***

   There is no new licensee, and there will be no change to licensee contact information. The contacts will continue as follows:

   For Babcock & Wilcox Nuclear Operations Group, Inc.:

   Winfred D. Nash, President
   P.O. Box 785
   Lynchburg, VA 24505-0785

For Babcock & Wilcox Nuclear Operations Group, Inc., Lynchburg facility:

Roger P. Cochrane, General Manager
P.O. Box 785
Lynchburg, VA 24505-0785

Barry L. Cole, Manager, Licensing & Safety Analysis
P.O. Box 785
Lynchburg, VA 24505-0785

3. ***Any changes in personnel having control over licensed activities (e.g., officers of a corporation) and any changes in personnel named in the license such as radiation safety officer, authorized users, or any other persons identified in previous license applications as responsible for radiation safety or use of licensed material. The licensee should include information concerning the qualifications, training, and responsibilities of new individuals.***

   There will be no changes in licensee personnel as a result of the planned spin-off. The General Manager and positions responsible for radiation safety, licensing and other safety disciplines will remain unchanged.

   As shown in **Enclosure 4**, The Babcock & Wilcox Company, the ultimate parent company of B&W NOG, will be 4 corporate levels above B&W NOG. There will be some personnel changes at that level; however the Chief Executive Officer and the Chief Operating Officer will not change as a result of the planned spin-off.

4. ***An indication of whether the transferor will remain in non-licensed business without the license.***

   There will be no transfer of the license.

5. ***A complete, clear description of the transaction, including any transfer of stocks or assets, mergers, etc., so that legal counsel is able, when necessary, to differentiate between name changes and changes of ownership.***

   There will be no transfer of the license. A description of the corporate spin-off is included in the above Section I. DETAILED EXPLANATION OF PLANNED SPIN-OFF.

6. ***A complete description of any planned changes in organization, location, facility, equipment, or procedures (i.e., changes in operating or emergency procedures).***

   Except for the requested amendment to Chapter 1 of the License Application, there are no planned changes to the licensee organization, location, facility, equipment and procedures.

   As shown in **Enclosure 4**, The Babcock & Wilcox Company, the ultimate parent company of B&W NOG, will be 4 corporate levels above B&W NOG. There will be some personnel changes at that level; however, the Chief Executive Officer and the Chief Operating Officer will not change as a result of the planned spin-off.

7. ***A detailed description of any changes in the use, possession, location or storage of the licensed materials.***

   There will be no changes in the use, possession, location and storage of the licensed materials as a result of the planned spin-off.

8. ***Any changes in organization, location, facilities, equipment, procedures, or personnel that would require a license amendment even without the change of ownership.***

   As stated in the cover letter, there are "clean-up" changes to Chapter 1 of the License Application resulting from the January 11, 2009, transfer of SNM-42 from BWX Technologies, Inc. to B&W NOG, that are not a result of the planned spin-off.

   Except for the requested amendment to Chapter 1 of the License Application, there are no planned changes to the licensee organization, location, facility, equipment, procedures or personnel.

9. ***An indication of whether all surveillance items and records (e.g., calibrations, leak tests, surveys, inventories, and accountability requirements) will be current at the time of transfer. A description of the status of all surveillance requirements and records should also be provided.***

   All licensed activities will continue without interruption from and after the time of the planned spin-off. All surveillance items and records will be maintained in their existing state and will be current at the time of the planned spin-off in accordance with applicable regulations and license conditions.

10. ***Confirmation that all records concerning the safe and effective decommissioning of the facility, pursuant to 10 CFR 30.35(g), 40.36(f), 70.25(g), and 72.30(d); public dose; and waste disposal by release to sewers, incineration, radioactive material spills, and on-site burials, have been transferred to the new licensee, if licensed activities will continue at the same location, or to the NRC for license terminations.***

    Since there will be no transfer, the licensee remains the same; therefore, the planned spin-off does not require the physical transfer of any records. All records concerning the safe and effective decommissioning of the facility, public dose and waste disposal will remain physically located, maintained and available at the Lynchburg site and will remain the property of B&W NOG upon the completion of the planned spin-off. **Enclosure 5** provides documentation that financial assurance for decommissioning as currently approved by the NRC for B&W NOG will remain the same for those facilities covered by the Letter of Credit. The U.S. DOE will maintain full liability for the costs associated with such decontamination for NRLFO licensed activities as described in the 12/08/2008 Letter Agreement between B&W NOG and NRLFO held by the NRC for financial assurance of decommissioning of B&W NOG facilities. A letter from NRLFO confirming their understanding of the planned spin-off will be sent to the NRC as soon as B&W NOG receives it.

