April 1, 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' TRANSMITTAL OF THE TECHNICAL REPORT MUAP-07014 "DEFENSE-IN-DEPTH AND DIVERSITY COPING ANALYSIS REVISON 2", MHI REF: UAP-HF-09569

Dear Mr. Ogata:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated December 25, 2009 (UAP-HF-09569), 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 Technical Report MUAP-07014 "Defense-in-Depth and Diversity Coping Analysis Revision 2"

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 (ML093650261).

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

- Public disclosure of the referenced information would assist competitors of MHI in their design of new nuclear power plants without incurring the costs or risks associated with the design and testing of the subject systems. Therefore, disclosure of the information contained in the referenced document would have the following negative impacts on the competitive position of MHI in the U.S. nuclear plant market:

  A. Loss of competitive advantage due to the costs associated with development of the post-accident plant response of the US-APWR to the design features of the D3 System. Providing public access to such information permits competitors to duplicate or mimic the D3 system design without incurring the associated costs.

  B. Loss of competitive advantage of the US-APWR created by benefits of enhanced plant safety, and reduced operation and maintenance costs associated with the D3 system.

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) 415-6988, or via e-mail at Michael.Magee@nrc.gov.

Sincerely,

/RA/

Michael Magee, 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) 415-6988, or via e-mail at Michael.Magee@nrc.gov.

Sincerely,

/RA/

Michael Magee, Project Manager
US-APWR Projects Branch
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Office of New Reactors

Docket No. 52-021

cc: See next page

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