

February 15, 2012

Mr. Edward Wallace, Senior Vice President
Regulatory Affairs
NuScale Power, LLC
1100 NE Circle Blvd, Suite 350
Corvallis, OR 97330

SUBJECT: WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE
FOR THE "NUSCALE POWER RESPONSE TO RIS 2011-02, REVISION 1
(NRC PROJECT 0769)"

Dear Mr. Wallace:

By letter dated February 10, 2012, NuScale Power, LLC (NuScale) submitted an affidavit (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML 120440592 and ML120440595, respectively), in which you requested that information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

"NuScale Power Response to RIS 2011-02, Revision 1 (NRC Project No. 0769)",
(ADAMS Accession No. ML120440599)

A nonproprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room and added to the NRC Library in ADAMS, Accession No. ML120440597.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure, based on the considerations set forth in 10 CFR § 2.390(b)(4) for the following reasons:

- (a) The information sought to be withheld has been held in confidence by NuScale.
- (b) The information is of a sort customarily held in confidence by NuScale and, to the best of my knowledge and belief, consistently has been held in confidence by NuScale. The procedure for approval of external release of such information typically requires review by the staff manager, project manager, chief technology officer or other equivalent authority, or the manager of the cognizant marketing function (or his delegate), for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside NuScale are limited to regulatory bodies, customers and potential customers and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or agreements to maintain confidentiality.
- (c) The information is being transmitted to and received by the NRC in confidence.

- (d) No public disclosure of the information has been made, and it is not available from public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made or must be made, pursuant to regulatory provisions or agreements that provide for maintenance of the information in confidence.
- (e) Public disclosure of the information is likely to cause substantial harm to the competitive position of NuScale, taking into account the value of the information to NuScale, the amount of effort and money expended by NuScale in developing the information, and the difficulty others would have in acquiring or duplicating the information. The information sought to be withheld is part of NuScale's business strategy that provides NuScale with a competitive advantage over other firms in the industry. It reveals distinguishing aspects of an approach and schedule developed by NuScale at considerable time and expense. Its use by a competitor would reduce the time and expense to develop a competitive business strategy, and thereby improve the competitor's position in the design and licensing of a similar product that is responsive to regulatory and market needs.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, 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. All consultants are governed by nondisclosure language in their contracts or laboratory agreements with the NRC.

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.

E. Wallace

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If you have any questions regarding this matter, I may be reached at 301-415-0546.

Sincerely,

/RA/

Gregory V. Cranston, Senior Project Manager
Projects Branch
Division of Advanced Reactors and Rulemaking
Office of New Reactors

Project No.: 0769

cc: DC NuScale Power Mailing List

E. Wallace

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ADAMS Accession No.: ML120460032

NRO-002

OFFICE	PM:NRO/DARR/APRB	PM:NRO/DARR/APRB
NAME	MJones	GCranston
DATE	02/15/2012	02/15/2012

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DC NuScale Power, LLC
cc:

(Revised 01/26/2012)

Mr. Lionel Batty
Nuclear Business Team
Graftech
12300 Snow Road
Parma, OH 44130

Russell Bell
Nuclear Energy Institute
1776 I Street, NW
Suite 400
Washington, DC 20006-3708

Mr. Ian M. Grant
Canadian Nuclear Safety Commission
280 Slater Street, Station B
P.O. Box 1046
Ottawa, Ontario
K1P 5S9

Mr. Eugene S. Grecheck
Vice President
Nuclear Support Services
Dominion Energy, Inc.
5000 Dominion Blvd.
Glen Allen, VA 23060

Michael L. Hammond
Technological Hazards Program Office
Radiological Emergency Preparedness
Program, Region X
U.S. Department of Homeland Security
130 228th Street, SW
Bothell, WA 98021

Mr. Brendan Hoffman
Research Associate on Nuclear Energy
Public Citizens Critical Mass Energy and
Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Dobie McArthur
Director, Washington Operations
General Atomics
1899 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006

Mr. David Repka
Winston & Strawn LLP
1700 K. Street, NW
Washington, DC 20006-3817

Carlos Sisco
Senior Paralegal
Winston & Strawn LLP
1700 K Street NW
Washington, DC 20006