11. ***A description of the status of the facility. Specifically, the presence or absence of contamination should be documented. If contamination is present, will***

decontamination occur before transfer? If not, does the successor company agree to assume full liability for the decontamination of the facility or site?

Contamination at the Lynchburg Site from NRC licensed activities, and the decontamination thereof, will be managed under the License in accordance with the same plans and schedules that would have applied if the spin-off did not occur. Except for such decontamination previously planned and approved, decontamination will not occur before the completion of the planned spin-off. From and after the planned spin-off, B&W NOG will maintain full liability for the costs associated with such decontamination for non-NRLFO licensed activities, and the U.S. DOE will maintain full liability for the costs associated with such decontamination for NRLFO licensed activities as described in the 12/08/2008 Letter Agreement between B&W NOG and NRLFO held by the NRC for financial assurance of decommissioning of B&W NOG facilities.

12. ***A description of any decontamination plans, including financial assurance arrangements of the transferee, as specified in 10 CFR 30.35, 40.36, and 70.25. This should include information about how the transferee and transferor propose to divide the transferor's assets, and responsibility for any cleanup needed at the time of transfer.***

    Since there will be no transfer, the licensee remains the same; therefore, the planned spin-off will not affect B&W NOG's continued compliance with requirements for financial assurance for decommissioning. B&W NOG has in place an approved decommissioning funding plan, including financial assurance arrangements as set forth in the License. The decommissioning funding plan will continue to be implemented by B&W NOG following the planned spin-off.

13. ***Confirmation that the transferee agrees to abide by all commitments and representations previously made to NRC by the transferor. These include, but are not limited to: maintaining decommissioning records required by 10 CFR 30.35(g); implementing decontamination activities and decommissioning of the site; and completing corrective actions for open inspection items and enforcement actions.***

    With regard to contamination of facilities and equipment, the transferee should confirm, in writing, that it accepts full liability for the site, and should provide evidence of adequate resources to fund decommissioning; or the transferor should provide a commitment to decontaminate the facility before change of control or ownership.

    With regard to open inspection items, etc., the transferee should confirm, in writing, that it accepts full responsibility for open inspection items and/or any resulting enforcement actions; or the transferee proposes alternative measures for meeting the requirements; or the transferor provides a commitment to close out all such actions with NRC before license transfer.

    Since there will be no transfer, the licensee remains the same; therefore, the planned spin-off will not affect B&W NOG's continued agreement to abide by all commitments and representations made to the NRC. B&W NOG re-affirms to abide by all commitments and representations made to the NRC under the License, including all responsibility for decontamination and decommissioning at the Lynchburg site resulting

from NRC license activities as noted in answer to Question #12 above. B&W NOG also re-affirms that it continues to accept full responsibility for open inspection items and/or any resulting enforcement actions in connection with operations currently conducted by B&W NOG under the License.

14. ***Documentation that the transferor and transferee agree to the change in ownership or control of the licensed material and activity, and the conditions of transfer; and the transferee is made aware of all open inspection items and its responsibility for possible resulting enforcement actions.***

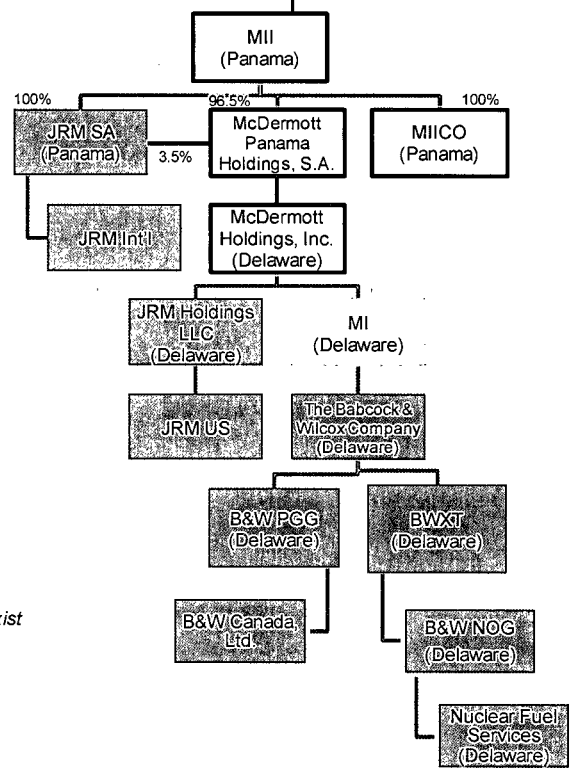
    Since there will be no transfer, the licensee remains the same; therefore, there will be no change in ownership or control of the licensed material and activity. B&W NOG will remain aware of all open inspection items and maintain responsibility for enforcement actions in connection with operations currently conducted by B&W NOG under the License.

