



16047 West 110<sup>th</sup> Street, Lenexa, Kansas 66219  
Telephone: 913-928-2800 Fax: 913-307-0453

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

March 28, 2007  
Document ID: PCI-6016-01

Attention: Joseph Golla, Project Manager (GSI-191)

Subject: Performance Contracting, Inc.  
USNRC Meeting & Presentation – Sure-Flow<sup>®</sup> Strainer Revised Test Protocol

Dear Sir:

Performance Contracting Inc. (PCI) is submitting the attached documents for the US Nuclear Regulatory Commission's (USNRC) review and utilization. The intent of the document submittal is to afford the USNRC Staff sufficient review time prior to the tentatively scheduled meeting to be held on April 19, 2007. The purpose of the meeting is to discuss the revised strainer testing protocol that PCI, and its partners, AREVA and Alden are proposing to implement to specifically address the issues of post-LOCA debris transportation and chemical precipitants as they relate to PCI's patented Sure-Flow<sup>®</sup> Strainer (SFS) head loss testing.

The subject documents are non-proprietary. However, PCI, its partners, and its strainer clients request that all or portions of the meeting be closed since proprietary information as delineated in 10 CFR 2.390 will be discussed. The request is made based on the fact that detailed discussions will involve Performance Contracting's intellectual property developed at considerable expense by the company and client proprietary plant specific design, licensing, or qualification basis information specifically related to the Sure-Flow<sup>®</sup> Strainer. Public participation in the meeting would inadvertently allow proprietary material to be used by others, resulting in commercial detriment to Performance Contracting and the disclosure of client proprietary plant specific design basis information. Accordingly, we have attached an affidavit pursuant to 10 CFR 2.390 to this letter. The following attachments are provided:

**Attachment 1:** Proposed Agenda

**Principal Change:** None, Initial Issue.

**Attachment 2:** *DRAFT Refinements to the AREVA/ALDEN/PCI Sure-Flow<sup>®</sup> Suction Strainer Test Protocol (Document No. DRAFT-B)*

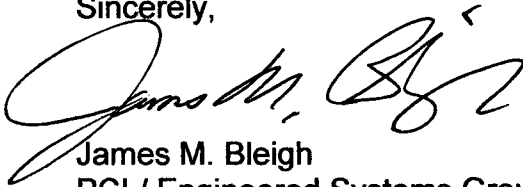
**Principal Change:** None, Initial Issue.

*Add: Joseph Golla*  
*XG01*

**Attachment 3:** Affidavit Pursuant to 10 CFR 2.390 - Affidavit requesting that all or portions of the meeting be withheld from public disclosure (closed to the public).

We appreciate the USNRC Staff's attention to the review of the proposed testing protocol and participation in the subsequent meeting to discuss the protocol in detail.

Sincerely,



James M. Bleigh  
PCI / Engineered Systems Group Manager



## **Proposed AGENDA for Discussing the SFS UG Testing Protocol**

### **Date, Time and Place To Be Determined**

Agenda for the Closed Meeting with the Performance Contracting Inc. (PCI) team that consists of personnel from PCI, AREVA NP, Alden Research Laboratory (ALDEN) and SFS UG client representatives to discuss AREVA NP / ARL draft strainer test protocol:

(PCI requests the NRC staff allow 3 hours for this meeting)

#### **Introduction and meeting purpose**

#### **Discussion of following issues/concerns:**

1. Near strainer debris transport/CFD used as input
2. Chemical surrogates/quantities/introduction rates
3. Debris surrogates/preparation/sizing/introduction
4. Test termination criteria
5. Downstream samples
6. Scaling of test apparatus
7. Test water temperature/pH
8. Any other issues/concerns

#### **Adjourn**

**AFFIDAVIT PURSUANT TO 10 CFR 2.390**

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I, James M. Bleigh, being duly sworn, depose and state as follows:

- (1) I am the Manager of the Engineered Systems Group (ESG) for Performance Contracting, Inc. (PCI), and have reviewed the information described in paragraph (2) which is sought to be withheld, and I am authorized to apply for its withholding.
- (2) The information sought to be withheld are the discussions (meeting) that will result from the joint PCI/AREVA/Alden, PCI client, and USNRC Staff review of Attachment 1 and Attachment 2 to PCI letter Document ID PCI-6016-01. Specifically, the Attachment 2 discussion will involve operational test performance documents and attachments developed by Performance Contracting, Inc. in support of PCI's patented Sure-Flow<sup>®</sup> Strainer (SFS) integrated (i.e., debris transportation and chemical precipitant) testing program that will also include PCI client specific design basis information. PCI expects the discussion of these documents to require the presentation and discussion of other information which is considered proprietary to Performance Contracting, Inc. and/or PCI's strainer clients.
- (3) In making this application for withholding of proprietary information of which it is the owner, or bound to non-disclosure by contract with clients, or relevant and related to the discussion, Performance Contracting, Inc. relies 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 10CFR Part 9.17(a)(4), 2.390(a)(4), and 2.390(b)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions also qualify under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975F2d871 (DC Cir. 1992), and *Public Citizen Health Research Group v. FDA*, 704F2d1280 (DC Cir. 1983).
- (4) Some examples of categories of information which 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 Performance Contracting, Inc.'s competitors without license from Performance Contracting, Inc. constitutes a competitive economic advantage over other companies;

