

August 20, 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 26, 2009, Ms. Tammy Orr transmitted an affidavit, signed by Mr. Albert Kennedy, requesting that information, related to the General Electric-Hitachi (GEH) laser enrichment facility license application, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390. Ms. Orr provided non-proprietary versions of the information that was not security-related or export controlled information.

In the affidavit, dated June 3, 2009, Mr. Kennedy stated that GEH wishes to withhold, from public disclosure, Enclosures 1, 3, 4, 5, 6, 8, 9, 10, and 11 of the June 26, 2009, letter from Ms. Orr to Mr. Michael Weber of the U.S. Nuclear Regulatory Commission (NRC) as proprietary information. (The affidavit incorrectly refers to the June 26, 2009, letter as a letter dated June 30, 2009.) Enclosure 1 contains Chapters 1 through 11 of the non-public GEH License Application and includes the proprietary information not available in the public version. Enclosure 3 is a regulation review matrix. Enclosure 4 is the GEH Physical Security Plan. Enclosure 5 is the Fundamental Nuclear Material Control Plan. Enclosure 6 is the non-public Decommissioning Funding Plan and includes the proprietary information not available in the public version. Enclosure 8 is the GEH Emergency Plan. Enclosure 9 contains comments from off-site agencies on the Emergency Plan. Enclosure 10 is the Nuclear Material Transportation Plan and Enclosure 11 is the Integrated Safety Analysis Summary.

In the affidavit, Mr. Kennedy stated that the above documents should be withheld from public disclosure for the following reasons:

1. It contains information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH constitutes a competitive economic advantage over other companies.
2. It is information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product or process.
3. The information is being submitted to NRC in confidence and is information that is typically held in confidence by GEH and is in fact held in confidence by GEH; and
4. The information has the potential to result in substantial harm to the competitive position of GEH and reduce or foreclose the availability of profit opportunities.

We have reviewed the justification that Mr. Kennedy provided in accordance with the requirements of 10 CFR 2.390 and, on the basis of Mr. Kennedy's statements, have determined that Enclosures 1, 3, 5, 6, 8, and 11 sought to be withheld contain proprietary commercial information and should be withheld from public disclosure. NRC staff was unable to identify proprietary information in the GEH Physical Security Plan (Enclosure 4), the comments on the Emergency Plan from off-site agencies (Enclosure 9), or the GEH Nuclear Material Transportation Plan (Enclosure 10). However, these documents contain security-related information and will be withheld from public disclosure as requested.

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.

In accordance with Title 10 Code of Federal Regulations 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records 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).

A. Kennedy

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If you have any questions, please contact Mr. Timothy C. Johnson of my staff at (301) 492-3121 or by 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: W. Szymanski/DOE
P. Campbell/GEH
R. Brown/GEH
T. Orr/GEH
M. Giles/CFC
T. Clements/FOTE
D. Springer/CFRW
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J. Braswell/New Hanover County
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C. Weaver/NCDENR
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D. Weaver/New Hanover County

A. Kennedy

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If you have any questions, please contact Mr. Timothy C. Johnson of my staff at (301) 492-3121 or by 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:	W. Szymanski/DOE	B. Shell/New Hanover County
	P. Campbell/GEH	M. Lawing/Brunswick County
	R. Brown/GEH	G. Brown/Pender County
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	D. Springer/CFRW	C. Weaver/NCDENR
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DATE	08/17/09	08/18/09	08/20/09

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