

October 21, 2008

Mr. Yoshiki Ogata, General Manager
APWR Promoting Department
Mitsubishi Heavy Industries, Ltd.
16-5, Konan 2-Chome, Minato-Ku
Tokyo, 108-8215 JAPAN

SUBJECT: MITSUBISHI HEAVY INDUSTRIES, LTD. – REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR
MHI'S RESPONSE TO NRC'S REQUEST FOR ADDITIONAL
INFORMATION ON US-APWR TOPICAL REPORT MUAP-07010-P,
NON-LOCA METHODOLOGY, MHI REF: UAP-HF-08141

Dear Mr. Ogata:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated August 22, 2008, you submitted an affidavit, 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), Part 2, Section 2.390:

MHI's Response to NRC's Request for Additional Information on
US-APWR Topical Report MUAP-07010-P, Non-LOCA Methodology

The nonproprietary information contained in the document has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room (ML082400136).

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

- The basis for holding the referenced information confidential is that it either describes the unique design of the safety analysis, developed by MHI (the "MHI Information"), or includes information that was provided to MHI pursuant to licensing agreements with a third party (the "Licensor") for MHI's use and under the obligation to maintain its confidentiality (the "Licensed Information").
- The MHI Information is not used in the exact form by any of MHI's competitors. This information was developed at significant cost to MHI, since it required the performance of research and development and detailed design for its software and hardware extending over several years. Furthermore, MHI has an ownership interest in the Licensed Information by having paid significant sums of money to the Licensor for the rights to the intellectual property therein such that public disclosure of the materials would adversely affect MHI's competitive position.

We have reviewed your application and the materials 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 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 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.

If you have any questions regarding this matter, I may be reached at (301) 415-7871, or via email at michael.takacs@nrc.gov.

Sincerely,

/RA/

Mike Takacs, Project Manager
US-APWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-021

cc: See next page

We have reviewed your application and the materials 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.

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If you have any questions regarding this matter, I may be reached at (301) 415-7871, or via email at michael.takacs@nrc.gov.

Sincerely,
/RA/

Mike Takacs, Project Manager
US-APWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-021

cc: See next page

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