March 26, 2009

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 – MHI'S RESPONSES TO US-APWR DCD RAI 164-1925, MHI's REF: UAP-HF-09056

Dear Mr. Ogata:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated February 18, 2009, you submitted an affidavit requesting that the information contained in the following documents be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

> Enclosure 3, Digital Data of MHI's Responses to US-APWR DCD Request for Additional Information No. 164-1925

A nonproprietary copy of the first 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 (ML090570441).

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 to make these data from a lot of design parameters requires knowledge and know-how about using the LADTAPII and PWR-GALE codes.

- Public disclosure of the referenced information would assist competitors of MHI in their design of new nuclear power plants without the costs or risks associated with the design of new fuel systems and components. Disclosure of the information identified as proprietary would therefore have negative impacts on the competitive position of MHI in the U.S. nuclear plant market.

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 versions 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 appropriated 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) 415-6391 or via e-mail at Jeff.Ciocco@nrc.gov.

Sincerely,

/RA/

Jeffrey Ciocco, Senior 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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Sincerely,

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Jeffrey Ciocco, Senior Project Manager
US-APWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

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