



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555-0001

July 12, 1993

Docket No. 50-482

Mr. Forrest T. Rhodes
Vice President, Engineering
Wolf Creek Nuclear Operating Corporation
Post Office Box 411
Burlington, Kansas 66839

Dear Mr. Rhodes:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

By letter dated March 11, 1992, Wolf Creek Nuclear Operating Corporation (WCNOC) submitted the topical report "Wolf Creek Nuclear Operating Corporation Reload Safety Evaluation Methodology," and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790. WCNOC requested that the supplemental letter dated February 3, 1993, which responded to the NRC staff request for additional information, be withheld from public disclosure.

An affidavit from WCNOC, the owner of the information, was included in the March 11, 1992, letter. A revised affidavit was submitted by letter dated March 16, 1993. WCNOC stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

"(i) The information sought to be withheld from public disclosure has been held in confidence by WCNOC. The information is of a type customarily held in confidence by other organizations and not customarily disclosed to the public.

"Based on a review of 10 CFR 2.790, the information to be held in confidence falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

"(a) The information reveals the distinguishing aspects of a process or a method, when 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 relative to a process or a method, the application of which secures a competitive advantage.

"(c) Its use by another company would reduce its expenditure of resources or improve its competitive position in the design, assurance of quality, or licensing a similar product.

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"There are sound reasons behind the WCNOG position which include the following:

"(a) It is information which is marketable in many ways.

"(b) Use by other companies would put WCNOG at a competitive disadvantage by reducing their expenditure of resources at our expense.

"(c) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving WCNOG of a competitive advantage.

"(ii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.790, it is to be received in confidence by the Commission.

"(iii) The information sought to be protected is not available in public sources to the best of our knowledge and belief.

"(iv) The proprietary information sought to be withheld in this submittal is the Wolf Creek Nuclear Operating Corporation Reload Safety Evaluation Methodology.

"The subject information could only be duplicated by competitors if they were to invest time and effort equivalent to that invested by WCNOG provided they have the requisite talent and experience.

"Public disclosure of this information is likely to cause substantial harm to the competitive position of WCNOG because it would simplify design and evaluation tasks without requiring a commensurate investment of time and effort."

We have reviewed your submittal and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of Wolf Creek Nuclear Operating Corporation's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, we have determined that the document entitled "Wolf Creek Nuclear Operating Corporation Reload Safety Evaluation Methodology," and supplemental documents, marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

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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 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 needs additional information from you or makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

Original Signed By

Suzanne C. Black, Director
Project Directorate IV-2
Division of Reactor Projects III/IV/V
Office of Nuclear Reactor Regulation

cc: See next page

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Mr. Forrest T. Rhodes

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