

Attachment 3

GNRO-2016/00015

**MP Machinery and Testing, LLC Affidavit for Proprietary Version of report MPM-814779,
Revision 1**

MP Machinery and Testing, LLC

AFFIDAVIT

I, Michael P. Manahan, Sr., state as follows:

- (1) I am the President of MP Machinery and Testing, LLC ("MPM"), and have been delegated the function of reviewing the information reported in Reference [1] and [2] which are sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in the Reference [1] report Number MPM-814779, Revision 1, MP Machinery and Testing, LLC., 2161 Sandy Drive, State College, PA 16803-2283, May, 2015.
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, MPM relies upon the exemption from disclosure set forth in the *Freedom of Information Act* ("FOIA"), 5 U.S.C. Sec. 552(b)(4), and the *Trade Secrets Act*, 18 U.S.C. Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for trade secrets (Exemption 4). The material for which exemption from disclosure is here sought also qualifies 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, 975 F.2d 871 (D.C. Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F.2d 1280 (D.C. Cir. 1983).
- (4) The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4) a., (4) b., and 4(d) listed below. Some 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 MPM's competitors without license from MPM 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 aspects of past, present, or future MPM customer-funded development plans and programs, resulting in potential products to MPM;
 - d. Information that discloses trade secret or potentially patentable subject matter for which it may be desirable to obtain patent protection.
- (5) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by MPM,

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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 MPM, not been disclosed publicly, and not been made 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 or confidentiality agreements that provide for maintaining the information in confidence. The initial designation of this information as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in the following paragraphs (6) and (7).

- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, who is the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or who is the person most likely to be subject to the terms under which it was licensed to MPM.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal engineer or scientist, or other equivalent authority for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside MPM 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 or confidentiality agreements.
- (8) The information identified in paragraph (2), above, is classified as proprietary because it contains the details of MPM methodology and benchmarking. These methods, techniques, and data along with their application to the design, modification, and analyses were achieved at a significant cost to MPM.

The development of the evaluation processes along with the interpretation and application of the analytical results is derived from the extensive experience databases that constitute a major and substantial MPM asset.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to MPM's competitive position and foreclose or reduce the availability of profitmaking opportunities. The information is part of MPM's comprehensive radiation transport technology base, 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. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical and NRC review costs comprise a substantial investment of time and money by MPM. 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. MPM's competitive advantage will be lost if its competitors are able to use the results of the MPM experience to normalize or verify their own process or if they

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are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to MPM 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 MPM of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this fourteenth day of March, 2016.

M P Manahan, Sr.

Dr. M. P. Manahan, Sr.
President
MP Machinery and Testing,
2161 Sandy Drive
State College, PA 16803

References

[1] "Neutron Transport Analysis for Grand Gulf Nuclear Station", MPM Report Number MPM-814779, Revision 5, MP Machinery and Testing, LLC., 2161 Sandy Drive, State College, PA 16803-2283, May, 2015.

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Attachment 4

GNRO-2016/00015

**MP Machinery and Testing, LLC Affidavit for Proprietary Version of report MPM-814779,
Revision 2**

MP Machinery and Testing, LLC

AFFIDAVIT

I, Michael P. Manahan, Sr., state as follows:

- (1) I am the President of MP Machinery and Testing, LLC ("MPM"), and have been delegated the function of reviewing the information reported in Reference [1] and [2] which are sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in the Reference [1] report Number MPM-814779, Revision 2, MP Machinery and Testing, LLC., 2161 Sandy Drive, State College, PA 16803-2283, May, 2015.
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, MPM relies upon the exemption from disclosure set forth in the *Freedom of Information Act* ("FOIA"), 5 U.S.C. Sec. 552(b)(4), and the *Trade Secrets Act*, 18 U.S.C. Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for trade secrets (Exemption 4). The material for which exemption from disclosure is here sought also qualifies 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, 975 F.2d 871 (D.C. Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F.2d 1280 (D.C. Cir. 1983).
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- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to MPM's competitive position and foreclose or reduce the availability of profitmaking opportunities. The information is part of MPM's comprehensive radiation transport technology base, 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. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

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M. P. Manahan, Sr.

Dr. M. P. Manahan, Sr.
President
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[1] "Neutron Transport Analysis for Grand Gulf Nuclear Station", MPM Report Number MPM-814779, Revision 5, MP Machinery and Testing, LLC., 2161 Sandy Drive, State College, PA 16803-2283, May, 2015.