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 50-316 Donald C. Cook Nuclear Power Plant, Unit 2, Indiana & 05000316  
 AUTH. NAME AUTHOR AFFILIATION  
 HUNTER, R.S. Indiana & Michigan Electric Co.  
 RECIP. NAME RECIPIENT AFFILIATION  
 DENTON, H.R. Office of Nuclear Reactor Regulation, Director

SUBJECT: Forwards affidavit in support of withholding proprietary info contained in Attachment 5 to 820407 application for uprating & Cycle 4 reload re spent fuel storage array criticality safety analyses.

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# INDIANA & MICHIGAN ELECTRIC COMPANY

P. O. BOX 18  
BOWLING GREEN STATION  
NEW YORK, N. Y. 10004

June 11, 1982  
AEP:NRC:0637C

Donald C. Cook Plant Nuclear Unit Nos. 1 and 2  
Docket Nos. 50-315 and 50-316  
License Nos. DPR-58 and DPR-74  
AFFIDAVIT FOR ATTACHMENT NO. 5 TO AEP:NRC:0637A

Mr. Harold R. Denton, Director  
Office of Nuclear Reactor Regulation  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dear Mr. Denton:

Attached to this letter is an Affidavit in support of the withholding from public disclosure of the proprietary information contained in Attachment No. 5 to AEP:NRC:0637A dated April 7, 1982. Our letter No. AEP:NRC:0637A constituted an application for the uprating and Cycle 4 reload of the Donald C. Cook Nuclear Plant, Unit No. 2. Attachment No. 5 to that letter was a summary of the new and spent fuel storage array criticality safety analyses performed by Exxon Nuclear Company (ENC). Our letter requested that Attachment No. 5 to AEP:NRC:0637A be withheld from public disclosure as it was proprietary to ENC. This letter reiterates that request and provides you with a copy an affidavit sworn to on April 22, 1982 by James N. Morgan of ENC.

This document has been prepared following Corporate Procedures which incorporate a reasonable set of controls to insure its accuracy and completeness prior to signature by the undersigned.

Very truly yours,



R. S. Hunter  
Vice President

RSH/os  
cc:(attached)

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PDR

A001

Mr. Harold R. Denton

- 2 -

AEP:NRC:0637C

cc: John E. Dolan - Columbus  
R. W. Jurgensen  
W. G. Smith, Jr. - Bridgman  
R. C. Callen  
G. Charnoff  
Joe Williams, Jr.  
NRC Resident Inspector at Cook Plant - Bridgman

ATTACHMENT TO AEP:NRC:0637C  
Affidavit for Attachment No. 5 to AEP:NRC:0637A

A F F I D A V I T

STATE OF Washington )

ss.

COUNTY OF Benton )

I, James N. Morgan, being duly sworn, hereby say and depose:

1. I am Manager, 'Licensing and Safety Engineering, for Exxon Nuclear Company, Inc. ("ENC"), and as such I am authorized to execute this Affidavit.

2. I am familiar with ENC's detailed document control system and policies which govern the protection and control of information.

3. I am familiar with Attachment 5 to the letter, "Application for Cycle 4 Reload and Uprate License Amendment," R..F. Hering (Indiana & Michigan Electric Company) to Harold R. Denton (USNRC), dated April 7, 1982, referred to as "Document." Information contained in this Document has been classified by ENC as proprietary in accordance with the control system and policies established by ENC for the control and protection of information.

4. The Document contains information of a proprietary and confidential nature and is of the type customarily held in confidence by ENC and not made available to the public. Based on my experience; I am aware that other companies regard information of the kind contained in the Document as being proprietary and confidential.

5. The Document has been made available to the United States Nuclear Regulatory Commission in confidence, with the request that the information contained in the Document not be disclosed or divulged.

6. The Document contains information which is vital to a competitive advantage of ENC and would be helpful to competitors of ENC when competing with ENC.

7. The information contained in the Document is considered to be proprietary by ENC because it reveals certain distinguishing aspects of ENC fuel design and criticality analysis methodology which secure competitive economic advantage to ENC for fuel design optimization and improved marketability, and includes information utilized by ENC in its business which affords ENC an opportunity to obtain a competitive advantage over its competitors who do not or may not know or use the information contained in the Document.

8. The disclosure of the proprietary information contained in the Document to a competitor would permit the competitor to reduce its expenditure of money and manpower and to improve its competitive position by giving it extremely valuable insights into ENC's fuel design features and criticality analysis methodology, and would result in substantial harm to the competitive position of ENC.

9. The Document contains proprietary information which is held in confidence by ENC and is not available in public sources.

10. In accordance with ENC's policies governing the protection and control of information, proprietary information contained in the Document has been made available, on a limited basis, to others outside ENC only as required and under suitable agreement providing for non-disclosure and limited use of the information.

11. ENC policy requires that proprietary information be kept in a secured file or area and distributed on a need-to-know basis.

12. This Document provides information which reveals ENC fuel design features and criticality analysis methodology developed by ENC over the past several years. ENC has invested hundreds of thousands of dollars and many man-years of effort in the related fuel designs and criticality analysis methods revealed in the Document. Assuming a competitor had available the same background data and incentives as ENC, the competitor might, at a minimum, develop the information for the same expenditure of manpower and money as ENC.

13. Based on my experience in the industry, I do not believe that the background data and incentives of ENC's competitors are sufficiently similar to the corresponding background data and incentives of ENC to reasonably expect such competitors would be in a position to duplicate ENC's proprietary information contained in the Documents.

THAT the statements made hereinabove are, to the best of my knowledge, information, and belief, truthful and complete.

FURTHER AFFIANT SAYETH NOT.

*James H. Morgan*

SWORN TO AND SUBSCRIBED

before me this 22 day of

April, 1982.

*Susan L. Backus*

NOTARY PUBLIC