

October 23, 2009

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

SUBJECT: U.S. 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 25, 2009, transmitting an affidavit (enclosure 1 to the letter) dated September 25, 2009, AREVA Enrichment Services LLC (AES) requested the U.S. Nuclear Regulatory Commission (NRC) withhold from public disclosure, pursuant to Title 10 *Code of Federal Regulations* (10 CFR) 2.390, certain security-related sensitive unclassified non-safeguards information (SUNSI) 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 is security-related information.
2. The information has been provided to the NRC in confidence and is to be received in confidence by the NRC under the provisions of 10 CFR 2.390.
3. The information sought to be protected is not available in public sources to the best of AES's knowledge and belief.

We reviewed the September 25, 2009, affidavit and enclosure 4 to the letter in accordance with the requirements of 10 CFR 2.390 and concluded that the enclosure may be withheld.

Your letter states that the information was identified as SUNSI by using the guidance in NRC Regulatory Issue Summary (RIS) 2005-31, "Control of Security- Related Sensitive Unclassified Non-Safeguards Information Handled by Individuals, Firms, and Entities Subject to NRC Regulation of the Use of Source, Byproduct, and Specific Nuclear Material." The RIS also provides guidance, if necessary, to include SUNSI in your submissions, it is sufficient to clearly state in the cover letter that an attached document contains security-related sensitive information and to properly mark the information that contains the SUNSI. Note that an affidavit is not needed to support the claim that the information is security-related sensitive information.

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. Also, the NRC may have

J. Kay

2

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 25, 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 Documents 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: James 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

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 25, 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 Documents 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: James 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

DISTRIBUTION:

M. Bailey/FCSS	C. Safford/OGC	D. Dorman/FCSS	Y. Faraz/FCSS
G. Kulesa/FSME	R. Virgilio/FMSE	A. Kock/FSME	J. Weil/OCA
J. Henson/RII	R. Trojanowski/RII	D. McIntyre/OPA	M. Weber/NMSS
D. Seymour/RII	C. Taylor/RII	T. Gody/RII	M. Lemoncelli/OGC

ML092870502

OFFICE	NMSS/AFCB	NMSS/FMB	NMSS/AFCB
NAME	BReilly	THristopoulos	THiltz
DATE	10/14/09	10/14/09	10/23/09

OFFICIAL USE ONLY