

January 11, 2002

Mr. Thomas C. Thompson
Director, Licensing
Engineering & Design Services
NAC International
655 Engineering Drive
Norcross, GA 30092

SUBJECT: PUBLIC DISCLOSURE DETERMINATION FOR NAC HIGH BURNUP TOPICAL

Dear Mr. Thompson:

By letter dated July 25, 2001, NAC International (NAC) submitted an application for approval of a High Burnup Fuel Topical Report. The July 25, 2001, submittal contained a proprietary version of the topical report. By letter dated August 15, 2001, a non-proprietary version of the topical report was submitted. On September 13, 2001, we notified you that your justification for withholding some of the proprietary information was not sufficient. On October 12, 2001, you re-submitted a new version of the non-proprietary topical report, and on October 31, 2001, you re-submitted new proprietary and non-proprietary versions of the topical report. The non-proprietary version of the topical report has been made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

NAC's letter dated October 31, 2001, included an affidavit executed by Willington J. Lee, dated November 4, 2001, that requested the proprietary version of the topical be withheld from public disclosure pursuant to 10 CFR 2.790. NAC subsequently provided a revised affidavit dated December 28, 2001, executed by Willington J. Lee. The affidavit states that the submitted information should be withheld from public disclosure for the following reasons:

- (1) The information sought to be withheld from public disclosure consists of information contained within a report that is the result of a computer code that was developed by NAC. NAC International 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. The information is considered to be proprietary because it contains detailed descriptions of analytical approaches, methodologies, technical data and evaluation results not available elsewhere.
- (2) The information is being transmitted to the Commission in confidence under the provisions of 10 CFR 2.790 with the understanding that it is to be received in confidence by the Commission.
- (3) The information, to the best of your knowledge, is not available in public sources, and is claimed as trade secret and confidential commercial information.
- (4) Public disclosure of this information is likely to cause substantial harm to NAC's competitive position, and reduce or eliminate the availability of profit-making

opportunities. Others seeking to develop similar analysis would have to make similar investments to develop the information on their own as long as the information is not disclosed to the public.

We have reviewed your revised proprietary and non-proprietary versions dated October 31, 2001, and your affidavit dated December 28, 2001, in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the information in your topical report sought to be withheld is proprietary commercial information. Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended. It is the policy of the NRC to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprized as to the basis for and effects of licensing and rulemaking actions.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public disclosure should change in the future, such that the information could then be made available for public inspection, you should promptly notify the NRC. Please be advised that the NRC may have cause to review this determination in the future if, for example, the scope of a Freedom of Information Act request includes your withheld information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions, please feel free to call me or Rebecca Karas of my staff at (301) 415-8500.

Sincerely,
/RA/

E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket Nos. 72-1015
72-1025
TAC No. L23351

January 11, 2002

opportunities. Others seeking to develop similar analysis would have to make similar investments to develop the information on their own as long as the information is not disclosed to the public.

We have reviewed your revised proprietary and non-proprietary versions dated October 31, 2001, and your affidavit dated December 28, 2001, in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the information in your topical report sought to be withheld is proprietary commercial information. Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended. It is the policy of the NRC to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprized as to the basis for and effects of licensing and rulemaking actions.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public disclosure should change in the future, such that the information could then be made available for public inspection, you should promptly notify the NRC. Please be advised that the NRC may have cause to review this determination in the future if, for example, the scope of a Freedom of Information Act request includes your withheld information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions, please feel free to call me or Rebecca Karas of my staff at (301) 415-8500.

Sincerely,
/S/ /RA/

E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket Nos. 72-1015
72-1025
TAC No. L23351

Distribution:

Dockets NRC File Center PUBLIC NMSS R/F SFPO R/F
NJensen

G:\NAC\high burnup topical\second proprietary.doc *See Previous Concurrence

OFC	SFPO	C	SFPO		OGC		SFPO		SFPO		SFPO	
NAME	RKaras*		EZiegler*		MPSiemien		JMonninger		CMiller		EWBrach	
DATE	12/13/01		12/14/01		1/04/02		1/07/02		1/11/02		1/11/02	

C = COVER

E = COVER & ENCLOSURE
OFFICIAL RECORD COPY

N = NO COPY