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License Renewal Projects

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10 CFR 2.9
10 CFR 51
10 CFR 54

5928-08-20205
October 16, 2008

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

Three Mile Island Nuclear Station, Unit 1.
Facility Operating License No. DPR-50
NRC Docket No.50-289

Subject: Three Mile Island Nuclear Station Unit 1, Affidavit of Michael of Michael P. Gallagher

Reference:

1. "Appendix E (Environmental Report) of the Three Mile Island Nuclear Station Unit 1 License Renewal Application", submitted 1/8/2008 (AmerGen Letter No. 5928-08-20001)
2. "Three Mile Island Nuclear Station Unit 1 License Renewal Application Selected Environmental Report References", submitted 4/3/2008 (AmerGen Letter No. 5928-08-20078)
3. "Three Mile Island Nuclear Station Unit 1 License Renewal Application Post-Audit Environmental Information", submitted 6/10/2008 (AmerGen Letter No. 5928-08-20133)

With letters dated April 3, 2008 (Reference 2) and June 10, 2008 (Reference 3), AmerGen Energy Company, LLC (AmerGen) submitted certain documents to facilitate your Staff's environmental review of the Three Mile Island Nuclear Station Unit 1 (TMI-1) License Renewal Application. In both letters, AmerGen requested pursuant to 10 CFR 2.390 that certain documents be withheld from public disclosure due to their proprietary and sensitive nature. In addition, AmerGen asked for waiver of the requirement in 10 CFR 2.390(b)(1)(ii) for a separate affidavit to accompany each request for withholding.

In follow-up conversations with NRC Staff it was determined that an Affidavit would be required for those documents requested to be withheld from public disclosure pursuant to 10 CFR 2.390(a)(4), except figures that may contain sensitive, security-related information. AmerGen reexamined the need for withholding; pursuant to 10 CFR 2.390(a)(4), of all such documents previously identified in the April 3, 2008 (Reference 2) and June 10, 2008 (Reference 3) letters.

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October 16, 2008

Page 2 of 2

5928-08-20205

AmerGen now submits the attached Affidavit (Enclosure A) of Michael P. Gallagher in support of our request for withholding of the following two reference documents:

C2-McLaren/Hart 1998a McLaren/Hart. 1998a. Confirmatory Sampling Soil and Groundwater Investigation, Three Mile Island Nuclear Station, Route 441, Londonderry Township, Pennsylvania. McLaren/Hart, Inc., September 24.

C2-McLaren/Hart 1998b McLaren/Hart. 1998b. Facility Assessment Report, Three Mile Island Nuclear Station, Route 441, Londonderry Township, Pennsylvania. McLaren/Hart, Inc., September 9.

This letter and its enclosures contain no commitments.

If there are questions, please contact Fred Polaski, Manager License Renewal, at 610-765-5935.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully,

Executed on

10-16-2008



Michael P. Gallagher
Vice President, License Renewal
AmerGen Energy Company, LLC

Enclosure A: Affidavit of Michael P. Gallagher

cc: Regional Administrator, USNRC Region I, w/Enclosure
USNRC Project Manager, NRR - License Renewal, Safety, w/o Enclosure
USNRC Project Manager, NRR - License Renewal, Environmental, w/ Enclosure
USNRC Project Manager, NRR - TMIGS, w/o Enclosure
USNRC Senior Resident Inspector, TMIGS, w/o Enclosure

File No. 08001

Enclosure – A

AFFIDAVIT OF MICHAEL P. GALLAGHER

I, Michael P. Gallagher, Vice President, License Renewal AmerGen Energy Company LLC (“AmerGen”), state that:

1. I am authorized to execute this affidavit on behalf of AmerGen.
2. AmerGen is providing copies of certain reference documents requested by the U.S. Nuclear Regulatory Commission (“NRC”) staff in support of its *Environmental Report – Operating License Renewal Stage* (“Environmental Report”), which is part of the License Renewal Application (“LRA”) for Three Mile Island Unit 1 (“TMI-1”). In 1998, Consultants under contract to AmerGen prepared two of the requested reference documents, which are listed below, for the purpose of confirming site conditions in certain areas of potential environmental concern prior to AmerGen’s then-proposed purchase of TMI-1 from GPU Nuclear Inc. (“GPU Nuclear”) and the other TMI-1 owners. As such, these documents are subject to the provisions of a “Confidentiality Agreement” dated August 1997, which became a component of the final “Asset Purchase Agreement” between the former owners of TMI-1 and AmerGen dated October 15, 1998.

McLaren/Hart. 1998a. Confirmatory Sampling Soil and Groundwater Investigation, Three Mile Island Nuclear Station, Route 441, Londonderry Township, Pennsylvania. McLaren/Hart, Inc., September 24.

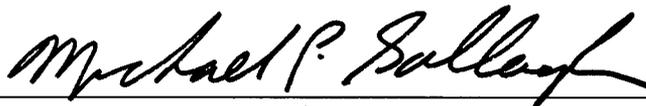
McLaren/Hart. 1998b. Facility Assessment Report, Three Mile Island Nuclear Station, Route 441, Londonderry Township, Pennsylvania. McLaren/Hart, Inc., September 9.

In accordance with the Confidentiality Agreement, the documents listed above contain privileged and confidential commercial information that should be held in confidence by the NRC pursuant to 10 CFR §§ 2.390(a)(4) and 9.17(a)(4) because:

- a. The documents are and have been held in confidence by AmerGen.
- b. The documents are of a type that is customarily held in confidence by the parties to a property transfer agreement because environmental conditions revealed by a buyer's due diligence investigations may create financial disclosure duties for the seller. In addition, due diligence investigations may reveal environmental liabilities, and the parties must decide how to allocate the risk of such liabilities.
- c. AmerGen transmitted the documents to the NRC in confidence, and the NRC received them in confidence.
- d. The documents are not available in public sources and the information they contain could not be gathered readily from other publicly available sources.
- e. Public disclosure of the documents would create substantial harm to the competitive position of AmerGen by disclosing proprietary business methodologies for evaluating and purchasing potential assets.

3. Accordingly, AmerGen requests that the two documents listed in item 2, above, be withheld from public disclosure pursuant to the policy reflected in 10 CFR § 2.390(b).

AMERGEN ENERGY COMPANY LLC

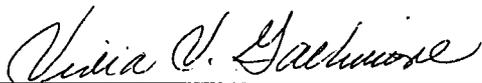


Michael P. Gallagher
Vice President, License Renewal

STATE OF PENNSYLVANIA

COUNTY OF CHESTER

Subscribed and sworn to me, a Notary Public, in and for the County and State above named, this 16th day of October, 2008.

My Commission expires: 10-6-2011

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Vivia V. Gallimore, Notary Public
Kennett Square Boro, Chester County
My Commission Expires Oct. 6, 2011
Member, Pennsylvania Association of Notaries