

McCallie, Karen

From: Blamey, Alan
Sent: Friday, August 23, 2013 4:56 PM
To: McCallie, Karen
Cc: Stancil, Charles; Toth, Matthew; Ramsey, Kevin
Subject: FW: NFS Nuclear Safety Culture Assessment (NSCA)
Attachments: ML13211A164 (C.O.)18Jul2013.pdf; ML13227A206.pdf

Karen, please enter this email and the attachments into ADAMS.

-----Original Message-----

From: Blamey, Alan
Sent: Friday, August 23, 2013 4:54 PM
To: 'Barbara A Oneal'
Cc: Ramsey, Kevin
Subject: RE: NFS Nuclear Safety Culture Assessment (NSCA)

Ms. O'Neal,

Kevin Ramsey and I discussed this issue in late July after we received Nuclear Fuels Services (NFS) safety culture assessment transmittal. After completing our review, we concluded that NFS would need to provide additional information to support granting protection from disclosure. Therefore, we issued the attached letter on August 14, 2013 to request additional information. Without additional information we will be unable to conclude that the affidavit is sufficient and will not be able to grant protection from disclosure. I have attached the Agency's response (ML13227A206) to NFS's request for protection from disclosure.

If you have additional questions concerning this matter, please feel free to contact me at 404-997-4415.

-----Original Message-----

From: Barbara A Oneal [<mailto:barbaraoneal@embarqmail.com>]
Sent: Wednesday, August 14, 2013 11:34 AM
To: Ramsey, Kevin
Subject: NFS Nuclear Safety Culture Assessment (NSCA)

Kevin:

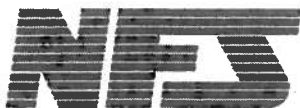
Reference the attached document from NRC ADAMS (ML13211A164), dated July 18, 2013, added to ADAMS on July 31, 2013, subject: Information to Fulfill Confirmatory Order, Section V, Paragraph 5.b.

The 2007/2008 and the 2009/2010 Independent Safety Culture Assessments of Nuclear Fuel Services, Inc., Erwin, TN. were made public. However, it appears that the latest independent safety assessment is being hidden from the public under the guise of "Proprietary Information," and we do not believe this is the right thing for the NRC to do or allow to be done since it involves public safety.

"Safety" and "Security" are two different things. Therefore, we request that NRC not let this licensee hide important safety information from the public even if it has to be redacted by the NRC prior to public release.

Thank you,
Barbara O'Neal
f/Erwin Citizens Awareness Network, Inc.
P. O. Box 1151

Erwin, TN 37650



NUCLEAR FUEL SERVICES, INC.
a subsidiary of The Babcock & Wilcox Company

1705 Banner Hill Road ■ Bristol, TN 37620 ■ phone: (615) 743-9141
www.nuclearfuelservices.com

21G-13-0160
GOV-01-55-04
ACF-13-0189

July 18, 2013

Mr. Victor McCree
Regional Administrator
U.S. Nuclear Regulatory Commission
Region II
245 Peachtree Center Ave., NE, Suite 1200
Atlanta, GA 30303-1257

- References: 1) Docket No. 70-143; SNM License 124
2) NRC Confirmatory Order (NRC Office of Investigation Report No. 2-2010-001), dated November 16, 2010 (EA-10-076)

Subject: Information to Fulfill Confirmatory Order, Section V, Paragraph 5.b

Dear Sir:

As required by Reference 2 above, Nuclear Fuel Services, Inc. (NFS) hereby submits the results of a third party Nuclear Safety Culture Assessment (NSCA) conducted using a variety of appropriate assessment tools. As noted by the NSCA consultant, the assessment results are "Acceptable" overall. Of the ten (10) Nuclear Safety Culture traits, NFS' safety culture survey mean scores are at the "Acceptable" level on six (6) of the ten (10). Three (3) of the remaining Traits means are within 0.1 point of being at the "Acceptable" level and, given rounding errors, this difference is so small that arguably one could have placed them at the "Acceptable" level. Only one (1) trait is clearly at the "Opportunity for Improvement" Level, which NFS had noted through prior assessments with improvement actions underway. Although the assessment methods were not identical, it is clear that sufficient improvement has been made since the previous 2009/2010 Independent Safety Culture Assessment and that the majority of NFS employees, with greater than 80% indicating agreement, believe safety culture has improved in the past two (2) years. This sustainment clearly correlates with the Licensee Performance Review (LPR) results of "No Areas Needing Improvement" for the past two (2) review periods.

