

August 14, 2009

Mr. Albert Kennedy, Licensing Manager
GE Hitachi Global Laser Enrichment
P.O. Box 780
3901 Castle Hayne Road
Wilmington, NC 28402

SUBJECT: APPROVAL OF GENERAL ELECTRIC-HITACHI REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Kennedy:

On June 24, 2009, Mr. Matthew Allen transmitted a facility clearance application applicable to the protection of classified matter for the proposed General Electric-Hitachi (GEH) laser enrichment facility project located in Wilmington, North Carolina. In the letter, Mr. Allen attached several affidavits requesting that information related to the facility clearance application be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390. Mr. Allen did not provide a non-proprietary version of the information.

On August 6, 2009, Mr. Allen transmitted changes to the facility clearance application and also included several affidavits requested that information related to the facility clearance application changes be withheld from public disclosure.

In these letters, the following affidavits were submitted:

1. Affidavit, dated June 17, 2009, signed by Mr. Albert Kennedy stating that GEH Global Laser Enrichment, LLC, wishes to withhold, from public disclosure, Enclosures 4, 5, and 6 of the June 24, 2009, letter from Mr. Allen as proprietary information. Enclosures 4, 5, and 6 contained the GEH Physical Security Plan, the Classified Matter Transportation Plan, and the Security Plan Regulation Review Matrix.
2. Affidavit, dated June 5, 2009, signed by Ms. Tammy Orr stating that GEH Global Laser Enrichment, LLC, wishes to withhold, from public disclosure, Schedules A, B, C, E, F, and G in Attachment 1 of the June 24, 2009, letter from Mr. Allen. These schedules include corporate and financial information for the Foreign Ownership Control and Influence (FOCI) submittal required for the facility clearance.
3. Affidavit, dated June 5, 2009, signed by Mr. John Fuller stating that GEH Nuclear Energy Americas, LLC; GEH Nuclear Energy Holdings, LLC; and GEH Holding LLC wish to withhold, from public disclosure, Schedules A, B, C, E, F, and G in Attachments 2, 3, and 4 of the June 24, 2009, letter from Mr. Allen. These schedules include corporate and financial information for the FOCI submittal required for the facility clearance.
4. Affidavit, dated May 26, 2009, signed by Mr. Scott Melbye stating that Cameco Enrichment Holdings, LLC, wishes to withhold, from public disclosure, Schedules A, B, C, E, F, and G in Attachment 5 of the June 24, 2009, letter from Mr. Allen. These

schedules include corporate and financial information for the FOCI submittal required for the facility clearance.

5. Affidavit, dated May 26, 2009, signed by Mr. Scott Melbye stating that Cameco U.S. Holdings, LLC, wishes to withhold, from public disclosure, Schedules A, B, C, E, F, and G in Attachment 6 of the June 24, 2009, letter from Mr. Allen. These schedules include corporate and financial information for the FOCI submittal required for the facility clearance.
6. Affidavit, dated June 15, 2009, signed by Ms. Tillie Lim stating that Hitachi America, Ltd., wishes to withhold, from public disclosure, Schedules A, B, C, E, F, and G in Attachment 7 of the June 24, 2009, letter from Mr. Allen. These schedules include corporate and financial information for the FOCI submittal required for the facility clearance.
7. Affidavit, dated August 5, 2009, signed by Ms. Tammy Orr stating that GEH Global Laser Enrichment, LLC, wishes to withhold, from public disclosure, commercial information in Enclosure 1 of the August 6, 2009, letter from Mr. Allen amending its FOCI submittal.
8. Affidavit, dated August 5, 2009, signed by Mr. John Fuller stating that GEH Nuclear Energy Americas, LLC; GEH Nuclear Energy Holdings, LLC; and GEH Holding LLC wishes to withhold, from public disclosure, commercial information in Enclosure 2, 3, and 4 of the August 6, 2009, letter from Mr. Allen amending its FOCI submittal.
9. Affidavit, dated August 6, 2009, signed by Ms. Tillie Lim stating that Hitachi America, Ltd., wishes to withhold, from public disclosure, commercial information in Enclosure 5 of the August 6, 2009, letter from Mr. Allen amending its FOCI submittal.

In the above affidavits, Mr. Kennedy, Ms. Orr, Mr. Fuller, Mr. Melbye, and Ms. Lim stated that the above documents should be withheld from public disclosure for the following reasons:

1. Information that reveals commercial and financial information regarding the plans or operations of the company.
2. The information is being submitted to the U.S. Nuclear Regulatory Commission (NRC) in confidence and is information that is typically held in confidence by the company and is in fact held in confidence by the company; and
3. The information has the potential to result in substantial harm to the competitive position of the company and reduce or foreclose the availability of profit opportunities.

Mr. Kennedy, Ms. Orr, and Mr. Fuller also stated that information, if used by a competitor, would reduce its expenditure of resources or improve its competitive position.

We have reviewed the justification that Mr. Kennedy provided in accordance with the requirement of 10 CFR 2.390. On the basis of these statements, we have determined that the information in Enclosure 6, the Security Plan Regulation Review Matrix, of the June 24, 2009, letter from Mr. Allen is proprietary. We have not identified any proprietary information in Enclosures 4 and 5, the GEH Physical Security Plan and the Classified Matter Transportation

Plan. However, because these documents are security-related, we will withhold the Enclosures 4 and 5 from public disclosure as requested.

We also reviewed the justification that Ms. Orr, Mr. Fuller, Mr. Melbye, and Ms. Lim provided in accordance with the requirements of 10 CFR 2.390 and, on the basis of these statements, have determined that the information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Withholding information 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 NRC. You should also 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, please contact Mr. Timothy C. Johnson at (301) 492-3121, or via e-mail at timothy.johnson@nrc.gov.

Sincerely,

/RA/

Brian W. Smith, Chief
Uranium Enrichment Branch
Fuel Facility Licensing Directorate
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No.: 70-7016

cc:	William Szymanski/DOE	Bruce Shell/New Hanover County
	Patricia Campbell/GEH	Marty Lawing/Brunswick County
	Robert Brown/GEH	George Brown/Pender County
	Tammy Orr/GEH	Bill Saffo/Wilmington
	Mike Giles/CFC	Malissa Talbert/Wilmington
	Tom Clements/FOTE	Wanda Lagoe/NCOSH
	David Springer/CFRW	Cameron Weaver/NCDENR
	Stephen Rynas/NCDENR	Emily Hughes/USACE
	Jennifer Braswell/New Hanover County	Lee Cox/NCDENR
	Christopher O'Keefe/New Hanover County	David Weaver/New Hanover County
	Lafayette Atkinson/NCOSH	

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 Uranium Enrichment Branch
 Fuel Facility Licensing Directorate
 Division of Fuel Cycle Safety
 and Safeguards
 Office of Nuclear Material Safety
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	Robert Brown/GEH	George Brown/Pender County
	Tammy Orr/GEH	Bill Saffo/Wilmington
	Mike Giles/CFC	Malissa Talbert/Wilmington
	Tom Clements/FOTE	Wanda Lagoe/NCOSH
	David Springer/CFRW	Cameron Weaver/NCDENR
	Stephen Rynas/NCDENR	Emily Hughes/USACE
	Jennifer Braswell/New Hanover County	Lee Cox/NCDENR
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