

January 20, 2010

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 December 4, 2009, transmitting an affidavit (enclosure 1 to the letter), dated December 4, 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 3 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. 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.
2. 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.
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 December 4, 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 Cultural Resource Inventory for the EREF 161-kV Transmission Line Project, in enclosure 3, contains cultural and historic resource information that, if it were disclosed, would promote trespassing, vandalism, and theft of artifacts.

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 [breda.reilly@nrc.gov](mailto:breda.reilly@nrc.gov).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," copies of this letter and of your December 4, 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

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](mailto: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 December 4, 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,

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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