

September 22, 2009

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

Attn.: Document Control Desk

**Subject:** Submittal of Dairyland Power Cooperative Confidential Information Supporting the Request for an Amendment of Certificate of Compliance (CoC) No. 1025 for the NAC International Multi-Purpose Canister (NAC-MPC) System to Incorporate Dairyland Power Cooperative La Crosse Boiling Water Reactor Spent Fuel as Approved Contents

Docket No. 72-1025

- References:**
1. Certificate of Compliance No. 1025, Amendment 5, for the NAC-MPC System, U.S. Nuclear Regulatory Commission (NRC), July 24, 2007
  2. Final Safety Analysis Report for the NAC-MPC System, Revision 7, NAC International, January 2008
  3. Request for an Amendment of Certificate of Compliance (CoC) No. 1025 for the NAC International Multi-Purpose Canister (NAC-MPC) System to Incorporate Dairyland Power Cooperative La Crosse Boiling Water Reactor Spent Fuel as Approved Contents, NAC International, January 16, 2009, as supplemented April 1 and 30, 2009
  4. Request for Additional Information for Review of Amendment No. 6 to Certificate of Compliance No. 1025 for the NAC-MPC Storage System Requesting Approval to Incorporate La Crosse Boiling Water Reactor (LACBWR) Spent Fuel Assemblies as Approved Contents, NRC, June 25, 2009
  5. Submittal of NAC International Responses to NRC Request for Additional Information for Review of Amendment No. 6 to Certificate of Compliance No. 1025 for the NAC-MPC Storage System Requesting Approval to Incorporate La Crosse Boiling Water Reactor (LACBWR) Spent Fuel Assemblies as Approved Contents, NAC International, September 22, 2009

Under special permission of Dairyland Power Cooperative, NAC International, Inc. (NAC) herewith provides one copy of the following Dairyland Power Cooperative confidential report in support of References 3 and 5:

- Post Irradiation Evaluation of Fuel Rods from the La Crosse Boiling Water Reactor, NEDC 12633, General Electric, Vallecitos Nuclear Center, Pleasanton, California, June 1976



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Also enclosed is a Proprietary Information Affidavit executed by Thomas A. Danner, NAC Vice President, Engineering, in accordance with 10 CFR 2.390. The enclosed report (NEDC 12633) was prepared by General Electric, Pleasanton, California, specifically for Dairyland Power Cooperative, La Crosse, Wisconsin, under Contract No. 47348 and is an intellectual property of Dairyland Power Cooperative, La Crosse Wisconsin.

The report is being provided to the NRC under special permission of Dairyland Power Cooperative in support of NAC's MPC-LACBWR application for an amendment to the NAC-MPC Storage System CoC, and NAC's responses to the NRC's Request for Additional Information (RAI) for the same application. NAC requests the NRC to withhold the enclosed report from disclosure and handle it as Dairyland Power Cooperative proprietary information.

If you have any comments or questions, please contact me on my direct line at (678) 328-1274.

Sincerely,



Anthony L. Patko  
Director, Licensing  
Engineering

Enclosures: Proprietary Information Affidavit  
General Electric Report No. NEDC 12633

**NAC INTERNATIONAL  
AFFIDAVIT PURSUANT TO 10 CFR 2.390**

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Thomas A. Danner (Affiant), Vice President, Engineering, of NAC International, hereinafter referred to as NAC, at 3930 East Jones Bridge Road, Norcross, Georgia 30092, being duly sworn, deposes and says that:

1. Affiant has reviewed the information described in Item 2 and is personally familiar with the trade secrets and privileged information contained therein, and is authorized to request its withholding.
2. The information to be withheld includes the following Dairyland Power Cooperative confidential report that is being provided to support the technical review of NAC's Request for an Amendment of Certificate of Compliance (CoC) No. 1025 for the NAC International Multi-Purpose Canister (NAC-MPC) System to Incorporate Dairyland Power Cooperative La Crosse Boiling Water Reactor (LACBWR) Spent Fuel as Approved Contents, and NAC's responses to the NRC's Request for Additional Information for the aforementioned amendment request:
  - Post Irradiation Evaluation of Fuel Rods from the La Crosse Boiling Water Reactor, NEDC 12633, General Electric, Vallecitos Nuclear Center, Pleasanton, California, June 1976

The above report contains post-irradiation evaluation data specifically developed for Dairyland Power Cooperative for the fuel rods from the La Crosse Boiling Water Reactor and represents an intellectual property of Dairyland Power Cooperative, La Crosse, Wisconsin. Dairyland Power Cooperative is the owner of the information in the above report. Thus, all of the above-identified information is considered Dairyland Power Cooperative Confidential/Proprietary Information.

3. NAC makes this application for withholding of proprietary information on behalf of Dairyland Power Cooperative, La Crosse, Wisconsin, 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.

**NAC INTERNATIONAL**  
**AFFIDAVIT PURSUANT TO 10 CFR 2.390 (continued)**

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4. Examples of categories of information that fit into the definition of proprietary information are:
- a. Information that discloses proprietary and potentially sensitive post-irradiation fuel data, including supporting data and analyses where prevention of its use by unauthorized persons protects Dairyland Power Cooperative.
  - b. Information that, if used by others, would reduce their expenditure of resources.
  - c. Information that reveals aspects of past, present or future programs of Dairyland Power Cooperative La Crosse Boiling Water Reactor.

The information that is sought to be withheld is considered to be proprietary for the reasons set forth in Items 4.a through 4.c.

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 Dairyland Power Cooperative and NAC, and is, in fact, so held. This information has, to the best of my knowledge and belief, consistently been held in confidence by Dairyland Power Cooperative and 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 Dairyland Power Cooperative (DPC) and per DPC/NAC Confidentiality Agreement executed March 13, 2008, the NAC 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 Dairyland Power Cooperative and NAC is limited via “controlled distribution” to individuals on a “need to know” basis. The procedure for external release of Dairyland Power Cooperative and 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 Dairyland Power Cooperative and 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.

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8. Dairyland Power Cooperative 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 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.
9. Public disclosure of the information to be withheld has the potential to cause harm to Dairyland Power Cooperative, as the owner of the information. The proprietary information is part of Dairyland Power Cooperative's post-irradiation fuel data, 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 to Dairyland Power Cooperative would be lost if the information were disclosed to the public. Making such information available to other parties without their having to make similar investments of time, labor and money would provide them with an unfair advantage.

**STATE OF GEORGIA, COUNTY OF GWINNETT**

Mr. Thomas A. Danner, 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.

Executed at Norcross, Georgia, this 22<sup>nd</sup> day of September 2009.



Thomas A. Danner  
Vice President, Engineering  
NAC International

Subscribed and sworn before me this 22 day of SEPTEMBER, 2009.

  
Notary Public

