



**HITACHI**

**GE Hitachi Nuclear Energy**

**Proprietary Notice**

This letter transmits proprietary information in accordance with 10CFR2.390. Upon the removal of Enclosures 1 and 4, the balance of the letter may be considered non-proprietary.

James F. Harrison

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MFN 12-015  
February 14, 2012

U.S. Nuclear Regulatory Commission  
Document Control Desk  
Washington, D.C. 20555-0001

**Subject: Technology Update Meeting, June 20-21, 2011, Final Presentations**

Enclosed is the final presentation for the Technology Update Meeting held June 20-21, 2011. The presentation entitled, "04 - Fuel Experience 2011 Technology Update," is provided to meet the GESTAR II Section 1.2.1.C requirements for a yearly operating experience report presenting the examination of LUAs and selected discharge bundles.

The status and plans for the various subjects presented is subject to change depending on resources, market conditions, and so on. Therefore, the content on the slides, as well as the statements made by the presenters, should not be taken as a commitment to perform certain activities or meet the dates presented.

Please note that Enclosures 1 and 4 contains proprietary information of the type that GE-Hitachi Nuclear Energy Americas LLC (GEH) and Global Nuclear Fuel-Americas, LLC (GNF), respectively, maintain in confidence and withhold from public disclosure. The information has been handled and classified as proprietary to GEH and GNF as indicated in the respective affidavits. The affidavits contained in Enclosures 3 and 6 identify that the information contained in Enclosures 1 and 4 has been handled and classified as proprietary to GEH and GNF, respectively. GEH and GNF hereby request that the information in Enclosures 1 and 4 be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17.

Enclosures 2 and 5 are non-proprietary versions of Enclosures 1 and 4. Enclosures 3 and 6 contain the GEH and GNF affidavits, respectively.

If you have any questions, please contact Andy Lingenfelter at (910) 819-5954 or me.

Sincerely,

James F. Harrison  
Vice President, Fuel Licensing  
Regulatory Affairs  
GE Hitachi Nuclear Energy

DO65  
LR2

Project No. 710

Enclosures:

1. 2011 Technology Update Presentation – GEH Proprietary Information – Class III (Confidential) (CD-ROM #1)
2. 2011 Technology Update Presentation – Non-Proprietary Information – Class I (Public) (CD-ROM #2)
3. GEH Affidavit
4. 2011 Technology Update Presentation – GNF Proprietary Information – Class III (Confidential) (CD-ROM #1)
5. 2011 Technology Update Presentation – Non-Proprietary Information – Class I (Public) (CD-ROM #2)
6. GNF Affidavit

cc: SS Philpott, NRC  
JG Head, GEH Wilmington  
PL Campbell, GEH Washington  
AA Lingenfelter, GNF Wilmington  
eDRF Section 0000-0131-7450

ENCLOSURE 3

MFN 12-015

GEH Affidavit

# GE-Hitachi Nuclear Energy Americas LLC

## AFFIDAVIT

I, **James F. Harrison**, state as follows:

- (1) I am Vice President, Fuel Licensing, Regulatory Affairs, GE-Hitachi Nuclear Energy Americas LLC (“GEH”), and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in Enclosure 1 of GEH letter, MFN 12-015, JF Harrison (GEH) to Document Control Desk (USNRC), Subject: *Technology Update Meeting, June 20-21, 2011, Final Presentations*, dated February 14, 2012. GEH proprietary text in Enclosure 1, which is entitled “2011 Technology Update Presentation”, is identified by double square brackets [[This sentence is an example.<sup>{3}</sup>]]. Figures and large objects containing GEH proprietary information are identified with double square brackets before and after the object. In each case, the superscript notation <sup>{3}</sup> refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, GEH relies upon the exemption from disclosure set forth in the Freedom of Information Act (“FOIA”), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for “trade secrets” (Exemption 4). The material for which exemption from disclosure is here sought also qualify under the narrower definition of “trade secret”, within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (4) Some examples of categories of information which fit into the definition of proprietary information are:
  - a. 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;
  - b. 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;
  - c. Information which reveals aspects of past, present, or future GEH customer-funded development plans and programs, resulting in potential products to GEH;

- d. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. above.

