January 19, 2010

Mr. Yoshiki Ogata, General Manager
APWR Promoting Department
Mitsubishi Heavy Industries, Ltd.
16-5, Konan 2-Chome, Minato-Ku
Tokyo, 108-8215 JAPAN

SUBJECT: MITSUBISHI HEAVY INDUSTRIES, LTD. – REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR MITSUBISHI HEAVY INDUSTRIES' FIRST RESPONSE TO THE U.S. NUCLEAR REGULATORY COMMISSION'S REQUEST FOR ADDITIONAL INFORMATION ON TOPICAL REPORT MUAP-07013-P REVISION 0 "SMALL BREAK LOCA METHODOLOGY FOR US-APWR", MHI REF: UAP-HF-09559

Dear Mr. Ogata:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated December 17, 2009 (UAP-HF-09559), you submitted an affidavit requesting that the information contained 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:

> MHI's 1st Response to the NRC's Request for Additional Information on Topical Report MUAP-07013-P (R0), "Small Break LOCA Methodology for US-APWR" on 11/17/2009

A nonproprietary copy of this document has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room (ML093560362).

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

- The basis for holding the referenced information confidential is that it describes the unique codes and files developed by MHI for the fuel of the US-APWR and also contains information provided to MHI under license from the Japanese Government. These codes and files were developed at significant cost to MHI, since they required the performance of detailed calculations, analyses, and testing extending over several years.

- Public disclosure of the referenced information would assist competitors of MHI in their design of new nuclear power plants without the costs or risks associated with the design of new fuel systems and components. Disclosure of the information identified as proprietary would therefore have negative impacts on the competitive position of MHI in the U.S. nuclear plant market.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the submitted information 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) 415-7871, or via e-mail at Michael.Takacs@nrc.gov.

Sincerely,

/RA/

Michael Takacs, Project Manager
US-APWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-021

cc: See next page

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

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If you have any questions regarding this matter, I may be reached at (301) 415-7871, or via e-mail at Michael.Takacs@nrc.gov.

Sincerely,

/RA/

Michael Takacs, Project Manager
US-APWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-021

cc: See next page

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