**AFFIDAVIT PURSUANT TO 10 CFR 2.390**

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- b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- c. Information which reveals cost or price information, production, capacities, budget levels, or commercial strategies of Performance Contracting, Inc., its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future Performance Contracting customer-funded development plans and programs of potential commercial value to Performance Contracting, Inc.;
- e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs 4.b, 4.c, and 4.d above.

- (5) The information sought to be withheld from a public meeting (including that discussed during a meeting) is of a sort customarily held in confidence by Performance Contracting, Inc. or PCI's clients, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by Performance Contracting, Inc and PCI's strainer clients. 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 paragraphs (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within Performance Contracting, Inc. and PCI's strainer clients is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such meeting discussions (including meeting minutes) typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the

**AFFIDAVIT PURSUANT TO 10 CFR 2.390**

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cognizant marketing function (or his designee), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside Performance Contracting, Inc. are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.

- (8) The information classified as proprietary was developed and compiled by Performance Contracting, Inc. at a significant cost to Performance Contracting, Inc. This information is classified as proprietary because it contains detailed descriptions of analytical approaches and methodologies not available elsewhere. This information would provide other parties, including competitors, with information from Performance Contracting, Inc.'s technical database and the results of evaluations performed by Performance Contracting, Inc. A substantial effort has been expended by Performance Contracting, Inc. to develop this information. Release of this information would improve a competitor's position because it would enable Performance Contracting, Inc.'s competitor to copy our technology and offer it for sale in competition with our company, causing us financial injury.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to Performance Contracting, Inc.'s competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of Performance Contracting, Inc.'s comprehensive approach to resolve client specific operating conditions related to GSI-191, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology, and includes development of the expertise to determine and apply the appropriate evaluation process. The research, development, engineering, and analytical costs comprise a substantial investment of time and money by Performance Contracting, Inc.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

Performance Contracting, Inc.'s competitive advantage will be lost if its competitors are able to use the results of the Performance Contracting, Inc. experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

**AFFIDAVIT PURSUANT TO 10 CFR 2.390**

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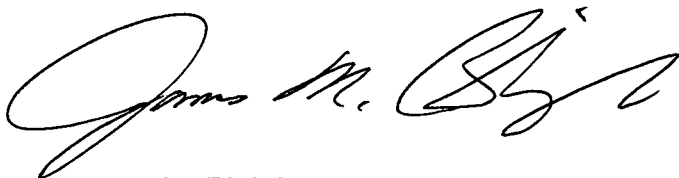
The value of this information to Performance Contracting, Inc. would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive Performance Contracting, Inc. of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.

STATE OF KANSAS     )  
                                  )  
COUNTY OF JOHNSON)     ss:

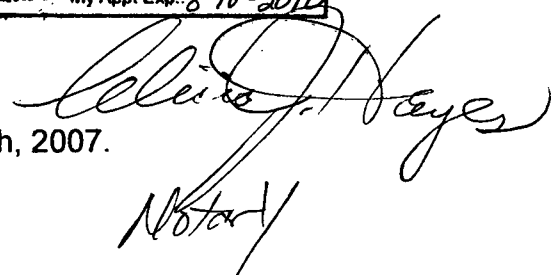
Mr. James M. Bleigh, being duly sworn, deposes and says:

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 Lenexa, Kansas, this 28th day of March, 2007.



James M. Bleigh  
PCI / Engineered Systems Group Manager



Notary

Subscribed and sworn before me this 28th day of March, 2007.



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April 3, 2007  
Document ID: **PCI-6016-01**

Subject: Performance Contracting, Inc.  
USNRC Meeting & Presentation – Sure-Flow<sup>®</sup> Strainer Revised Test Protocol

Per instructions received from Joe Golla, find attached two printed copies and one CD disk with all documents issued previously to Joe Golla for the subject meeting.

The original document and CD is for the Document Control Desk, the copy is for Joe Golla.

Contact me for any questions or problems.

We appreciate the USNRC Staff's attention to the review of the proposed testing protocol and participation in the subsequent meeting to discuss the protocol in detail.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Bleigh". The signature is fluid and cursive, with a large initial "J" and "M".

James M. Bleigh  
PCI / Engineered Systems Group Manager

Cc: Joe Golla, Project Manager (GSI-191)