

August 27, 2008

Mr. Stewart B. Minahan
Vice President-Nuclear and CNO
Nebraska Public Power District
72676 648A Avenue
Brownville, NE 68321

SUBJECT: COOPER NUCLEAR STATION – REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE (TAC NO. MD7089)

Dear Mr. Minahan:

By letter dated August 18, 2008, you submitted an affidavit dated July 23, 2008, executed by James F. Harrison, GE Hitachi Nuclear Energy Americas LLC (GEH), requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390:

Enclosure 1 of GNF [Global Nuclear Fuel] Letter VSP-NPP-HP1-08-053, "10 CFR 50.46 Notification Letter 2006-01, Cooper Nuclear Station, July 28, 2006"

The document is included in Enclosure 1 to your letter to the U.S. Nuclear Regulatory Commission (NRC) dated August 18, 2008.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- The information...is classified as proprietary because it contains the detailed results and conclusions from evaluations, utilizing analytical models and methods, including computer codes, which GEH has developed, obtained NRC approval of, and applied to perform evaluations of transient and accident events in the GEH Boiling Water Reactor ("BWR"). The development and approval of these system, component, and thermal hydraulic modes and computer codes were achieved at a significant cost to GE, on the order of several million dollars.
- The development of the methodology along with the interpretation and application of the analytical results is derived from the extensive experience database that constitutes a major GEH asset.
- 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 profitmaking 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.

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. 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.

S. B. Minahan

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If you have any questions regarding this matter, I may be reached at 301-415-2296.

Sincerely,

/RA/

Carl F. Lyon, Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-298

cc: See next page

S. B. Minahan

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*** via e-mail (**) previously concurred**

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