

January 29, 2009

Mr. Jeffrey R. Williams, Manager  
Licensing Support  
US Department of Energy  
Office of Civilian Radioactive  
Waste Management, RW-6  
1000 Independence Avenue, SW  
Washington, DC 20585

SUBJECT: YUCCA MOUNTAIN – REQUEST FOR WITHHOLDING FROM PUBLIC DISCLOSURE – RE: U.S DEPARTMENT OF ENERGY RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION (RAI) REGARDING VOLUME 2, CHAPTER 2.1.1.3, IDENTIFICATION OF HAZARDS AND INITIATING EVENTS, 1<sup>st</sup> SET, RAI #2

Dear Mr. Williams:

By letter dated December 23, 2008, the U.S. Department of Energy (DOE) submitted an affidavit (Enclosure 1 to that letter), executed by Public Services of Arizona, requesting that information in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10CFR) Section 2.390:

NUS-1416 Revision 1, Estimate of the Probability That an Aircraft Will Impact the Palo Verde Nuclear Generating Station, June 1975.

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

- (i) The NUS Report has and presently is maintained in confidence by Arizona Public Service Company (APS).
- (ii) The information is of a type customarily held in confidence by APS and not customarily disclosed to the public.
  - (a) Public Disclosure of the NUS Report is likely to cause substantial harm to APS's position.
  - (b) The NUS Report contains information that could be useful to a potential adversary with malevolent intent and should be withheld from public disclosure.
  - (c) Specifically, the NUS Report contains descriptions of air activity in the vicinity of Palo Verde, including commercial, military and general aviation aircraft, and analyzes probability of impact of those aircraft over a potentially affected plant area.

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 and Sensitive Unclassified Non-Safeguards Information (SUNSI) that should be withheld from public disclosure.

Therefore, we have determined that the topical report, "NUS-1416 Revision 1, Estimate of the Probability That an Aircraft Will Impact the Palo Verde Nuclear Generating Station, June 1975", marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.390.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. 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 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 U. S. Nuclear Regulatory Commission (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) 492-3265.

Sincerely,

**/RA/**

Christian Jacobs, Senior Project Manager  
Project Management Branch Section B  
Division of High Level Waste  
Repository Safety  
Office of Nuclear Material Safety and  
Safeguards

Docket No. 63-001

cc: See enclosed list

Letter to J. Williams from C. Jacobs dated: January 29, 2009

cc:

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Sincerely,

Christian Jacobs, Senior Project Manager  
Project Management Branch Section B  
Division of High Level Waste  
Repository Safety  
Office of Nuclear Material Safety and  
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Docket No. 63-001

cc: See enclosed list

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