UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 23, 2010

Vice President, Operations
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
P.O. Box 110
Lycoming, NY 13093

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE JAMES A. FITZPATRICK (JAF) NUCLEAR POWER PLANT (TAC NO. ME3786)

Dear Sir or Madam:

By letter dated September 2, 2010 (Agencywide Document Accession and Management System Accession No. ML102460107), you submitted an affidavit dated August 24, 2010, executed by Mr. Anthony P. Reese, Manager, Reload Design & Analysis, Global Nuclear Fuel – Americas, LLC (GNF-A). You requested 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:

> Enclosures 1 and 3, of the Attachment 1, to the letter from Pete Dietrich, Site Vice President, JAF to U.S. Nuclear Regulatory Commission dated September 2, 2010, which contained the information from GNF's letter, RA-ENO-EP1-10-135, R. Augi (GNF-A) to G. Rorke (Entergy Nuclear Northeast), entitled "GNF response to NRC Supplemental RAIs [Requests for Additional Information]1, 4, 5, and 6 for James A. FitzPatrick Cycle 20 SLMCPR [Safety Limit Minimum Critical Power Ratio] Submittal," dated August 24, 2010.

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

(4)a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GNF-A's competitors without license from GNF-A constitutes a competitive economic advantage over other companies;

(4)b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;

(8) The information identified in [the GNF proprietary document] is classified as proprietary because it contains details of GNF-A's fuel design and licensing methodology.

The development of the methods used in these analyses, along with the testing, development and approval of the supporting methodology was achieved at a significant cost to GNF-A or its licensor.

(9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GNF-A's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GNF-A's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical, and NRC review costs comprise a substantial investment of time and money by GNF-A.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GNF-A's competitive advantage will be lost if its competitors are able to use the results of the GNF-A experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to GNF-A would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GNF-A of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

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 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 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.

Nonproprietary version of the Enclosure 1 of the above mentioned document (Enclosure 2, ADAMS Accession No. ML102460100) has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room. Enclosure 3 of the above mentioned document does not have a nonproprietary version.

If you have any questions regarding this matter, I may be reached at 301-415-3308.

Sincerely,

BKVaidya

Bhalchandra K. Vaidya, Project Manager
Plant Licensing Branch I-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-333

cc: Mr. Anthony P. Reese, Manager
Reload Design & Analysis
Global Nuclear Fuel – Americas, LLC
3901 Castle Hayne Rd.
Wilmington, NC 28402

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Sincerely,

/RA/

Bhalchandra K. Vaidya, Project Manager
Plant Licensing Branch I-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-333

cc: Mr. Anthony P. Reese, Manager
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