November 8, 2007

Mr. Rick A. Muench
President and Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
Post Office Box 411
Burlington, KS 66839

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE IN TOPICAL REPORT SUBMITTED JUNE 15, 2007, FOR THE WOLF CREEK GENERATING STATION (TAC NO. MD4839)

Dear Mr. Muench:

By letter dated June 15, 2007 (ET 07-0022), Wolf Creek Nuclear Operating Corporation (WCNOC) submitted an affidavit dated June 15, 2007, executed by Mr. Terry J. Garrett, Vice President Engineering, WCNOC, requesting that information designated proprietary in the topical report entitled "Diversity and Defense-in-Depth Assessment," Revision 0, dated June 15, 2007, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390. The topical report and the affidavit are Enclosures 41 and 42, respectively, to the letter dated June 15, 2007, from WCNOC to the Nuclear Regulatory Commission (NRC), for the Wolf Creek Generating Station.

WCNOC did not submit a non-proprietary version of the above topical report for placement in the NRC Public Document Room and for addition to the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room. In its letter dated June 15, 2007, WCNOC stated that only a proprietary version of the report was submitted because a non-proprietary version would be of no value to the public due the extent of the proprietary information in the report. Based on its review of the report, the NRC staff agrees with WCNOC and concludes that it is not practical to have a non-proprietary copy of the report when so few pages of the report may be non-proprietary.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

(a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any other company without license from WCNOC 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 another company would reduce its expenditure of resources or improve its competitive position in the design, assurance of quality, or licensing a similar product.

(d) It is not the property of WCNOC, but must be treated as proprietary by WCNOC according to agreements with the owners of the information.

In a conference call with WCNOC on September 11, 2007, WCNOC stated that the information in the topical report is owned by CS Innovations and has been classified as proprietary and been requested to be withheld from the public by CS Innovations in affidavits to NRC in WCNOC letters to NRC dated March 14 and April 18, 2007, on the use of the Advanced Logic System in the main steam and feedwater isolation system (MSFIS) modification at Wolf Creek Generating Station. The agreement that WCNOC has with CS Innovations to use the information requires that WCNOC treat the information as proprietary.

We have reviewed your application and the material designated as proprietary in topical report entitled "Diversity and Defense-in-Depth Assessment," Revision 0, in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted report sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, this information will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

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 inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand 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 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 regarding this matter, I may be reached at (301) 415-1307.

Sincerely,

/RA/

Jack N. Donohew, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-482

cc: See next page

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Jack N. Donohew, Senior Project Manager
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NAME	JDonohew	JBurkhardt	WKemper	THiltz
DATE	9/17/07	9/14/07	9/19/07	11/8/07

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cc:
Jay Silberg, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, D.C. 20037

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
P.O. Box 311
Burlington, KS 66839

Chief Engineer, Utilities Division
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027

Office of the Governor
State of Kansas
Topeka, KS 66612

Attorney General
120 S.W. 10th Avenue, 2nd Floor
Topeka, KS 66612-1597

County Clerk
Coffey County Courthouse
110 South 6th Street
Burlington, KS 66839

Chief, Radiation and Asbestos Control
Section
Kansas Department of Health
and Environment
Bureau of Air and Radiation
1000 SW Jackson, Suite 310
Topeka, KS 66612-1366

Vice President Operations/Plant Manager
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, KS 66839

Supervisor Licensing
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, KS 66839

U.S. Nuclear Regulatory Commission
Resident Inspectors Office/Callaway Plant
8201 NRC Road
Steedman, MO 65077-1032