



January 11, 2010

Docket No. 030-36666

License No. 45-30957-01

Richard G. Piccolo, C.H.P.  
VBT Radiation Safety Officer  
Varian Medical Systems  
700 Harris Street, Suite 109  
Charlottesville, VA 22903

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC  
DISCLOSURE, VARIAN MEDICAL SYSTEMS

Dear Mr. Piccolo:

In your letters and affidavit dated October 19, 2009 (ML093410032) and November 25, 2009 (ML093410034) you provided additional information to the Nuclear Regulatory Commission (NRC) regarding company confidential information pursuant to NRC Event 44774. You requested that previous documents specified in items 1 through 12 of your letter dated November 25, 2009, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390. You also submitted non-proprietary versions of the same documents for placement in the NRC public document room and added to the Agencywide Documents Access and Management System's Publicly Available Records System (ADAMS PARS) Library.

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

- (i) This information is and has been held in confidence by Varian Medical Systems.
- (ii) This information is being transmitted voluntarily to the NRC in confidence.
- (iii) This information is not available in public sources and could not be gathered readily from other publicly available information.
- (iv) Public disclosure of this information would create substantial harm to the competitive position of Varian Medical Systems by making public trade secrets, customer lists, maintenance procedures, maintenance frequency, photographs of components, other information on the engineering and design of the high dose rate afterloader unit, the sources that are used, identification of critical components, and source construction; thereby providing information to parties whose commercial or other interests may be adverse to those of Varian Medical Systems.

We have reviewed your letters in accordance with the requirements of 10 CFR 2.390.

On the basis of your statements, we have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the version of 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 610-337-5355.

Thank you for your cooperation.

Sincerely,

***Original signed by Judith A. Joustra***

Judith A. Joustra, Chief  
Decommissioning Branch  
Division of Nuclear Materials Safety

cc: Commonwealth of Virginia

R. Piccolo

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Judith A. Joustra, Chief  
Decommissioning Branch  
Division of Nuclear Materials Safety

cc: Commonwealth of Virginia

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**SUNSI Review Complete: JJoustra**

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