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NAC INTERNATIONAL

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October 19, 2004

Mr. L. Raynard Wharton, Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738

Subject: Request for Closed (Proprietary Information) Portion of a Meeting

Dear Mr. Wharton:

NAC International (NAC) hereby requests that a portion of the meeting with the Spent Fuel Project Office staff, scheduled on November 1, 2004, be closed to the public for the detailed discussion of proprietary thermal analysis methods used for the NAC MAGNASTOR System. The entire proprietary information portion of the meeting will be devoted to the discussion of the details of NAC thermal analysis calculations, i.e., the methodologies used and the results sensitivities. No written material will be provided, only verbal information of a 10 CFR 2.390 nature. The proprietary information affidavit pursuant to 10 CFR 2.390 is attached.

If you have any questions or comments regarding this meeting request, please contact me at 678-328-1321. Thank you for your consideration of this request.

Sincerely,

T.C. Thompson

Thomas C. Thompson
Director, Licensing
Engineering

Attachment

ED20040092

NMSS01

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ATTACHMENT

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AFFIDAVIT PURSUANT TO 10 CFR 2.390

Thomas A. Danner (Affiant), Vice President, Engineering, of NAC International, hereinafter referred to as NAC, at 3930 East Jones Bridge Road, Norcross, Georgia 30092, being duly sworn, deposes and says that:

1. Affiant has reviewed the information described in Item 2 and is personally familiar with the trade secrets and privileged information contained therein, and is authorized to request its withholding.

2. The information to be withheld is the NAC Proprietary Information portion of the meeting with the U.S. Nuclear Regulatory Commission (NRC), to be held on November 1, 2004.

   The subject meeting will discuss detailed thermal analysis methods being used for the NAC MAGNASTOR System. The entire Proprietary Information portion of the meeting will be devoted to the discussion of the details of NAC thermal analysis calculations, i.e., the methodologies used and the results sensitivities. No written material will be provided, only verbal information of a 10 CFR 2.390 nature. NAC is the owner of the information to be discussed; that information is considered proprietary to NAC.

3. NAC makes this application for withholding of proprietary information based upon the exemption from disclosure set forth in: the Freedom of Information Act ("FOIA"); 5 USC Sec. 552(b)(4) and the Trade Secrets Act; 18 USC Sec. 1905; and NRC Regulations 10 CFR Part 9.17(a)(4), 2.390(a)(4), and 2.390(b)(1) for "trade secrets and commercial financial information obtained from a person, and privileged or confidential" (Exemption 4). The information for which exemption from disclosure is herein sought is all "confidential commercial information," and some portions may also qualify under the narrower definition of "trade secret," within the meanings assigned to those terms for purposes of FOIA Exemption 4.

4. Examples of categories of information that fit into the definition of proprietary information are:

   a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by competitors of NAC, without license from NAC, constitutes a competitive economic advantage over other companies.

   b. Information that, if used by a competitor, would reduce their expenditure of resources or improve their competitive position in the design, manufacture, shipment, installation, assurance of quality or licensing of a similar product.

   c. Information that reveals cost or price information, production capacities, budget levels or commercial strategies of NAC, its customers, or its suppliers.

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(continued)

d. Information that reveals aspects of past, present or future NAC customer-funded development plans and programs of potential commercial value to NAC.

e. Information that discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information to be withheld at the subject meeting is considered to be proprietary for the reasons set forth in Items 4.a, 4.b. and 4.e.

5. The information to be withheld is being transmitted to the NRC in confidence.

6. The information sought to be withheld, including that compiled from many sources, is of a sort customarily held in confidence by NAC, and is, in fact, so held. This information has, to the best of my knowledge and belief, consistently been held in confidence by NAC. No public disclosure has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements, which provide for maintenance of the information in confidence. Its initial designation as proprietary information and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in Items 7 and 8 following.

7. Initial approval of proprietary treatment of a document/information is made by the Vice President, Engineering, the Project Manager or the Director, Licensing -- the persons most likely to know the value and sensitivity of the information in relation to industry knowledge. Access to proprietary documents within NAC is limited via "controlled distribution" to individuals on a "need to know" basis. The procedure for external release of NAC proprietary documents typically requires the approval of the Project Manager based on a review of the documents for technical content, competitive effect and accuracy of the proprietary designation. Disclosures of proprietary documents outside of NAC are limited to regulatory agencies, customers and potential customers and their agents, suppliers, licensees and contractors with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.

8. NAC has invested a significant amount of time and money in the research, development, engineering and analytical costs to develop the information that is sought to be withheld as proprietary. This information is considered to be proprietary because it contains detailed descriptions of analytical approaches, methodologies, technical data and evaluation results not available elsewhere. The precise value of the expertise required to develop the proprietary information is difficult to quantify, but it is clearly substantial.

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(continued)

9. Public disclosure of the information to be withheld is likely to cause substantial harm to the competitive position of NAC, as the owner of the information, and reduce or eliminate the availability of profit-making opportunities. The proprietary information is part of NAC's comprehensive spent fuel storage and transport technology base, and its commercial value extends beyond the original development cost to include the development of the expertise to determine and apply the appropriate evaluation process. The value of this proprietary information and the competitive advantage that it provides to NAC would be lost if the information were disclosed to the public. Making such information available to other parties, including competitors, without their having to make similar investments of time, labor and money would provide competitors with an unfair advantage and deprive NAC of the opportunity to seek an adequate return on its large investment.

STATE OF GEORGIA, COUNTY OF GWINNETT

Mr. Thomas A. Danner, being duly sworn, deposes and says:

That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information and belief.

Executed at Norcross, Georgia, this 19th day of October 2004.

Thomas A. Danner
Vice President, Engineering
NAC International

Subscribed and sworn before me this 19th day of October, 2004.

Jeannie Klinetob, Notary

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