

May 18, 2005

Mr. U. B. Chopra
Licensing Manager
Transnuclear, Inc.
39300 Civic Center Drive, Suite 2800
Freemont, CA 94538-2324

SUBJECT: PUBLIC DISCLOSURE DETERMINATION (TAC NO. L23653)

Dear Mr. Chopra:

By letter dated January 22, 2004, Transnuclear, Inc., (TN) submitted the Thermal Calculations for Application for Amendment No. 8 to the NUHOMS Certificate of Compliance No. 1004. The non-proprietary version of the submittal 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/reading-rm/adams.html> (the Public Electronic Reading Room). By affidavit executed by William D. Gallo, on January 21, 2004, TN requested that certain calculations, which were contained in Enclosure 2 of TN's letter be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390. The calculations were as follows:

- Calculation NUH24PTH.0420, Revision 1 (One Copy and One CD)
- Calculation NUH24PTH.0421, Revision 0 (One Copy and One CD), and
- Calculation NUH32PT.0414, Revision 0 (One Copy and One CD)

The affidavit states that the submitted information should be withheld from public disclosure for the following reasons:

- a) A similar product is manufactured and sold by competitors of Transnuclear, Inc.
- b) Development of this information by Transnuclear, Inc., required considerable expenditure of man-hours and resources. To the best of my knowledge and belief, a competitor would have to undergo similar expense in generating equivalent information.
- c) In order to acquire such information, a competitor would also require considerable time and inconvenience related to the development of a design and analysis of a dry spent fuel storage system.
- d) The information required significant effort and expense to obtain the licensing approvals necessary for application of the information. Avoidance of this expense would decrease a competitor's cost in applying the information and marketing the product to which the information is applicable.
- e) The information consists of description of the design, analysis and specific tests of a dry spent fuel storage system, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to modify

their product to better compete with Transnuclear, Inc., take marketing or other actions to improve their product's position or impair the position of Transnuclear, Inc.'s product, and avoid developing similar data and analyses in support of their processes, methods or apparatus.

- f) In pricing Transnuclear, Inc.'s products and services, significant research, development, engineering, analytical, licensing, quality assurance and other costs and expenses must be included. The ability of Transnuclear, Inc.'s competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.

Based on your January 22, 2004, letter and attachments, our review of the proprietary information, and the requirements of 10 CFR 2.390, we have determined that the information described above, as enclosed with your letter, should be withheld from public disclosure pursuant to 10 CFR 2.390. It is the NRC's policy to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised of 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, for example, if 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.

Sincerely,

/RA/

L. Raynard Wharton, Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

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TAC No. L23653

May 18, 2005

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Sincerely,
/RA/
 L. Raynard Wharton, Project Manager
 Licensing Section
 Spent Fuel Project Office
 Office of Nuclear Material Safety
 and Safeguards

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* See Previous Concurrence

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