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babcock & wilcox nuclear energy

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April 29, 2010

BW-JAH- 2010-213

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Subject: Submittal of Technical Report 06-00000334-000, "B&W *mPower*[™] CHF Test and Correlation Development Plan"

The Babcock & Wilcox Company (B&W) notified the U. S. Nuclear Regulatory Commission (NRC) on April 28, 2009 of its intent to submit an application for the Design Certification for the B&W *mPower*[™] commercial Advanced Light Water Reactor, in accordance with the process defined in 10 CFR Part 52. B&W is continuing to advance the design, and is committed to submittal of an application for Design Certification for the B&W *mPower*[™] reactor.

B&W proposed in B&W Letter BW-JAH-2009-028 to Dr. Michael E. Mayfield (NRC), dated December 17, 2009, a series of reports planned for submittal to the NRC to provide information regarding the B&W *mPower*[™] modular reactor. Subsequent to submittal of that letter, updated information regarding B&W plans for submittals was provided in B&W Letter BW-JAH-2010-212, responding to NRC Regulatory Issue Summary 2010-03, "Licensing Submittal Information for Small Modular Reactor Designs," dated April 1, 2001.

Accordingly, enclosed is Technical Report 06-00000334-000, "B&W *mPower*[™] CHF Test and Correlation Development Plan." This report describes the plan for developing the Babcock & Wilcox Nuclear Energy, Inc. (B&W NE) Critical Heat Flux (CHF) correlation for pressurized water reactor fuel designs for the B&W *mPower*[™] reactor. B&W NE will complete the testing and subsequent development of the new B&W NE CHF correlation which will be submitted to the NRC in a licensing topical report.

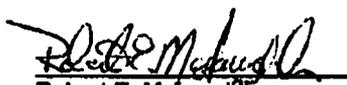
B&W NE requests NRC staff review of the enclosed technical report. B&W NE would appreciate NRC staff feedback to facilitate addressing any questions or concerns the NRC staff may have regarding the conduct of the CHF test and correlation development activities described in the report.

Portions of the attached report contain B&W NE Confidential Commercial Information which should be withheld from public disclosure. The attached affidavit details the reasons the identified information should be withheld.

A non-proprietary version of the report will be submitted under a separate letter.

Questions concerning this submittal may be directed to T. J. Kim at 434-382-9791 (email: tjkim@babcock.com) or to J. A. Halfinger at 434-316-7507 (email: jahalfinger@babcock.com).


Jeffrey A. Halfinger
Modular Reactor Program Director
B&W NE


Robert E. McLaughlin
Director, Quality Assurance
B&W NE


T. J. Kim
Licensing Director
B&W NE

JAH/

cc: Joelle L. Starefos, NRC, TWFN-6 E4
Stewart L. Magruder, Jr., NRC, TWFN-6 E4

T007
NR0

AFFIDAVIT OF Christofer M. Mowry

STATE OF VIRGINIA

CITY OF LYNCHBURG

I, Christofer M. Mowry, being duly sworn, do hereby depose and say:

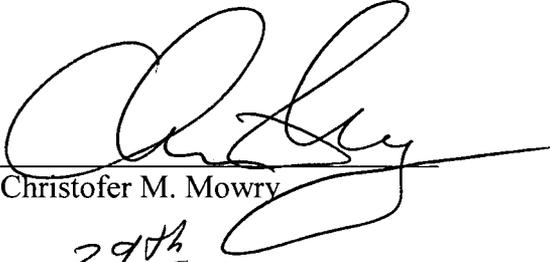
1. I am a citizen of the United States of America. I am a resident of Atlanta, Georgia. My birth date is June 3, 1962.
2. I am the President of Babcock & Wilcox Nuclear Energy, Inc. (B&W NE), located in Lynchburg, Virginia. I have held this position since April 1, 2010. I have personal knowledge of the 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. B&W NE requests that NRC withhold from public disclosure, the information marked as "B&W Confidential Commercial Information" regarding the B&W *mPower*TM modular reactor design in the letter dated April 29, 2010. This information includes a technical report entitled, " B&W *mPower*TM CHF Test and Correlation Development Plan."
4. I have personal knowledge of the criteria and procedures used by B&W NE in designating confidential commercial or financial information as proprietary and have been delegated the function to review the information to identify proprietary information and authorized to apply for its withholding. The need for confidentiality is driven by the following:
 - a) The information requested to be withheld reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) whose use by any of B&W

NE's competitors, without a license from the submitter, would constitute a competitive economic disadvantage to B&W NE.

- b) Use by a competitor of the information requested to be withheld would reduce the competitor's expenditure of resources, or improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- c) The information requested to be withheld reveals aspects of privately funded development plans or programs of commercial value to B&W NE.
- d) The information requested to be withheld consists of patentable ideas.

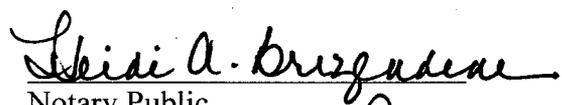
5. Specifically, the information identified in paragraph 3 above, is classified as proprietary because B&W NE has developed the conceptual and technical approaches regarding details of the B&W *mPower*TM modular reactor design features, disclosure of which could adversely affect B&W NE 's competitive position by informing competitors of the degree of maturity and viability of the program, thereby motivating them to increase efforts to develop competing technologies. The information to be withheld identifies certain design characteristics in the B&W *mPower*TM reactor or recent evolutionary changes in the design that consists of a report describing the plan for developing the B&W NE Critical Heat Flux (CHF) correlation for pressurized water reactor fuel designs for the B&W *mPower*TM reactor. These features of the reactor design were privately funded by B&W NE and are of commercial value to B&W NE because of their nature in providing key elements of the B&W *mPower* modular reactor design and analysis. All or parts of the approach described in the withheld material is patentable.

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.


Christopher M. Mowry

Subscribed and sworn to before me this 29th day of April 2010




Notary Public
Reg. # 205975

My commission expires: July 31, 2014