

October 28, 2009

Mr. Kenji Arai, Senior Manager
System Design & Engineering Department
Power Systems Company
Toshiba Corporation
8 Shinsugita-Cho
Isogo-Ku
Yokohama 235-8523, Japan

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
"POST LOCA SUPPRESSION POOL SWELL ANALYSIS FOR ABWR
CONTAINMENT DESIGN," REVISION 0, UTLR-0005-P (PROPRIETARY)

Dear Mr. Arai:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated September 24, 2009, you submitted an affidavit dated September 16, 2009, executed by you as Senior Manager, System Design & Engineering Department, Power Systems Company, Toshiba Corporation requesting that information in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390:

"Post LOCA Suppression Pool Swell Analysis for ABWR Containment Design"
Revision 0, UTLR-0005-P "(Proprietary) and all Information Identified as "Toshiba
Proprietary Information Class 2"

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- i. The Confidential information is confidential and proprietary information of Toshiba Corporation.
- ii. The Confidential information is information of a type customarily held in confidence by Toshiba Corporation and there is a rational basis for doing so, given the sensitive and valuable nature of the Confidential Information as discussed above in paragraphs (D) and (E) of the September 16, 2009, affidavit.
- iii. The Confidential information is being transmitted to the NRC in confidence.
- iv. The Confidential information is not available in public sources.
- v. Public disclosure of the Confidential Document is likely to cause substantial harm to the competitive position of Toshiba Corporation, taking into account the value of the Confidential Information to Toshiba Corporation, the amount of money and effort expended by Toshiba Corporation in developing the Confidential Information, and the ease or difficulty with which the Confidential Information could be properly acquired or duplicated by others.

We have reviewed the September 16, 2009, letter and affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the document entitled and identified as "Post LOCA Suppression Pool Swell Analysis for ABWR Containment Design" Revision 0, UTLR-0005-P "and all information identified as "Toshiba Proprietary Information Class 2" 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 appropriate 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 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, I may be reached at 301-415-1494 or George.Wunder@nrc.gov.

Sincerely,

/RA/

George F. Wunder, Senior Project Manager
ABWR Projects Branch 2
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-012 and 52-013

cc: See next page

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/RA/

George F. Wunder, Senior Project Manager
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Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-012 and 52-013

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SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE "POST LOCA SUPPRESSION POOL SWELL ANALYSIS FOR ABWR CONTAINMENT DESIGN," REVISION O, UTLR-0005-P (PROPRIETARY)

SECRETARY: C. Nagel

DATE: October 20, 2009

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