

March 15, 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 February 18, 2010, transmitting an affidavit (enclosure 1 to the letter), dated February 18, 2010, 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, 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. Enclosure 3 indicates the location of possible historic sites exempt from public disclosure under Idaho State Law. Under Idaho Code 9-340E(1), records, maps, or other records indicating 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, 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 February 18, 2010, affidavit and enclosure 3 to the letter in accordance with the requirements of 10 CFR 2.390 and have concluded that the enclosure 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 "EREF 161-KV Transmission Line Project Cultural Resources Survey," 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 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 February 18, 2010, 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

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 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 February 18, 2010, 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

DISTRIBUTION:

MWeber/NMSS	MBailey/FCSS	CSafford/OGC	DDorman/FCSS
SLemont/FSME	RVirgilio/FMSE	AKock/FSME	JWeil/OCA
JHenson/RII	RTrojanowski/RII	DMcIntyre/OPA	DSeymour/RII
CTaylor/RII	TGody/RII	TLiu/FCSS	

ML100690334

OFFICE	NMSS/AFCB	NMSS/AFCB	NMSS/AFCB
NAME	BReilly	TRichmond	THiltz
DATE	3/10/10	3/12/10	3/15/10

OFFICIAL USE ONLY