

June 10, 2003

Mr. U. B. Chopra  
Licensing Manager  
Transnuclear Inc.  
39300 Civic Center Drive, Suite 280  
Fremont, CA 94538-2324

SUBJECT: PUBLIC DISCLOSURE DETERMINATION (TAC NO. L23343)

Dear Mr. Chopra:

By letter dated March 1, 2002, Transnuclear, Inc., (TN) submitted proprietary ANSYS files for Amendment No. 5 to the NUHOMS® Certificate of Compliance (CoC) No. 1004. By letter dated January 24, 2003, TN submitted Revision No. 4 of application for Amendment No. 5 to the NUHOMS® CoC No. 1004. The January 24, 2003, submittal contained proprietary ANSYS files and a proprietary calculation. By letter dated April 3, 2003, TN submitted a supplement to Revision No. 5 of application for Amendment No. 5 to the NUHOMS® CoC No. 1004. The April 3, 2003, submittal contained a proprietary calculation. By letter dated April 18, 2003, TN submitted Revision No. 6 of application for Amendment No. 5 to the NUHOMS® CoC No. 1004. The April 18, 2003, submittal contained a proprietary calculation. TN requested to withhold their proprietary ANSYS files and calculations from public disclosure pursuant to 10 CFR 2.790. These files and calculations include:

- March 1, 2002, ANSYS files (Proprietary)
- January 24, 2003, ANSYS files (Proprietary)
- January 24, 2003, Calculation NUH32PT.0408, Revision 0 (Proprietary)
- April 3, 2003, Calculation NUH32PT.0413 (Proprietary)
- April 18, 2003, Calculation NUH32PT.0413 Revision 0 (Proprietary)

The letter dated March 1, 2002, included an affidavit executed by William Gallo on March 1, 2002, that requested the ANSYS files be withheld from public disclosure pursuant to 10 CFR 2.790. The letter dated January 24, 2003, included an affidavit executed by William Gallo on January 22, 2003, that requested the calculation package and corresponding ANSYS input files be withheld from public disclosure pursuant to 10 CFR 2.790. The letter dated April 3, 2003, included an affidavit executed by Jayant Bondre on April 3, 2003, that requested the calculation package and corresponding input files be withheld from public disclosure pursuant to 10 CFR 2.790. The letter dated April 18, 2003, included an affidavit executed by William Gallo on April 18, 2003, that requested the calculation package and corresponding input files be withheld from public disclosure pursuant to 10 CFR 2.790.

The affidavits state that the submitted information should be withheld from public disclosure for the following reasons:

- (1) The information sought to be withheld from public disclosure is owned and has been held in confidence by TN.
- (2) The information is of a type customarily held in confidence by TN, is not customarily disclosed to the public and is transmitted to, and to be received by, the Commission in confidence.
- (3) The information, to the best of TN's knowledge and belief, is not available in public sources and the release of such information might result in a loss of competitive advantage.
- (4) Public disclosure of the information is likely to cause substantial harm to the competitive position of Transnuclear, Inc., because:
  - (a) A similar product is manufactured and sold by competitors of Transnuclear, Inc.
  - (b) The information consists of a description of the design and analysis of a dry spent fuel storage and transportation system, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to modify their product to better compete with Transnuclear, Inc., take marketing or other actions to improve their product's position or impair the position of Transnuclear, Inc.'s product, and avoid developing similar data and analyses in support of their processes, methods or apparatus.

Based on your March 1, 2002, January 24, 2003, April 3, 2003, and, April 18, 2003, submittals, our review of the proprietary information listed, and the requirements of 10 CFR 2.790, we have determined that this information is proprietary commercial information and should be withheld from public disclosure pursuant to 10 CFR 2.790. It is the U.S. Nuclear Regulatory Commission's (NRC's) policy to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised of the basis for and effects of licensing and rulemaking actions.

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 disclosure should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. Please be advised 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 withheld 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.

Sincerely,

/RA/

Mary Jane Ross-Lee, Senior Project Manager  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

Docket No. 72-1004  
TAC No. L23343

June 10, 2003

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Mary Jane Ross-Lee, Senior Project Manager  
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