

May 19, 2004

Ms. B. Marie Moore, Vice President
Safety and Regulatory
Nuclear Fuel Services, Inc.
P.O. Box 337, MS 123
Erwin, TN 37650

SUBJECT: NUCLEAR FUEL SERVICES, INC., - RESPONSE TO REQUEST FOR
ADDITIONAL INFORMATION FOR OXIDE CONVERSION BUILDING AND
EFFLUENT PROCESSING BUILDING AT THE BLEU COMPLEX SUBMITTAL
DATED APRIL 30, 2004, PUBLIC DISCLOSURE DETERMINATION
(TAC L31791)

Dear Ms. Moore:

This is in response to your letter and affidavit dated April 30, 2004 (NFS No. 21G-04-0060), requesting that attachment 2 (Nuclear Fuel Services', Inc. (NFS) response to the Nuclear Regulatory Commission's request for additional information for Oxide Conversion Building and Effluent Processing Building) to the letter from B. Marie Moore to the NRC, be withheld from public disclosure pursuant to 10 CFR 2.390.

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

1. The information contained in the cited documents has been held in confidence by NFS, in that it contains trade secrets or commercial information as specified in Title 10, Code of Federal Regulations, Part 2.390(a). The basis for requesting that these documents be withheld from public disclosure is explicitly marked on the cover page to each of the aforementioned documents and/or the top of each affected page, as appropriate, in accordance with 10 CFR 2.390(b)(i)(B).
2. The information contained in the cited documents is the intellectual property of NFS, and as such is customarily held in confidence by NFS. As such, NFS has customarily submitted privileged and confidential information of this type to the NRC and to its predecessor, the Atomic Energy Commission, in confidence.
3. The information contained in the cited documents has not been made available to public sources by NFS, nor has the NFS authorized that it be made available. In accordance with NFS policies governing the protection and control of information, proprietary information contained herein has been made available, on a limited basis, to others outside of NFS only as required and under suitable agreement providing for nondisclosure and limited use of the information.
4. The public disclosure of the information contained in the cited documents is likely to cause substantial economic harm to the competitive advantage held by NFS. The basis for withholding said information is that it contains distinguishing aspects of a process, methodology, or components, the exclusive use of which provides a competitive advantage for NFS in product optimization or marketability.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(6) and Section 103(b) of the Atomic Energy Act of 1954, as amended. The non-proprietary versions, which you submitted by letter dated April 30, 2004 (NFS No. 21G-04-0060), will be made publicly available.

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 should also 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, please contact Mike Lamastra of my staff at (301) 415-8139 or by e-mail at mxl2@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Robert C. Pierson, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-143
License: SNM-124

May 19, 2004

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Robert C. Pierson, Director
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Docket: 70-143
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OFC	FCFB	FCFB	OGC	FCFB	FCFB	FCSS
NAME	M. Lamastra	J. Muszkiewicz	S. Treby	J. Lubinski	G. Janosko	R. Pierson
DATE	5/6/04	5/7/04	5/7/04	5/17/04	5/17/04	5/19/04