WAIVER OF SECTION K.1 OF 1995 SETTLEMENT AGREEMENT

This Waiver is entered this 24 day of April, 2025 between the United States Department of Energy ("DOE"), by and through the Acting Assistant Secretary for Nuclear Energy, and the State of Idaho by and through the Governor of the State of Idaho and the Idaho Attorney General ("Idaho").

1. RECITALS:

WHEREAS, in 1995, the State of Idaho, DOE, and the United States Navy entered into the Settlement Agreement and Order dated October 13, 1995 in the matter of Public Service Co. of Colorado v. Batt, No. CV 91-0035-S-EJL (D. Id.) and United States v. Batt, No. CV-91-0054-S-EJL (D. Id.) ("1995 Agreement"), which provided a number of requirements related to the clean-up of nuclear waste as well as the management of certain wastes, including spent nuclear fuel (SNF); and

WHEREAS, in 1995 the DOE designated the Idaho National Laboratory ("INL") (then INEL) as the DOE Spent Fuel Lead Laboratory for the "research development and testing of treatment, shipment and disposal technologies for all DOE spent fuel" and provides for the receipt of DOE SNF and experiments for research purposes; and

WHEREAS, in 2002 the DOE designated the INL as the Nation's lead laboratory for nuclear energy research; and

WHEREAS, the parties are committed to ensuring that INL remains the nation's leading laboratory for nuclear energy research; and

WHEREAS, the parties are committed to protecting the Eastern Snake River Plain aquifer and reaffirming its commitment that Idaho will not be a permanent repository for SNF; and

WHEREAS, without this waiver INL's ability to continue to conduct nuclear fuel research and continue to employ Idahoans through creation of additional jobs at INL will be jeopardized; and

WHEREAS, the Parties agree that INL research has significant value to the national security interests of the United States and will provide valuable information regarding nuclear waste reduction and non-proliferation; and

WHEREAS, the Parties agree that receipt of DOE owned TRIGA® SNF loaned to foreign and domestic research reactors represents a significant proliferation reduction of nuclear material for adversaries use against the United States and its Allies; and

WHEREAS, Idaho has determined that acceptance of shipments at the INL for research purposes will provide valuable benefit to both Idaho and the nation in the form of continuing and new employment opportunities within the state, increased knowledge concerning the safe and efficient generation of nuclear energy, nuclear waste reduction technology and the nonproliferation of nuclear material for nuclear weapons and improvised radiological dispersion devices; and

WHEREAS, DOE has placed all designated DOE SNF into dry storage and U.S. Navy has completed 210 transportable road ready dry storage ("RRDS") systems that are prepared for shipment to a geologic repository when available; and

WHEREAS, in furtherance of its research mission, the INL has developed and possesses unique technologies and capabilities which will further the research development and testing of new nuclear fuel types and technologies; and

WHEREAS, Section J.1 of the 1995 Agreement provides that Idaho, in its sole discretion, may waive performance by DOE of any terms, conditions, and obligations contained in the 1995 Agreement; and

WHEREAS, Idaho will continue to insist upon the safe management of SNF, HLW, and transuranic waste and disposition of such materials outside of the State of Idaho.

WHEREAS, the *Agreement to Implement U.S. District Court Order Dated May 25, 2006; Memorandum of Agreement Concerning Receipt, Storage, and Handling of Research Quantities of Commercial Spent Nuclear Fuel at the Idaho National Laboratory; Supplemental Agreement Concerning the Conditional Waiver of Sections D.2.e and K.1 of the 1995 Settlement Agreement;* and *Agreement Concerning Handling of Spent Nuclear Fuel Generated by the Advanced Test Reactor,* and the U.S. Navy's *Addendum to the 1995 Settlement Agreement* have demonstrated Idaho's willingness to engage in and support modifications to the original 1995 Agreement that enables the United States Department of Energy's national and energy security missions as well as the U.S. Navy's national security mission.

2. PURPOSE:

Section J.1 of the 1995 Agreement provides that Idaho, in its sole discretion, may waive performance by DOE of any terms, conditions, and obligations contained in the 1995 Agreement. Consistent with the principles set forth in the 1995 Agreement, as well as the 2011 Memorandum of Agreement Concerning Receipt, Storage, and Handling of Research Quantities of Commercial Spent Nuclear fuel at the Idaho National Laboratory ("2011 Memorandum of Agreement"), Idaho provides this one-time waiver of Section K.1 and D.2.e of the 1995 Agreement and the limits contained within paragraph 3(b) of the 2011 Memorandum of Agreement relating to receipt of SNF. DOE and Idaho (collectively, "the Parties") agree as follows:

3. WAIVER:

Pursuant to the following terms and conditions of this Waiver, Idaho in its sole and exclusive discretion, hereby grants a one-time waiver of the State's invocation of Section K.1 and D.2.e for the following:

1) Receipt of 15 Metric Tons Heavy Metal ("MTHM") SNF from North Anna Nuclear Power Station ("NANPS"), to be received only in the year 2027, for the purposes of examination, testing, and development of advanced storage technologies which will support Nuclear Regulatory Commission license renewals for United States nuclear utilities.

