

September 30, 2009

Mr. Jim Kay, Licensing Manager
AREVA Enrichment Services LLC
Solomon Pond Park
400 Donald Lynch Boulevard
Marlborough, MA 01752

SUBJECT: NUCLEAR REGULATORY COMMISSION APPROVAL OF REQUEST BY AREVA
ENRICHMENT SERVICES TO WITHHOLD INFORMATION FROM PUBLIC
DISCLOSURE (TAC NO. L32707)

Dear Mr. Kay:

By letter dated September 9, 2009, transmitting an affidavit (Enclosure 1 to the letter), dated September 8, 2009, AREVA Enrichment Services LLC (AES) requested the U.S. Nuclear Regulatory Commission (NRC) withhold, from public disclosure, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.390, certain proprietary information contained in enclosure 4 to the letter.

The affidavit states that the submitted information should be considered exempt from mandatory public disclosure for the following reasons, among others:

1. The information sought to be withheld from public disclosure has been held in confidence by AES. The information is proprietary to AES and AES seeks to protect it as such.
2. The information is of a type customarily held in confidence by AES and not customarily disclosed to the public. The information consists of commercial and financial information that provides a competitive advantage to AES.
3. The information has been provided to the NRC in confidence and, under the provisions of 10 CFR 2.390, and is to be received in confidence by the NRC.
4. The information sought to be protected is not available in public sources to the best of AES's knowledge and belief.
5. Public disclosure of the Amendment to Class III Cultural Resource Inventory of the Proposed Eagle Rock Enrichment Facility (EREF) would reveal the location of possible historic sites. Under Idaho State law, Idaho Code 9-340E(1), records, maps, or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public, are exempt from public disclosure.
6. Public disclosure of the proprietary information is likely to cause substantial harm to AES's competitive position. The proprietary information has substantial commercial value to AES.

We reviewed the September 8, 2009, affidavit and the enclosures to the letter in accordance with the requirements of 10 CFR 2.390 and have concluded that enclosures may be withheld. In this regard, 10 CFR Part 2.390(a) specifies that information may be withheld from disclosure if those matters are specifically exempted from disclosure by statute. The National Historic Preservation Act, Section 304, and Idaho Code 9-340E(1), both require the withholding of locations of historic structures or archaeological sites from public disclosure. The Amendment to Class III Cultural Resource Inventory of the Proposed EREF, in enclosure 4, contains cultural and historic resource information that, if it were disclosed, would promote trespassing, vandalism, and theft of artifacts. In addition, we have concluded that the other documents in enclosure 4 may be withheld in accordance with 10 CFR 2.390(b).

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. 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.

If you have any questions regarding this matter, please contact me at (301) 492-3110, or via email to breeda.reilly@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," copies of this letter and of your September 8, 2009, affidavit will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the Agencywide Document Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

M. Breeda Reilly, Senior Project Manager
Advanced Fuel Cycle, Enrichment,
and Uranium Conversion Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

cc: Jim Curtiss
Curtiss Law
P.O. Box 153
Brookville, MD 20833

Mr. George Harper, Vice President of Engineering
AREVA Enrichment Services
400 Donald Lynch Blvd
Marlborough, MA 01752

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Sincerely,

/RA/
 M. Breeda Reilly, Senior Project Manager
 Advanced Fuel Cycle, Enrichment,
 and Uranium Conversion Branch
 Division of Fuel Cycle Safety
 and Safeguards
 Office of Nuclear Material Safety
 and Safeguards

cc: Jim Curtiss
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