15. ***A commitment by the transferee to abide by all constraints, conditions, requirements, representations, and commitments identified in the existing license. If not, the transferee must provide a description of its program, to ensure compliance with the license and regulations.***

    Since there will be no transfer, the licensee remains the same. B&W NOG will continue to abide by all constraints, conditions, requirements, representations, and commitments identified in the License.

ENCLOSURE 4
Organizational Charts

MII Structure 12/31/09



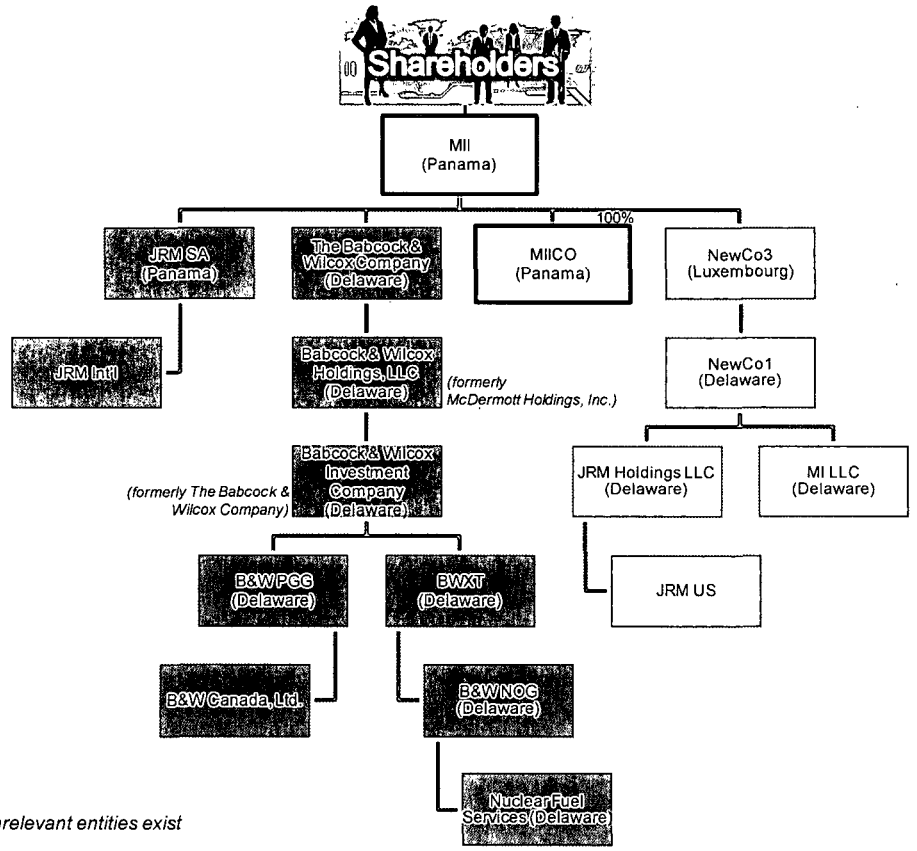
Simplified; other nonrelevant entities exist