   The limitations contained in paragraph 3(b) of the 2011 Memorandum of Agreement relating to receipt of SNF shall not apply to this shipment.

2) Receipt of SNF from DOE-owned SNF from Research Reactors. Specifically, this waiver only includes the following shipments that are anticipated within the next four years and may not arrive later than December 31, 2029:
   a. Penn State (estimated to include 64 TRIGA Elements-13 [1] Kg initial heavy metal anticipated shipment date 2026);
   b. NC State University (estimated to include 30 PULSTAR fuel assemblies-381 [1] Kg initial heavy metal anticipated shipment date 2026);
   c. Texas A&M University (estimated to include 91 TRIGA elements-75 [1] Kg initial heavy metal anticipated shipment date 2027);
   d. University of California-Davis (estimated to include 113 TRIGA elements-24 [1] Kg initial heavy metal anticipated shipment date 2028).

   The limitations contained in paragraph 3(b) of the 2011 Memorandum of Agreement shall apply to these shipments.

3) Additional university partner shipments included in this wavier that are anticipated to occur between 2028 and 2032, but may not arrive later than December 31, 2032, are limited to:
   a. Penn State University (estimated to include 60 TRIGA elements - 12 [1] Kg initial heavy metal);
   b. Kansas State University (estimated to include 112 TRIGA elements - 22 [1] Kg initial heavy metal);
   c. University of Texas (estimated to include up to 120 TRIGA elements - 24 [1] Kg initial heavy metal);
   d. University of Utah (estimated to include 19 TRIGA elements - 4 KgU);
   e. Washington State University (estimated to include up to 120 TRIGA elements - 56 [1] Kg initial heavy metal).

   The limitations contained in paragraph 3(b) the 2011 Memorandum of Agreement shall apply to these shipments.

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[1] For purposes of this Agreement, the Parties acknowledge some of the TRIGA fuel in the named university reactors above is currently in use, and therefore the exact final amounts of metric tons of heavy metal (MTHM) for each of these shipments cannot be accurately calculated at this time. Therefore, the term "Kg initial heavy metal" in this agreement refers to all uranium, plutonium, thorium, and trace amounts of additional elements having an atomic number greater than or equal to 90 contained within the specified TRIGA fuel prior to initial reactor operations. Other materials, such as cladding, alloys and structural materials are not included. Final "metric tons heavy metal" values will be calculated for the identified University Research Reactor TRIGA fuel after removal from the associated reactor core and prior to shipment. The "initial heavy metal" values will represent larger more conservative values than the final calculated "metric tons heavy metal" values due to in-reactor fuel burnup during use.

4. SUFFICIENT FUNDING:

This Waiver is subject to and contingent upon the continuing and ongoing availability of sufficient federal funding for the safe and proper transportation, management, handling, and research involving the SNF described in section 3 above, the proper disposition of all waste generated because of said research or other activities described in section 3 above ("waste materials"), and the temporary storage of all SNF and waste materials described in section 3 above. Existing DOE commitments and priorities at INL shall not be negatively impacted by diversion of funds necessary to satisfy the requirements of this Waiver. Nothing in this Waiver compels DOE to act without due legal authority and DOE is subject to and must comply with all applicable federal statutes, regulations and orders, including the Anti-Deficiency Act.

5. NOTICE OF INTENT TO SHIP:

At least 240 days prior to the departure date from the origination destination of each shipment of SNF under this Waiver, DOE shall provide written Notice of Intent to Ship to Idaho (the Governor, the Attorney General, and the INL Settlement Agreement Coordinator). This Notice will be in addition to any notice that DOE or the shipper is otherwise required to provide pursuant to any existing protocols. This Notice shall be delivered in paper and electronic form, and shall contain the following information:

1) the quantity of SNF in units of MTHM to three significant figures in the shipment;
2) a description of the SNF in the shipment;
3) the date of departure of the shipment from the origination destination of the shipment;
4) the shipper and carrier information, as was provided by the shipper of record to DOE;
5) confirmation that the Idaho State Police was notified;
6) the date the shipment will arrive in Idaho;
7) the date the shipment will arrive at INL;
8) the amount of funding authorized and committed by DOE and a written verification from DOE affirming the amount of such funding is sufficient for compliance with the conditions of SUFFICIENT FUNDING provisions of this Waiver, and documentation of such funding availability; and
9) documentation of the duration of management, handling, research, and temporary storage of the SNF in the shipment at INL after it is received.

