

## R.M.D. OPERATIONS, LLC

### **AFFIDAVIT OF SCOTT HEFFNER CHIEF OPERATING OFFICER OF R.M.D. OPERATIONS, LLC**

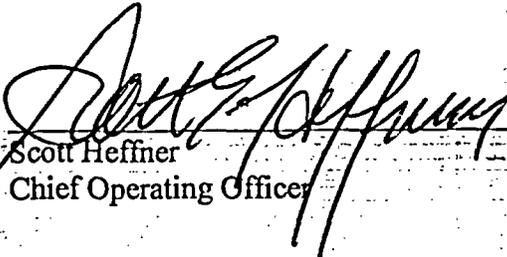
1. My name is Scott Heffner and I am the Chief Operating Officer of R.M.D. Operations, LLC (RMD). I am authorized to execute this affidavit on behalf of RMD and may bind RMD to the statements rendered herein;
2. RMD has submitted an application to the United States Nuclear Regulatory Commission (NRC) requesting a performance-based, multi-site license for its uranium water treatment program, including the installation of a unique and innovative Uranium Removal System, which is the subject of a soon-to-be-submitted patent application before the United States Patent and Trademark Office (PTO);
3. With its license application, RMD submitted an Environmental Report (ER) and a draft Safety Evaluation Report (SER), which includes descriptions and analyses of several aspects of its uranium water treatment program and internal corporate structure that RMD considers to include trade secrets or confidential commercial or financial information pursuant to 10 CFR § 2.390(a)(4);
4. These portions of the ER and draft SER submitted with RMD's license application also contain data or other information that is the subject of business and technology patents that are or will be pending before the PTO;
5. Pursuant to NRC regulations, RMD has labeled these pages of its ER and SER with the statement "confidential information submitted under 10 CFR § 2.390: proprietary."
6. The following Sections and pages of RMD's ER contain trade secrets and/or confidential commercial or financial information, and RMD hereby requests that such pages be withheld from public disclosure;
  - a. Section 2.3.1 in its entirety, pages 21-32 of the ER, entitled *Description of the Uranium Removal System*
  - b. Section 2.3.2 in its entirety, pages 33-34 of the ER, entitled *Uranium Removal System Structure*
  - c. Section 3.14, pages 59-60 of the ER, entitled *Waste Management*
  - d. Section 3.14.3-3.14.5, pages 62-73, entitled *Media Exchange Process Overview, Service Operations Description, Decommissioning and System Removal*
  - e. Figure 1 of the draft SER, *R.M.D. Operations, LLC, Corporate Structure Related to Uranium Water Treatment*
7. For the following reasons, RMD asserts that the aforementioned Sections and pages of its ER and draft SER should be withheld from public disclosure as trade secrets or confidential commercial or financial information;

- a. The data and information contained in the above-mentioned Sections and pages has been held in confidence by RMD. RMD does not present such information to public or private entities when describing its technology or business processes.
- b. The data and information contained in the above-mentioned Sections and pages is customarily held in confidence by businesses and other organizations seeking to protect information contained in patent applications. RMD's uranium water treatment program utilizes some forms of existing technologies, but such technologies have been combined to form unique and innovative procedures and processes that are not used in the water treatment market (e.g., the Uranium Removal System). These unique and innovative procedures and processes are to be used to ensure that Community Water Systems (CWSs) receive a complete "cradle-to-grave" service in compliance with the provisions of the Safe Drinking Water Act (SDWA) that is adequately protective of public health and safety and requires minimal maintenance and technical support from local Utility Managers or Operators. RMD also provides confidentiality protection for its procedures associated with the Uranium Removal System and "media exchanges" for security purposes. Further, corporate aspects of RMD and its relationship within the group of Water Remediation Technology International, LLC companies such as business duties and working contractual agreements or other arrangements are not customarily made available to the public;
- c. The data and information contained in the above-mentioned Sections and pages is being transmitted to the Commission in RMD's license application in confidence. Indeed, any such data and information shown to NRC Staff was only revealed in the context of an unnoticed and "closed-door" meeting with NRC Staff at NRC Headquarters. As stated to NRC at the time, the main reason for such an unnoticed, "closed-door" meeting was to preserve the confidentiality of the data and information;
- d. The data and information regarding RMD's Uranium Removal System and "media exchanges" associated with RMD's uranium water treatment program are not available in any public sources;
- e. Release of the data and information contained in the above-mentioned Sections and pages would cause substantial commercial harm to RMD for the following reasons:
  - i. RMD, in conjunction with Water Remediation Technology, LLC (WRT), has invested substantial human and financial resources in developing its uranium water treatment program, including the design and engineering of its Uranium Removal System. The design and engineering of its Uranium Removal System, as well as that of its Systems for removal of other radiological or hazardous constituents, are unique and innovative and represent significant new developments for the water treatment market.

As such, RMD desires to keep the design and engineering aspects of its Uranium Removal System confidential;

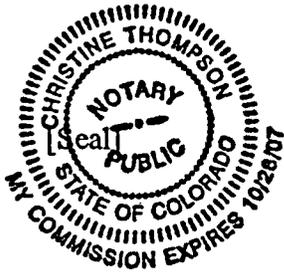
- ii. The SDWA's uranium in drinking water standard does not require compliance until December 2007. As such, RMD is one of the first commercial entities to create and propose to provide a comprehensive "cradle-to-grave" service to CWSs for compliance with this standard. Release of the data and information contained in the above-mentioned Sections and pages would provide RMD's competitors with a substantial opportunity to analyze RMD's uranium water treatment program, to discover the unique and innovative technical and commercial aspects of the program, and to produce a program that would compete with RMD in the water treatment market. RMD would suffer substantial financial harm if competitors were granted access to this data and information without expending the financial resources necessary to develop water treatment programs similar to RMD's;
- iii. The corporate structure provided in Figure 1 of the draft SER is compiled for internal RMD use only. Release of such information would result in disclosure of internal corporate activities and would cause harm to RMD and to the other Water Remediation Technology International, LLC companies.
- f. Withholding the data and information designated by RMD for confidentiality protection will not cause any harm to members of the public. The Uranium Removal System's design and engineering data and information will provide no tangible benefit to members of the public beyond that embodied in the System's general descriptions provided in portions of the ER not designated for confidentiality protection. With respect to the business aspects of RMD's uranium water treatment program, members of the public will gain no tangible benefit beyond the statements that all spent treatment media will be finally disposed of in accordance with NRC regulations and in a manner that is protective of public health and safety. However, as stated above, RMD will suffer significant adverse commercial impacts as a result of the release of this data and information.
- g. RMD fully understands that withholding the designated data and information does not deprive any independent party from inspecting the confidential information under the terms of an appropriate protective order in the context of an NRC licensing hearing or other administrative proceeding.

I declare on this 23<sup>RD</sup> day of September in Arvada, Colorado, under penalty of perjury that the foregoing is true and correct.

  
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Scott Heffner  
Chief Operating Officer

**ACKNOWLEDGMENT**

SUBSCRIBED and SWORN TO before me, the undersigned authority, on September \_\_, 2005 by Scott Heffner.



  
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[Signature of Notary]

Christine Thompson  
Printed/Typed Name of Notary

Notary public for the State of Colorado. My commission expires October 28, 2007