



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

October 25, 1990

Docket No. 50-482

Mr. Bart D. Withers
President and Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
Post Office Box 411
Burlington, Kansas 66839

Dear Mr. Withers:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

By letters dated August 21, 1990, and affidavits dated August 20, 1990, you submitted documents entitled "Core Thermal-Hydraulic Analysis Methodology for the Wolf Creek Generating Station" and "Rod Exchange Methodology for Startup Physics Testing" and requested that they be withheld from public disclosure pursuant to 10 CFR 2.790.

Wolf Creek Nuclear Operating Corporation (WCNOC) stated that the 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, where 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.
- "(d) It is not the property of WCNOC, but must be treated as proprietary by WCNOC according to agreements with the owners of the information.

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

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

"(b) Use by other companies would put WCNOC 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 WCNOC 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 these submittals are the Core Thermal-Hydraulic Analysis Methodology topical report, dated July, 1990 and the Rod Exchange Methodology for Startup Physics Testing topical report, dated July, 1990.

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

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

We have reviewed your submittals and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of WCNOC'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 documents entitled "Core Thermal-Hydraulic Analysis Methodology for the Wolf Creek Generating Station" and "Rod Exchange Methodology for Startup Physics Testing" 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.

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)

James C. Linville, Acting Director
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Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation

cc: See next page

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October 25, 1990

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