- (5) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GEH, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GEH, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or subject to the terms under which it was licensed to GEH. Access to such documents within GEH is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist, or other equivalent authority for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GEH 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 proprietary agreements.
- (8) The information identified in paragraph (2) is classified as proprietary because it contains details of the design and licensing methodology, and research and development activities of GEH or its licensor. The research and development, plans, evaluations, and results included was achieved at a significant cost to GEH.

The development of these plans and methodology, along with the testing, development and approval of the supporting methodology is derived from an extensive experience database that constitutes a major asset of GEH or its licensor.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GEH's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GEH's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical and NRC review costs comprise a substantial investment of time and money by GEH.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GEH's competitive advantage will be lost if its competitors are able to use the results of the GEH experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to GEH would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GEH of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

Executed on this 14<sup>th</sup> day of February 2012.

A handwritten signature in black ink that reads "James F. Harrison". The signature is written in a cursive style with a large initial "J" and "H".

James F. Harrison  
Vice President, Fuel Licensing,  
Regulatory Affairs  
GE-Hitachi Nuclear Energy Americas LLC

ENCLOSURE 6

MFN 12-015

GNF Affidavit

## Global Nuclear Fuel – Americas

### AFFIDAVIT

I, **Lukas Trosman**, state as follows:

- (1) I am Manager, Reload Design and Analysis, Global Nuclear Fuel – Americas, LLC (“GNF-A”), and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in Enclosure 4 of GEH letter, MFN 12-015, JF Harrison (GEH) to Document Control Desk (USNRC), Subject: Technology Update Meeting, June 20-21, 2011, Final Presentations, dated February 14, 2012. GNF-A proprietary text in Enclosure 4, which is entitled “2011 Technology Update Presentation”, is identified by double square brackets [[This sentence is an example.<sup>{3}</sup>]]. Figures and large objects containing GNF-A proprietary information are identified with double square brackets before and after the object. In each case, the superscript notation <sup>{3}</sup> refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, GNF-A relies upon the exemption from disclosure set forth in the Freedom of Information Act (“FOIA”), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for “trade secrets” (Exemption 4). The material for which exemption from disclosure is here sought also qualify under the narrower definition of “trade secret”, within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (4) Some examples of categories of information which fit into the definition of proprietary information are:
  - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GNF-A's competitors without license from GNF-A constitutes a competitive economic advantage over other companies;
  - b. 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;
  - c. Information which reveals aspects of past, present, or future GNF-A customer-funded development plans and programs, resulting in potential products to GNF-A;



- d. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. above.

- (5) To address 10 CFR 2.390 (b) (4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GNF-A, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GNF-A, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or subject to the terms under which it was licensed to GNF-A. Access to such documents within GNF-A is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GNF-A 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 proprietary agreements.
- (8) The information identified in paragraph (2) is classified as proprietary because it contains details of the design and licensing methodology, and research and development activities of GEH or its licensor. The research and development, plans, evaluations, and results included was achieved at a significant cost to GNF-A.

The development of these plans and methodology, along with the testing, development and approval of the supporting methodology is derived from an extensive experience database that constitutes a major asset of GNF-A or its licensor.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GNF-A's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GNF-A's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical, and NRC review costs comprise a substantial investment of time and money by GNF-A.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GNF-A's competitive advantage will be lost if its competitors are able to use the results of the GNF-A experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to GNF-A would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GNF-A of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

Executed on this 14<sup>th</sup> day of February 2012.



Lukas Trosman  
Manager, Reload Design and Analysis  
Global Nuclear Fuel – Americas, LLC