

January 30, 2013

U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738

Attn: Document Control Desk
Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation,
Office of Nuclear Material Safety and Safeguards

Subject: Affidavit for NAC Proprietary Slides Presented at the January 28, 2013 NAC-LWT
Closed Meeting

Docket No. 71-9225

Reference 1: ED20120149, Submission of a Request for an Amendment of Certificate of Compliance
(CoC) No. 9225 for the NAC-LWT Cask to Incorporate Highly Enriched Uranyl Nitrate
Liquid (HEUNL) as Authorized Content

Dear Ms. Sampson:

NAC hereby provides the Division of Spent Fuel Storage and Transportation (SFST) with an affidavit for the NAC proprietary slides presented at the NAC-LWT post-submission closed meeting held on January 28, 2013. The proprietary slides contain NAC proprietary/business sensitive information related to the contents of the following licensing submittal:

- Request to amend the NAC-LWT CoC No. 9225 to include Highly Enriched Uranyl Nitrate Liquid (HEUNL) as authorized content in the NAC-LWT package (Reference 1)

The affidavit (see enclosed) attesting to the business sensitive and proprietary nature of the information contained in the slide presentation has been executed by Mr. George Carver, Vice President, Engineering in accordance with 10 CFR 2.390.

Please advise if further information or justification is required. You may contact me on my direct line at 678-328-1274.

Sincerely,



Anthony L Patko
Director, Licensing
Engineering

cc: Bernie White

Enclosures

ED20130007

NM5501

NAC INTERNATIONAL INC.
AFFIDAVIT PURSUANT TO 10 CFR 2.390
CONFIDENTIAL INFORMATION SUBMITTED AND TO BE
WITHHELD FROM PUBLIC DISCLOSURE UNDER 10 CFR 2.390

I, George Carver, Vice President, Engineering, of NAC International Inc. located at 3930 East Jones Bridge Road, Norcross, Georgia 30092, hereinafter referred to as “NAC”, being duly sworn, depose and say that in accordance with the provisions of 10 CFR 2.390 of the Commission’s regulations:

1. I have reviewed the NAC information described in Item 2 and am personally familiar with the trade secrets and privileged information contained therein, and am authorized to request its withholding.
2. The information has been designated as “NAC Proprietary Information” and is sought to be withheld. It consists of the NAC proprietary slide presentation materials developed for and presented in the Closed Meeting between NAC and the U.S. Nuclear Regulatory Commission (NRC) on January 28, 2013. These slides contain NAC proprietary and business sensitive information related to the application for approval of an amendment to the NAC-LWT CoC No. 9225 requesting the addition of Highly Enriched Uranyl Nitrate Liquid (HEUNL) as authorized content in the NAC-LWT package. The NAC Proprietary Information includes the design details for the HEUNL transport configuration and NAC’s approach for the development of the structural, thermal, shielding and criticality evaluations in support of the NAC proprietary position of the amendment request submitted to the NRC December 28, 2012, as well as NAC confidential company information. NAC is the owner of the information that was presented.
3. NAC makes this application for withholding of the NAC Proprietary Information described in paragraph 2 herein 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.

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- c. Information that reveals cost or price information, production capacities, budget levels or commercial strategies of NAC, its customers, or its suppliers.
- 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 that is sought to be withheld is considered to be proprietary for the reasons set forth in Items 4.a, 4.b, and 4.d.

- 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, the Licensing Specialist, 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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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 a profit-making opportunity. The proprietary information will be part of NAC's comprehensive radioactive material 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 investment.

Executed at Norcross, Georgia, this 30th day of January 2013.




George Carver
Vice President, Engineering
NAC International Inc.

STATE OF GEORGIA, COUNTY OF GWINNETT

Mr. George Carver, being duly sworn, deposes and says:

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

Subscribed and sworn before me this 30th day of January, 2013.


Notary Public