

July 30, 2003

Mr. James F. Mallay
Director, Regulatory Affairs
Framatome ANP
3315 Old Forrest Road
Lynchburg, VA 24506

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE PER SECTION 2.790 OF TITLE 10 OF THE *CODE OF
FEDERAL REGULATIONS* FOR SOUTH TEXAS PROJECT, UNIT 1
(TAC NO. MB9696)

Dear Mr. Mallay:

By letter to the U. S. Nuclear Regulatory Commission (NRC) dated July 3, 2003, and affidavit dated July 2, 2003, executed by you, Mr. James F. Mallay, Director, Regulatory Affairs, Framatome ANP (FANP), South Texas Project Nuclear Operating Company submitted "Supplemental Response to Request for Additional Information Regarding Request for Alternative RR-ENG-2-32," and requested that pursuant to the provisions of paragraph (b)(4) of Section 2.790 of Title 10 of the *Code of Federal Regulations* (10 CFR), Framatome drawing 502754E, Revision 2, "Bottom Mounted Instrumentation Nozzle Repair," with Supplement Number 5 dated June 17, 2003, be withheld from public disclosure.

During the telephone conversation on July 21, 2003, Mr. James F. Mallay stated that with reference to the affidavit, the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (a) The information reveals details of FANP's research and development plans and programs or their results.
- (b) Use of the information by a competitor would permit the competitor to significantly reduce its expenditures, in time or resources, to design, produce, or market a similar product or service.
- (d) The information reveals certain distinguishing aspects of a process, methodology, or component, the exclusive use of which provides a competitive advantage for FANP in product optimization or marketability.
- (e) The information is vital to a competitive advantage held by FANP, would be helpful to competitors to FANP, and would likely cause substantial harm to the competitive position of FANP.

The NRC staff has reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, has determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the submitted information 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 documents. If the need arises, the NRC may send copies of this information to consultants working in this area. In this event, the NRC will 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, Framatome ANP should promptly notify the NRC. Framatome ANP also should understand that the NRC may have cause to review this determination in the future, e.g., if the scope of a Freedom of Information Act request includes your 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.

If you have any questions regarding this matter, please contact me at 301-415-1476.

Sincerely,

/RA/

Mohan C. Thadani, Senior Project Manager, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-498

cc: See next page

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*See previous concurrences

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South Texas, Unit 1

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May 2003

South Texas, Unit 1

-2-

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