G = B&W or B&W Associated

B = JRM or JRM Associated

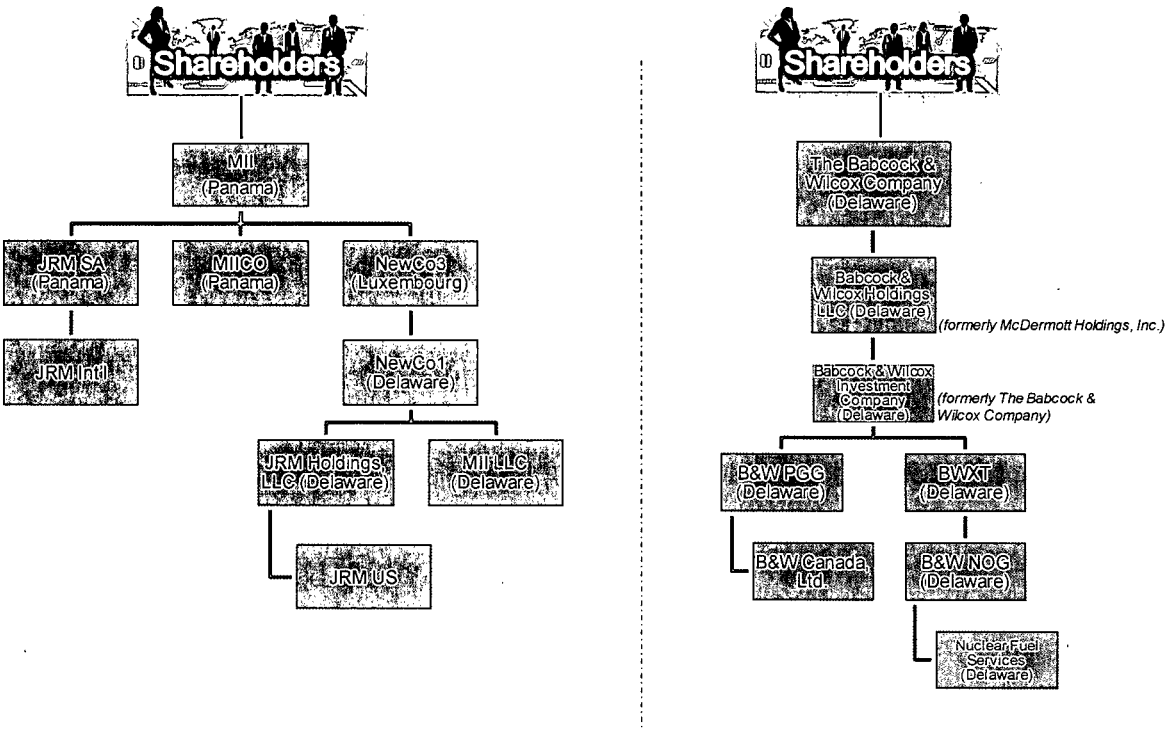
Y = Mixed Activities

MII Structure Immediately Prior to Spin-off



Simplified; other nonrelevant entities exist

MII and B&W Structure Post Spin-off



Simplified; other nonrelevant entities exist

ENCLOSURE 5
Copy of Letter from Crédit Agricole CIB

CRÉDIT AGRICOLE
CORPORATE & INVESTMENT BANK

HOUSTON REPRESENTATIVE OFFICE

March 15, 2010

Kenneth Kline
Mail Stop T8F5,
Federal and State Materials and Environmental Management Programs
United States Nuclear Regulatory Commission
11545 Rockville Pike
Rockville, MD 20852

Sir:

This Letter is to advise the Nuclear Regulatory Commission ("NRC") that Credit Agricole CIB (f/k/a Calyon New York Branch, the "Bank") is aware of the intent of McDermott International, Inc. to spin-off The Babcock & Wilcox Company and its subsidiaries and affiliates (collectively the "Company") into a separately incorporated entity.

Additionally, this is to confirm to the NRC that the Bank has taken the necessary steps to insure that the Letter of Credit issued by the Bank to the NRC will not be impacted or subject to any "Default" which could be triggered by the spin-off and "Change of Control" clauses.

Further, this is to confirm that the Bank fully expects to remain a financial partner with the Company and that Credit Agricole CIB will continue to be in a position to provide extensions and modifications to the Letter of Credit in the future as the Company might request.

If you have any questions about this Letter or the intent behind any statement herein, please feel free to call me at 713-890-8611 (w) or 832-443-6898 (c).

Best Regards

C. Page Dillehunt
Managing Director
Page.dillehunt@ca-cib.com

Cc: David S. Black

1300 Main Street, Suite 2100, Houston, Texas 77002
Telephone: (713) 890-8600, Fax: (713) 890-8668

**********Crédit Agricole Corporate and Investment Bank**********
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