

BWR OWNERS' GROUP

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Proprietary Notice

This letter transmits GEH proprietary information in accordance with 10 CFR 2.390. Upon removal of Enclosures 1 and 2, the balance of the letter may be considered non-proprietary.

Project 691

BWROG-09076
October 27, 2009

Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: BWROG Comments on Draft NRC Safety Evaluation BWROG Topical Report NEDC-33347, Revision 0, "Containment Overpressure Credit for Net Positive Suction Head (NPSH)"

REFERENCE: NRC Letter dated September 29, 2009, from Stacy Rosenberg to Doug Coleman, "DRAFT SAFETY EVALUATION OF BOILING WATER REACTORS OWNERS GROUP (BWROG) TOPICAL REPORT NEDC-33347, REVISION 0, 'CONTAINMENT OVERPRESSURE CREDIT FOR NET POSITIVE SUCTION HEAD (NPSH)' (TAC NO. MD8146)"

Attention: Chief, Information Management Branch
Division of Program Management

As requested in the referenced letter, the BWR Owners' Group (BWROG) is providing comments on the draft Safety Evaluation (SE) in the two enclosures: (1) a marked-up version of the draft SE and (2) a summary table of the changes requested to the draft SE. We are also notifying you that we believe the marking of proprietary information in the draft SE is correct and no changes to these markings are required.

Because this markup contains proprietary information, we are also providing the attached affidavit from GE Hitachi Nuclear Energy Americas LLC (GEH) to support NRC review of the BWROG comments. The proprietary information includes GE-Hitachi containment analysis inputs and assumptions. GEH hereby requests that the information in Enclosure 1 be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17.

GEH PROPRIETARY INFORMATION

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If you have any questions concerning this letter, please do not hesitate to contact me or Fred Emerson, the BWROG Project Manager (910-819-5615).

Respectfully,

A handwritten signature in black ink that reads "Douglas W. Coleman". The signature is written in a cursive style with a large, prominent 'D' and 'C'.

Douglas W. Coleman
BWR Owners' Group Chairman

cc: F. P. "Ted" Schiffley, BWROG Vice Chairman
Michelle Honcharik, NRR
Craig Nichols, BWROG Program Manager
BWROG Primary Representatives

Enclosures:

1. BWROG Comments on Draft SE – Proprietary Information
2. Summary Table of Proposed Changes to Draft SE – Proprietary Information
3. Affidavit

GEH Proprietary Information

AFFIDAVIT

I, **Edward D. Schrull**, state as follows:

- (1) I am Vice President, Services Licensing, Regulatory Affairs, GE Hitachi Nuclear Energy-Americas LLC ("GEH"), 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 letter BWROG-09076, Douglas W. Coleman, BWR Owners' Group Chairman to the Document Control Desk (USNRC), "BWROG Comments on Draft NRC Safety Evaluation BWROG Topical Report NEDC-33347, Revision 0, 'Containment Overpressure Credit for Net Positive Suction Head (NPSH)' " dated October 27, 2009, containing comments on this draft Safety Evaluation. The GEH proprietary information in Enclosures 1 and 2, is identified by a dark red font, placed within double square brackets. [[This sentence is an example.^{3}]] GEH proprietary information in figures, tables, and large equation objects is identified with double square brackets before and after the object. In all cases, the superscript notation ^{3} refers to Paragraph (3) of this affidavit, which 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, GEH 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 qualify 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, 975 F.2d 871 (D.C. Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F.2d 1280 (D.C. Cir. 1983).
- (4) Some examples of categories of information which fit into the definition of proprietary information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH 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;
 - c. Information that reveals aspects of past, present, or future GEH customer-funded development plans and programs, resulting in potential products to GEH;
 - d. Information that 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 GEH, 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 GEH, 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. Its initial designation as proprietary information, and the subsequent steps taken to prevent its 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 GEH. Access to such documents within GEH 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 GEH 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 information related to supporting evaluations of the safety-significant changes necessary to demonstrate the regulatory acceptability for the Containment Overpressure Credit for Net Positive Suction Head for a GEH Boiling Water Reactor ("BWR"). The analysis utilized analytical models and methods, including computer codes, which GEH has developed, obtained NRC approval of, and applied to perform evaluations of Containment Overpressure Credit for NPSH analysis for a GEH BWR.

The development of the evaluation process along with the interpretation and application of the analytical results is derived from the extensive experience database that constitutes a major GEH asset.

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

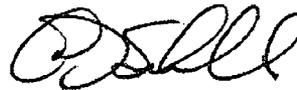
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GEH's competitive advantage will be lost if its competitors are able to use the results of the GEH experience to normalize 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 GEH 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 GEH of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

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 27th day of October 2009.



Edward D. Schrull
Vice President, Regulatory Affairs
Services Licensing
GE Hitachi Nuclear Energy Americas LLC