HITACHI

Global Laser Enrichment

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Proprietary, Security-Related, & Export-Controlled Information Notice
This letter contains and forwards sensitive proprietary, security-related, and export-controlled information which is to be withheld from public disclosure in accordance with 10CFR2.390 and RIS 2005-31 with distribution further limited per 10CFR810.8(b)&(c). The balance of this letter may be considered non-sensitive upon the removal of Enclosures 1, 2, and 3.

MFN-09-577
September 4, 2009

Attn: Document Control Desk
Michael Weber, Director
Office of Nuclear Materials Safety & Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: **RESPONSE TO AUGUST 6, 2009 ACCEPTANCE LETTER FOR GLOBAL LASER ENRICHMENT LICENSE APPLICATION**

Dear Mr. Weber:

GE-Hitachi Global Laser Enrichment LLC (GLE) hereby submits the additional information requested in the August 6, 2009 letter that contained the results of the NRC acceptance review of the GLE license application. Enclosure 1 of this letter contains the responses to the eight questions. Enclosure 2 of this letter contains the Nuclear Criticality Validation Report. Enclosure 3 contains the revised GLE Standard Practice Procedures Plan for the Protection of Classified Matter. Enclosure 4 contains the Affidavit requesting that Enclosures 1 through 3 be withheld from public disclosure. A separate letter has been submitted that contains a public version of these responses, with the Proprietary, Export-Controlled, and Security-Related Information removed.

A separate document, containing information to assist in responding the questions, will be submitted under separate cover as it contains Classified Information.

NMSS01

If there are any questions regarding this letter and its contents, please do not hesitate to contact myself, or Julie Olivier of my staff at 910-819-4799 or at Julie.Olivier@ge.com.

Sincerely,

Julie A. Olivier for AEK

Albert E. Kennedy
Manager, GLE Environmental, Health, & Safety

Docket No. 70-7016

References:

1. Letter, Timothy C. Johnson (NRC) to Albert Kennedy (GLE), "ACCEPTANCE OF GENERAL ELECTRIC-HITACHI GLOBAL LASER ENRICHMENT APPLICATION FOR A LASER-BASED URANIUM ENRICHMENT FACILITY", August 6, 2009.

Enclosures:

1. Response to Questions 1 through 8 of the August 8, 2009 NRC letter *(contains proprietary, security-related, and export-controlled information)*
2. Criticality Validation Report *(contains proprietary information)*
3. GLE Standard Practice Procedures Plan for the Protection of Classified Matter *(contains Security-Related Information)*
4. Affidavit to support withholding Enclosures 1-3 from public disclosure

Cc (without enclosures):
Tim Johnson (NRC)
Brian Smith (NRC)
Keith Everly (NRC)
Tammy Orr (GLE)
Lori Butler (GEH)
Jerry Head (GEH)
Patricia Campbell (GEH)
Bob Crate (GLE)
Ken Givens (GLE)
Tom Owens (GLE)
MFN-09-577

GE-HITACHI GLOBAL LASER ENRICHMENT LLC

AFFIDAVIT

I, Julie A. Olivier, state as follows:

(1) I, GLE Senior Licensing Professional, GE-Hitachi Global Laser Enrichment LLC ("GLE"), have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.

(2) The information sought to be withheld is contained in Enclosures 1 and 2 of the Global Laser Enrichment LLC (GLE LLC) letter MFN-09-577, Albert Kennedy to Document Control Desk, U.S. Nuclear Regulatory Commission, entitled "RESPONSE TO AUGUST 6, 2009 ACCEPTANCE LETTER FOR GLOBAL LASER ENRICHMENT LICENSE APPLICATION", September 4, 2009. Paragraph (3) of this affidavit below provides the basis for the proprietary determination.

(3) In making this application for withholding of proprietary information of which it is the owner or licensee, GLE relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for "trade secrets" (Exemption 4). The material for which exemption from disclosure is here sought also qualifies under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).

(4) Some examples of categories of information that fits the definition of proprietary information are as follows:

a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GLE's competitors without license from GLE constitutes a competitive economic advantage over other companies;

b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product or process;

c. Information which reveals aspects of past, present, or future GLE customer-funded development plans and programs, resulting in potential products to GLE;

d. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. above.

(5) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GLE and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GLE, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. The initial designation as proprietary information, and the subsequent steps taken to prevent unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.

(6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or subject to the terms under which it was licensed to GLE. Access to such documents within GLE is limited on a "need-to-know" basis.

(7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist, or other equivalent authority for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GLE are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.

(8) The information identified in paragraph (2) above is classified as proprietary because it contains nonpublic details of uranium enrichment technology and safety analyses of equipment to be used to develop and test such technologies, both developed by GLE. Development of this technology and these methods, techniques, and information and their application for the GLE uranium enrichment program has been and is being achieved at a significant cost to GLE, on the order of several millions of dollars.

The development of the enrichment technology, the safety analysis techniques, and the analyses themselves are derived from the extensive experience database that constitutes a major GLE asset.

(9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GLE's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GLE's comprehensive 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 experience and includes development of the expertise to determine and apply the appropriate safety 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 GLE.

The precise value of the expertise to devise a uranium enrichment process is difficult to quantify, but it clearly is substantial.

GLE's competitive advantage will be lost if its competitors are able to use the results of the GLE experience to develop 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 GLE 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 GLE of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining this very valuable technology.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

Executed on this 4th day of September 2009.

Julie A. Olivier
GE-Hitachi Global Laser Enrichment LLC