The information in the Attachment is considered proprietary in nature as set forth in the enclosed affidavit. Therefore, NFS requests that this information be withheld from public disclosure.

21G-13-0160
GOV-01-55-04
ACF-13-0189

If you or your staff have any questions, require additional information, or wish to discuss this, please contact me, or Mr. Mark Elliott, Quality, Safety, and Safeguards Director, at (423) 743-1705. Please reference our unique document identification number (21G-13-0160) in any correspondence concerning this letter.

Sincerely,

NUCLEAR FUEL SERVICES, INC.



Joseph G. Henry
President

WRS/pdj

Enclosure: Affidavit - Trade Secrets or Commercial Information

Attachment: Nuclear Safety Culture Assessment

21G-13-0160
GOV-01-55-04
ACF-13-0189

Copy:

✓ Director
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555-0001

Mr. Manuel Crespo
Project Inspector
U.S. Nuclear Regulatory Commission
Region II
245 Peachtree Center Ave., NE, Suite 1200
Atlanta, GA 30303-1257

Mr. Kevin Ramsey
Senior Project Manager
Fuel Manufacturing Branch
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Mr. Charles Stancil
Senior Resident Inspector
U.S. Nuclear Regulatory Commission

21G-13-0160
GOV-01-55-04
ACF-13-0189

Enclosure

Affidavit

TRADE SECRETS OR COMMERCIAL INFORMATION

(2 pages to follow)

21G-13-0160
GOV-01-55-04
ACF-13-0189

**AFFIDAVIT
TRADE SECRETS OR COMMERCIAL INFORMATION**

I, Mark P. Elliott, Quality, Safety, & Safeguards Director at Nuclear Fuel Services, Inc. (NFS), that to the best of my knowledge and beliefs, make the following representation contained herein:

- A. The following document(s) which Nuclear Fuel Services, Inc. (NFS) wishes to have withheld from public disclosure is:

***Attachment to letter (21G-13-0160), dated July 18, 2013:
Nuclear Safety Culture Assessment of Nuclear Fuel Services***

- B. The information contained in the document(s) cited in A above has been held in confidence by Nuclear Fuel Services, Inc. (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 this document(s) 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).
- C. The information contained in the document(s) cited in A above is the intellectual property of Nuclear Fuel Services, Inc. (NFS), and as such is customarily held in confidence by Nuclear Fuel Services, Inc. (NFS). As such, Nuclear Fuel Services, Inc. (NFS) has customarily submitted privileged and confidential information of this type to the Nuclear Regulatory Commission (NRC) and to its predecessor, the Atomic Energy Commission (AEC), in confidence.
- D. The information contained in the document(s) cited in A above has not been made available to public sources by Nuclear Fuel Services, Inc. (NFS), nor has Nuclear Fuel Services, Inc. (NFS) authorized that it be made available. In accordance with Nuclear Fuel Services, Inc. (NFS) policies governing the protection and control of information, proprietary information contained herein has been made available, on a limited basis, to others outside NFS only as required and under suitable agreement providing for nondisclosure and limited use of the information.
- E. The public disclosure of the information contained in the document(s) cited in A above is likely to cause substantial economic harm to the competitive advantage held by Nuclear Fuel Services, Inc. (NFS). The basis for withholding said information is that it contains distinguishing aspects of a process, methodology, or component(s), the exclusive use of which provides a competitive advantage for NFS in product optimization or marketability.

