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Ihre Zeichen / Nachricht vom
Your ref. / message

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0023-SVK-2019-010

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Hanau, June 19, 2019

Subject: Application for withholding proprietary information from public disclosure

Submission of Document: Response to your RAI (reference Docket No. 71-9362, EPID No. L-2018-NEW-0003).

Reference: DAHER NT document 0023-SVK-2019-009 dated June 19, 2019

The Application for Withholding Proprietary Information from Public Disclosure is submitted by DAHER NUCLEAR TECHNOLOGIES GmbH, (DAHER NT), pursuant to the provisions of paragraph (b)(1) of Section 2.390 of the Commission's regulations. It contains commercial strategic information proprietary to DAHER NT and customarily held in confidence.

The proprietary material for which withholding is being requested are Technical Notes 0023-BBR-2019-003-Rev0 and 0023-BBR-2019-004-Rev1. In conformance with 10 CFR Section 2.390, Affidavit 0023-SVK-2019-010 accompanies response letter 0023-SVK-2019-009.

Accordingly, it is respectfully requested that the subject information that is proprietary to DAHER NT be withheld from public disclosure in accordance with 10 CFR Section 2.390 of the Commission's regulations.



Correspondence with respect to the response letter or the accompanying affidavit should reference 0023-SVK-2019-009 and should be addressed to Franz Hilbert, Chief Operating Officer (COO) DAHER NUCLEAR TECHNOLOGIES GmbH, Margarete-von-Wrangell-Str. 7, 63450 Hanau, Germany.

Sincerely,

DAHER NUCLEAR TECHNOLOGIES GmbH

A handwritten signature in blue ink, appearing to be "FH", written over a faint circular stamp.

Franz Hilbert
COO

A handwritten signature in blue ink, appearing to be "YvW", written over a faint circular stamp.

Yara van Wijk
Project Manager

Enclosure: Affidavit

AFFIDAVIT

- (1) I am the COO of DAHER NUCLEAR TECHNOLOGIES GmbH, "DAHER NT", and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with DAHER NT submittals to NRC, and am authorized to apply for its withholding on behalf of DAHER NT.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the DAHER NT "Application for Withholding" accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by DAHER NT in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.390 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
 - (i) The information sought to be withheld from public disclosure is owned and has been held in confidence by DAHER NT.
 - (ii) The information is of a type customarily held in confidence by DAHER NT and not customarily disclosed to the public. DAHER NT has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitute DAHER NT policy and provide the rational basis required.

Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

- (a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of DAHER NT's competitors without license from DAHER NT constitutes a competitive economic advantage over other companies.
- (b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), the application of which data secures a competitive economic advantage, e.g., by optimization or improved marketability.
- (c) Its use 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 a similar product.
- (d) It reveals aspects of past, present, or future DAHER NT or customer funded development plans and programs of potential commercial value to DAHER NT.
- (e) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the DAHER NT system which include the following:



- (a) The use of such information by DAHER NT gives DAHER NT a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the DAHER NT competitive position.
 - (b) It is information that may provide DAHER NT's competitors with information on the methods and procedures that DAHER NT uses to fulfill regulatory and licensing obligations. The extent to which such information is available to competitors may diminish the need of DAHER NT competitors to develop such methods and procedures without comparable investment of time and resources.
 - (c) Use by our competitors would put DAHER NT at a competitive disadvantage by reducing our competitor's expenditures of resources by allowing them to build upon or utilize methods and procedures developed by DAHER NT at great expense.
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, it is to be received in confidence by the Commission.
- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
- (v) The proprietary information sought to be withheld in this submittal are product specifications referenced within 0023-SVK-2019-009, being transmitted by DAHER NT attention of NRC Licensing Branch, Division of Spent Fuel Management. This proprietary information as submitted by DAHER NT is DAHER NT DN30 package response to NRC's request for additional information, submitted within letter 0023-SVK-2019-009, dated June 19, 2019 from Franz Hilbert to NRC Licensing Branch, Division of Spent Fuel Management.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of DAHER NT because it would enhance the ability of competitors to address similar safety, regulatory and licensing issues without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements without purchasing the right to use the information.

In order for competitors of DAHER NT to duplicate this information, similar technical and procedural programs would have to be developed and a significant manpower effort, having the requisite talent and experience, would have to be expended.



PROPRIETARY INFORMATION NOTICE

Transmitted herewith are proprietary documents furnished to the NRC for generic review and approval. In order to conform to the requirements of 10CFR2.390 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary makes up the entire content of all the appendixes to the SAR, meaning these documents are not included in the public version of the submittal.

COPYRIGHT NOTICE

If any documents transmitted herewith each bear a DAHER NT copyright notice, the NRC is permitted to make the number of copies of the information contained in these reports which are necessary for its internal use in connection with generic and plant specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10CFR2.390 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by DAHER NT, copyright protection notwithstanding. With respect to the non-proprietary versions of such documents, the NRC is permitted to make the number of copies beyond those necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.