Ross Snuggerud
NuScale, SRO
P.O. BOX 2710
Corvallis, OR 97339-2710

Mr. Robert E. Sweeney
IBEX ESI
4641 Montgomery Avenue
Suite 350
Bethesda, MD 20814

Kent Welter
NuScale Safety
P.O. Box 2710
Corvallis, OR 97339-2710

DC NuScale Power, LLC

Email

Alan.Levin@areva.com (Alan Levin)
APH@NEI.org (Adrian Heymer)
awc@nei.org (Anne Cottingham)
badwan@lanl.gov (Faris Badwan)
bellesrj@ornl.gov (Randall Belles)
bevardbb@ornl.gov (Bruce Bevard)
BrinkmCB@westinghouse.com (Charles Brinkman)
cee@nei.org
charles.bagnal@ge.com (Charles Bagnal)
collinlj@westinghouse.com (Leslie Collins)
curtisslaw@gmail.com (Jim Curtiss)
david.hinds@ge.com (David Hinds)
david.lewis@pillsburylaw.com (David Lewis)
dbotha@nuscalepower.com
dchapin@mpr.com (Douglas Chapin)
deborah@hyperionpowergeneration.com (Deborah Ann Blackwell)
don.tormey@iub.iowa.gov
duane.fournier@iub.iowa.gov
ed.burns@earthlink.net (Ed Burns)
elyman@ucsusa.org (Ed Lyman)
erg-xl@cox.net (Eddie R. Grant)
ewallace@nuscalepower.com (Ed Wallace)
flanagangf@ornl.gov (George Flanagan)
gcesare@enercon.com (Guy Cesare)
ggeaney@mpr.com (George Geaney)
jahalfinger@babcock.com (Jeff Halfinger)
james.beard@gene.ge.com (James Beard)
jerald.head@ge.com (Jerald G. Head)
Jim.Kinsey@inl.gov (James Kinsey)
jim.riccio@wdc.greenpeace.org (James Riccio)
jim.sundermeyer@iub.iowa.gov
JNR@NuScalePower.com (Jose N. Reyes)
kerri.johannsen@iub.iowa.gov
klingscl@westinghouse.com (Charles King)
kouhestani@msn.com (Amir Kouhestani)
KSutton@morganlewis.com (Kathryn M. Sutton)
larry.shi@oca.iowa.gov (Larry Shi)
larry.stevens@iub.iowa.gov
lchandler@morganlewis.com (Lawrence J. Chandler)
libby.jacobs@iub.iowa.gov
mack.thompson@iub.iowa.gov
maria.webb@pillsburylaw.com (Maria Webb)
mark.a.giles@dom.com (Mark Giles)
mark.beaumont@wsms.com (Mark Beaumont)

DC NuScale Power, LLC

mark.holbrook@inl.gov (Mark Holbrook)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
murawski@newsobserver.com (John Murawski)
parveen.baig@iub.iowa.gov
patriciaL.campbell@ge.com (Patricia L. Campbell)
Paul@beyondnuclear.org (Paul Gunter)
pbessette@morganlewis.com (Paul Bessette)
pcarlone@mpr.com (Pete Carlone)
plarimore@talisman-intl.com (Patty Larimore)
PLorenzini@NuScalePower.com (Paul Lorenzini)
poorewpiil@ornl.gov (Willis P. Poore III)
rbarrett@astminc.com (Richard Barrett)
ronald.polle@oca.iowa.gov
rvijayku@bechtel.com (Rajgopal Vijaykumar)
sandra.sloan@areva.com (Sandra Sloan)
sfrantz@morganlewis.com (Stephen P. Frantz)
shobbs@enercon.com (Sam Hobbs)
spellmandj@ornl.gov (Donald J. Spellman)
stan.wolf@iub.iowa.gov
stephan.moen@ge.com (Stephan Moen)
steven.hucik@ge.com (Steven Hucik)
steven.m.mirsky@saic.com (Steve Mirsky)
Tansel.Selekler@nuclear.energy.gov (Tansel Selekler)
timothy.beville@nuclear.energy.gov (Timothy Beville)
TJKim@babcock.com (T.J. Kim)
tom.miller@hq.doe.gov (Tom Miller)
tom.miller@nuclear.energy.gov (Thomas P. Miller)
trsmith@winston.com (Tyson Smith)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
whorin@winston.com (W. Horin)