

May 5, 2004

Mr. Marc-André Charette
Regulatory Affairs Senior Associate
MDS Nordion
447 March Road
Ottawa, ON K2K 1X8
Canada

SUBJECT: MDS NORDION, REQUEST FOR WITHHOLDING INFORMATION FROM
PUBLIC DISCLOSURE FOR THE SAFETY ANALYSIS REPORT FOR THE
F-431 TRANSPORT PACKAGE (TAC L23617)

Dear Mr. Charette:

By letter dated April 16, 2004, MDS Nordion submitted an affidavit dated April 16, 2004, executed by Mr. E. S. Martell requesting that the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390:

MDS Nordion's document No. IN/TR 1913 F-431 (2), "F-431 Transport Package
Safety Analysis Report"

A nonproprietary copy of this document has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

The information contained in the MDS Nordion's document No. IN/TR 1913 F-431 (2), "F-431 Transport Package Safety Analysis Report," is the property of MDS Nordion. This document contains proprietary information related to the design of the F-431 transport package.

MDS Nordion has expended extensive funds and manpower in developing the aforementioned document and any release for disclosure of such information to third parties would enable and assist third parties to use the information to fabricate and register a similar transport package without incurring any development costs. This could compromise MDS Nordion's ability to compete in the marketplace.

The information has been held in confidence by MDS Nordion, and any disclosure thereof for developmental purposes, has been accompanied by a confidentiality agreement protecting the trade secrets contained herein.

The information has been transmitted to and received by the Nuclear Regulatory Commission in the United States in confidence.

This information is not available in public sources.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(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, 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 also should 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 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, I may be reached at 301-415-8531.

Sincerely,

/RA/

Stewart W. Brown, Senior Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 71-9310

cc: Mr. E. S. Martell, MDS Nordion

This information is not available in public sources.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(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, 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 also should 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 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, I may be reached at 301-415-8531.

Sincerely,

/RA/

Stewart W. Brown, Senior Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 71-9310

cc: Mr. E. S. Martell, MDS Nordion

ML041280129

DISTRIBUTION:

PUBLIC NRC File Center Docket File 71-9310 R. Temps S. Baggett
R. Bellamy, I D. Collins, II J. Madera, III B. Spitzberg, IV L. Psyk (NMSS GAP Coordinator)
C:\ORPCheckout\FileNET\ML041280129.wpd * previously concurred

OFC	SFPO	E	SFPO	C	OGC*		SFPO			
NAME	SBrown*		MDeBose*				JMonninger			
DATE	04/19/04		04/20/04		04/27/04		05/05/04			

C = COVER E = COVER & ENCLOSURE

N = NO COPY

OFFICIAL RECORD COPY