21G-13-0160
GOV-01-55-04
ACF-13-0189

**AFFIDAVIT
TRADE SECRETS OR COMMERCIAL INFORMATION**

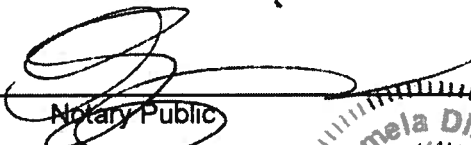
F. The proprietary information that Nuclear Fuel Services, Inc. (NFS) requests to be withheld from public disclosure is contained in the entire document(s) as so marked.



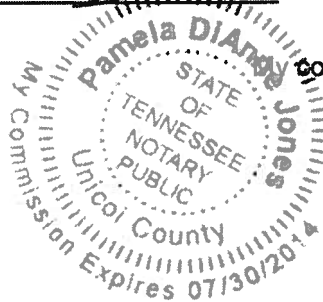
Quality, Safety, & Safeguards Director

07/18/13
Date

I certify the above named person appeared before me and executed this document on this the 18th day of July, 2013.



Notary Public



commission expires: 7/30/14



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

August 14, 2013

Mr. Joseph G. Henry
President
Nuclear Fuel Services
1205 Banner Hill Road
Erwin, TN 37560

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION

Dear Mr. Henry:

This refers to your letter of July 18, 2013, which forwarded the results of the third party nuclear safety culture assessment that was performed at Nuclear Fuel Services (NFS). The assessment was performed in response to a November 16, 2010, Confirmatory Order issued by the U.S. Nuclear Regulatory Commission (NRC). Enclosed with your letter was an affidavit executed by Mark Elliott of your staff, and requesting that the entire assessment report be withheld from public disclosure as trade secrets/commercial information pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.390.

Section 2.390(b)(1)(iii) of 10 CFR Part 2 of the Commission's regulations requires that each supporting affidavit contain a full statement of the reasons and bases for which non-disclosure is being requested. The section also requires the statement to "address with specificity" the considerations listed in 10 CFR 2.390(a)(4).

Your affidavit has been reviewed in light of the foregoing and the following issues of concern were identified:

- NFS states that "The information contained in the document has been held in confidence by NFS, in that it contains trade secrets or commercial information." Please explain with greater specificity: (1) how the safety culture assessment constitutes a trade secret, and (2) your basis for stating that this information has been held in confidence when prior safety culture assessments of NFS have been made publicly available.
- NFS states that "The information contained in the document is the intellectual property of NFS." Please explain, with greater specificity, your basis for concluding that the assessment is intellectual property, and your basis for distinguishing this assessment from prior assessments that were submitted on the docket without qualification.
- To the extent that the assessment contains "distinguishing aspects of a process, methodology or component(s)..." please explain what those processes, methodologies, and components are, and whether these aspects may be redacted or separated from the factual aspects of the assessment so that some portion(s) of the document may be made publicly available.

Accordingly, consideration should be given to supplementing the present record with additional information to address the above concerns. Given the current state of the record, we are unable to conclude at this time that your affidavit is sufficient, and the grant of protection from disclosure afforded by 10 CFR 2.390 is warranted.

In accordance with 10 CFR 2.390(c), the information sought to be withheld will be made publicly available 30 days after your receipt of this letter. If you have any questions regarding this matter, I may be reached at 404-997-4415.

Sincerely,

/RA/

Alan J. Blamey, Chief
Fuel Facility Inspection Branch 1
Division of Fuel Facility Inspection

Docket No. 70-143
License No. SNM-124

cc:

Joel Duling
Director, Operations
Nuclear Fuel Services, Inc.
Electronic Mail Distribution

Mark P. Elliott
Quality, Safety, & Safeguards Director
Nuclear Fuel Services, Inc.
Electronic Mail Distribution

Debra G. Shults
Director,
TN Department of Environment
and Conservation
Electronic Mail Distribution