

February 17, 2004

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

SUBJECT: PUBLIC DISCLOSURE DETERMINATION

Dear Mr. Chopra:

By letter dated November 28, 2003, Transnuclear Inc. (TN) submitted Revision 7 of the Final Safety Analysis Report (FSAR) for the Standardized NUHOMS® System. The November 28, 2003, submittal contained proprietary and non-proprietary versions of the proposed changes to the FSAR for the Standardized NUHOMS® System. The non-proprietary version of the submittal has been made available electronically for public inspection in the U.S. Nuclear Regulatory Commission's (NRC) Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

The information sought to be withheld from public disclosure by TN is the FSAR for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Revision 7 (Proprietary Version). TN's letter included an affidavit executed by William D. Gallo, on November 24, 2003, that requested the above listed document to be withheld from public disclosure pursuant to 10 CFR 2.790. The affidavit states that the submitted information should be withheld from public disclosure for the following reasons:

- (1) A similar product is manufactured and sold by competitors of TN.
- (2) Development of this information required a significant investment of labor and money. A competitor would have to undergo similar expense in order to generate equivalent information.
- (3) In order to acquire such information, a competitor would also require considerable time and inconvenience related to the development of a design and analysis of a dry spent fuel storage system.
- (4) The information consists of 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 TN's products.

- (5) In pricing TN's products and services, significant research, development, engineering, and other costs and expenses must be considered. The ability of TN's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.

Based on your November 28, 2003, submittal, 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 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 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
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-1004

- (5) In pricing TN's products and services, significant research, development, engineering, and other costs and expenses must be considered. The ability of TN's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.

Based on your November 28, 2003, submittal, 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 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 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
 Licensing Section
 Spent Fuel Project Office
 Office of Nuclear Material Safety
 and Safeguards

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