

## STATEMENT OF CONSIDERATIONS

REQUEST BY BAKER HUGHES INTEQ FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN INVENTION RIGHTS UNDER DOE COOPERATIVE AGREEMENT NO. DE-FC26-04NT15473; W(A)-04-068, CH-1246

The Petitioner, Baker Hughes INTEQ (BHI) was awarded this cooperative agreement for the performance of work entitled, "Microhole Smart Steering and Logging While Drilling." The purpose of the cooperative agreement is to develop a modular and effective Coiled Tubing Drilling (CTD) system that allows operators to produce existing oil reservoirs, mainly on the North American continent, in a much more effective way than is possible today. The scope of work will include a project that will develop a rib steering device in conjunction with an integral high-performance downhole motor, and a resistivity sensor for formation evaluation.

The total estimated cost of the cooperative agreement is \$986,084 with the DOE share being \$736,990 or 75%, while the remaining cost share of 25%, or \$249,084, will be provided by BHI. The period of performance is from October 1, 2004 through March 31, 2006.

In its response to questions 5 and 6 of the attached waiver petition, BHI has described its technical competence in the field of downhole motors, steerable motors, measurement-while drilling (MWD), and logging while drilling. BHI is a leader in providing directional drilling services to the oil and gas industry. It has invested over thirty years in developing state-of-the-art technologies, methodologies, and products used by oil and gas companies and others in the drilling industry, as further described in Exhibit 1 to the waiver petition. BHI also patented numerous technological advances in the field of identifying and recovering domestic oil reserves. BHI has provided a chronological listing of its significant developments relevant to the Microhole Project in response to this question. In addition, Exhibit 2 to the waiver petition includes BHI's patents related to this technology. BHI has also provided a representative sample of marketing brochures as Exhibit 3. BHI's response demonstrates its technical competency in the field of downhole motors, steerable motors, measurement-while-drilling, and logging while drilling.

In its response to question 10 of the attached waiver petition, BHI states that granting the waiver will enhance competition in the area of drilling services. BHI is one of three leading companies in this area, each of which has developed technology that it is trying to advance and bring to market. Participation in this Microhole Project may result in further technological advances that BHI will have every incentive to promptly bring to market to meet this competition. BHI states that grant of the waiver will not place BHI in a preferred or dominate position in this field, and is likely to foster additional competition in the field of drilling services. Therefore grant of the waiver will have a positive effect on competition and market concentration.

The subject cooperative agreement will be modified to add the Patent Rights--Waiver clause in conformance with 10 CFR 784.12, wherein BHI has agreed to the provisions of 35 U.S.C §§ 202, 203, and 204. This waiver clause will also include a paragraph entitled U.S. Competitiveness, in which BHI agrees to substantial U. S. manufacture of subject inventions (attached hereto). Additionally, BHI agrees not to transfer subject inventions to any other entity unless that other entity agrees to these same requirements.

Considering the foregoing, it is believed that granting the waiver will provide the Petitioner with the necessary incentive to invest resources in the commercialization of the results of the agreement in a fashion which will make the agreement's benefits available to the public in the shortest practicable time. In addition, it would appear that grant of the above requested waiver would not result in an adverse effect on competition nor result in excessive market concentration. Therefore, in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver, as set forth above, be granted.

[Redacted Signature]

Mark P. Dvorscak  
Assistant Chief Counsel  
Intellectual Property Law Division

Date: Jan 13, 2005

Based on the foregoing Statement of Considerations and the representations in the attached waiver petition, it is determined that the United States and the general public will best be served by a waiver of rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of this agreement, where through such modification or extension, the purpose, scope, or cost of the agreement is substantially altered.

CONCURRENCE:

[Redacted Signature]

Guido Dehoratiis  
Office of Oil and Gas  
Petroleum Research and Development  
Deputy Assistant Secretary  
Office of Fossil Energy  
Coal and Power Systems, FE-32

Date: 3/15/2005

APPROVAL:

[Redacted Signature]

Paul A. Gottlieb  
Assistant General Counsel for  
Technology Transfer and Intellectual  
Property, GC-62

Date: 3-22-05

(t) U. S. COMPETITIVENESS The Contractor agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Contractor can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoument of the Government's investment, etc. The Contractor agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Contractor or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.

***WAIVER ACTION - ABSTRACT***

**W(A)-04-068 (CH-1246)**

REQUESTOR

Baker Hughes Inteq  
Under DOE  
Cooperative Agreement  
No. DE-FC26-04NT15473

CONTRACT SCOPE OF WORK

Microhole Smart Steering and Logging  
While Drilling

RATIONALE FOR DECISION

25% cost sharing

DISPOSITION