

August 24, 2012

Mr. Pedro Salas, Manager  
U.S. EPR New Plants Regulatory Affairs  
AREVA NP Inc.  
3315 Old Forest Road  
P.O. Box 10935  
Lynchburg, VA 24506-0935

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC  
DISCLOSURE OF PROPRIETARY MATERIALS REGARDING  
"RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION NO. 538,  
SUPPLEMENT 1"

Dear Mr. Salas:

By letter dated April 23, 2012, and associated affidavit executed by Jayant Bondre November 16, 2009 (Agency wide Documents Access and Management System (ADAMS) Accession No. ML12136A305), you submitted a document, "Response to Request for Additional Information (RAI) No. 538, Supplement 1." You requested that this document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 390.

A proprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room and added to the ADAMS Public Electronic Reading Room (ADAMS Accession No. ML12136A307). The affidavit stated that the submitted information should be considered exempt from mandatory 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. and other owners of the information required expenditure of considerable 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 new and spent fuel storage racks.

- d) The information required significant effort and expense to prepare this technical report for submittal 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 details and analyses related to Transnuclear, Inc.'s design for new and spent fuel storage racks, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to modify their product to unfairly get a better competitive position with Transnuclear, Inc., take marketing or other actions to improve their product's position or impair the position of Transnuclear, Inc.'s product, while avoiding the expense of 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.

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 should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary 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 staff. You also should understand that the NRC staff 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 staff makes a determination adverse to the above, you will be notified in advance of any public disclosure.

P. Salas

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If you have any questions regarding this matter, I may be reached at 301-415-3361.

Sincerely,

***/RA/***

Getachew Tesfaye, Senior Project Manager  
Licensing Branch 1  
Division of New Reactor Licensing  
Office of New Reactors

Docket No.: 52-020

cc: See next page

P. Salas

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Sincerely,

*/RA/*

Getachew Tesfaye, Senior Project Manager  
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Division of New Reactor Licensing  
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Docket No.: 52-020

cc: See next page

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NRO-002

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(Revised 02/17/2012)

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