



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 17, 2001

Mr. Russell N. Stein, Vice President  
GrayStar, Inc.  
Mt. Arlington Corporate Center, Suite 103  
200 Valley Road  
Mt. Arlington, NJ 07856

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC  
DISCLOSURE, GS-42 SEALED SOURCE AND MODEL 1 IRRADIATOR

Dear Mr. Stein:

By a letter dated April 15, 1999, GrayStar Inc. (GrayStar) submitted an application for registration of the Model GS-42 sealed source and the Model 1 irradiator. Included in the application were 42 engineering drawings, each marked with the statement "[t]his drawing contains proprietary information and may not be used without permission." Mr. David C. Lashway, counsel to GrayStar requested in letters dated April 13, 2001, and April 20, 2001, and GrayStar stated in affidavit dated April 23, 2001, that the drawings be withheld from public disclosure because the drawings contained confidential proprietary information.

GrayStar and GrayStar's counsel stated that the drawings referenced above should be considered exempt from mandatory public disclosure for the following reasons:

1. The information contained in the drawings has been held in confidence by GrayStar. In particular, GrayStar was the designer and developer of the system, and intends to be the manufacturer and supplier of the sources and the irradiator.
2. The GrayStar system is a unique design and no other manufacturer has submitted an application to the NRC that would be similar to the GrayStar concept. Consequently, design information such as that represented in the drawings is held in confidence by its owner.
3. The drawings were transmitted to the NRC in confidence. Specifically, the drawings had been designated by GrayStar as proprietary from the beginning of the application process on April 15, 1999.
4. The information is not available in public sources. The drawings contain design information that was never disclosed to any party outside of NRC and to GrayStar's vendors who are subject to GrayStar's confidentiality contracts.
5. Disclosure of such information would cause irreparable harm to GrayStar's ability to compete in the market place. The drawings contain critical information to fabricate the sealed sources and the irradiators. GrayStar has expended considerable efforts and expenses spanning several years of design and development. The release of the

information would allow GrayStar's competitors to produce similar irradiators without incurring the same substantial development costs incurred by GrayStar.

We have reviewed GrayStar's letters dated April 13 and 20, 2001, in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information.

Therefore, GrayStar's drawings, contained in the April 15, 1999, application will be withheld from public disclosure pursuant to 10 CFR 2.790(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.

Please also note that Mr. Lashway waived the notation "Confidential" on his letter dated April 13, 2001, in a telephone conversation with me on May 15, 2001. Therefore, the letter with its attachment, a GrayStar declaration, dated April 12, 2001, will be placed into NRC permanent records as publicly available.

Sincerely,

<sup>/RA/</sup>  
John P. Jankovich, Ph.D., Sr. Engineer  
Materials Safety and Inspection Branch  
Division of Industrial and Medical  
Nuclear Safety  
Office of Nuclear Material Safety  
and Safeguards

cc:

Mr. David C. Lashway/ShawPittman

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