DOE will provide written disclosure information at least quarterly to the State of Idaho (The Governor, the Attorney General, and the INL Settlement Agreement Coordinator) related to the shipments of SNF identified in section 3 which DOE plans to receive at INL. This disclosure will include the information required in a formal Notice to Ship to the extent that information is available to DOE at the time of disclosure. The provision of information on a quarterly basis does not satisfy the requirement to provide a Notice of Intent to Ship as set out in this section

6. NOTICE OF REJECTION OF PROPOSED SHIPMENT:

Idaho, in its sole discretion, has the right to reject any shipment of SNF contemplated by this Waiver. In the event Idaho determines to reject a shipment, Idaho shall deliver to DOE a written NOTICE OF REJECTION OF PROPOSED SHIPMENT ("Rejection Notice") in response to the Notice of Intent to Ship no later than 180 days before the date identified in such Notice as the date of departure of the shipment from the origination destination. If Idaho does not provide a Rejection Notice by such date, Idaho shall be deemed to have accepted that the shipment

described in the Notice of Intent to Ship satisfies the requirements of the SATISFACTION OF SUFFICIENCY OF FUNDING provisions of this Waiver.

7. TERMINATION OF FUTURE SHIPMENTS:

Idaho, by and through the Governor of the State of Idaho and the Idaho Attorney General, reserves the right to terminate this Waiver for purposes of future shipments, in whole or in part, if Idaho determines in its sole discretion that sufficient funding has not been appropriated or otherwise been made available for the safe and proper transportation, management, handling, or research involving the SNF and waste materials described in section 3 above, the proper disposition of the SNF and waste materials described in section 3 above or the temporary storage of the SNF and waste materials described in section 3 above. Any such determination shall be preceded by good-faith discussions with DOE regarding the availability of sufficient funding.

Prior to any termination of this Waiver, Idaho shall provide a written Notice of Intent to Terminate to DOE not less than ninety (90) days prior to issuing a Termination Notice. The Notice of Intent to Terminate shall describe the reasons upon which the State intends to terminate this Waiver. Any termination of this Waiver shall be effective ten (10) days after a written Termination Notice is received by DOE. Thereafter, all of Idaho's responsibilities under this Waiver shall cease, and no penalty, expense, or liability, or damages of any kind may be sought by DOE. Further, DOE shall remain responsible for all commitments made to Idaho prior to any termination, including the penalty provisions described below.

If Idaho terminates this Waiver, DOE shall pay to Idaho an annual penalty for the SNF that was received by INL pursuant to this Waiver, and for the waste materials generated at INL connected with or related to said SNF. Regarding only the SNF from the NANPS discussed in Section 3.1, the penalty shall be in effect upon completion of the applicable research related to the Nuclear Regulatory Commission licensing renewals for United States nuclear utilities, but no later than five years after date of receipt of said SNF. The penalty shall be one hundred thousand dollars ($100,000.00) per MTHM and fraction thereof that was shipped to Idaho under this Waiver prior to the date of Idaho's termination of this Waiver. The penalty shall be adjusted upward, based upon the Consumer Price Index, at the beginning of each calendar year. The penalty shall be paid to Idaho at the end of each calendar year and shall commence the year in which termination of this Waiver occurs. The penalty shall remain in effect for each MTHM and fraction thereof which continues to remain in Idaho. The penalty shall be subject to and contingent upon specific appropriations from Congress.

8. OTHER PROVISIONS:

This Waiver shall not be construed to alter or amend any provisions of the 1995 Agreement, the 2008 Agreement, the 2011 Memorandum of Agreement, or the 2019 Supplemental Agreement.

This Waiver shall not relieve the Parties from their obligation to comply with any applicable federal, state, or local law.

Nothing in this Waiver shall be admissible in any judicial proceeding other than one for the enforcement of this Waiver.

DOE represents and confirms that Dr. Michael Goff, the Acting Assistant Secretary for Nuclear Energy, U.S, Department of Energy, has full legal authority to execute this Waiver for the DOE.

This Waiver may be signed in any number of counterparts and will be effective as of the date reflected herein when signed by all parties, regardless of the date of each individual signature.

DATED this 24 day of April, 2025

SO AGREED:

SIGNED: _____
DR. MICHAEL GOFF,
ACTING ASSISTANT SECRETARY FOR NUCLEAR ENERGY
U.S. DEPARTMENT OF ENERGY

SIGNED: _____
HONORABLE BRAD LITTLE, GOVERNOR
STATE OF IDAHO

SIGNED: _____
HONORABLE RAUL LABRADOR, ATTORNEY GENERAL
STATE OF IDAHO