

TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION
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Letter No. TANE-STP3&4- LIC-11-002
Date: March 31, 2011

To: Stacy Joseph
U.S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Mail Stop T6D38M
Rockville, MD 20852-2738

Re: **Responses to Request for Additional Information Toshiba America Nuclear Energy Corporation Project No. 52-0001**

References: 1. Request for Additional Information Related to Toshiba America Nuclear Energy Corporation Request for Approval of Additional Facilities for Storage of Safeguards Information, March 11, 2011.

Dear Ms. Joseph:

Enclosed is Toshiba America Nuclear Energy Corporation's ("TANE") responses to the NRC Request for Additional Information (Ref. 1). In addition, because TANE revised its procedures and standard terms and conditions in response to the NRC's Request for Additional Information, two versions of these revised documents are also enclosed: the first is a redline version of the revised procedure and standard terms and conditions (Enclosures 3 and 4) and the second is a clean version of these documents (Enclosures 5 and 6).

Due to the security-related nature of the information in the above-referenced Enclosures, TANE requests that these documents be withheld from public disclosure pursuant to 10 C.F.R. 2.390. In addition, because TANE considers the information in these Enclosures proprietary, TANE requests these documents also be withheld from public disclosure pursuant to 10 C.F.R. 2.390(a)(4) and 9.17. An affidavit supporting this request for proprietary treatment is provided in Enclosure 1.

If you have any additional questions regarding these responses, please contact me at (704) 538-7640 or rschrauder@tane.toshiba.com.

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Date: March 31, 2011

Sincerely,



Robert W. Schrauder

VP Licensing

US ABWR Projects & Technologies

Toshiba America Nuclear Energy Corporation

- Enclosures:
- (1) 10 C.F.R. § 2.390 Supporting Affidavit
 - (2) Responses to Request for Additional Information
 - (3) TANE SGI Audit Procedures for Certain Outside Entities (Redline)
 - (4) TANE Standard Terms and Conditions of Control of SGI and SSI (Redline)
 - (5) TANE SGI Audit Procedures for Certain Outside Entities (Clean)
 - (6) TANE Standard Terms and Conditions of Control of SGI and SSI (Clean)

CC: Document Control Desk

Bernard W. Stapleton Office of Nuclear Security and Incident Response, US NRC

Robert L. Norman Office of Nuclear Security and Incident Response, US NRC

Richard S. DiSalvo Toshiba America Nuclear Energy Corporation

Daniel F. Stenger Hogan Lovells US LLP

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Enclosures 2, 3, 4, 5, and 6 contains security-related information exempt from public disclosure under 10 C.F.R. 2.390. Enclosures 3, 4, 5, and 6 also contain proprietary information exempt from public disclosure under 10 C.F.R. 2.390 and 9.17. Upon removal of Enclosures 2, 3, 4, 5, and 6 the balance of this submittal may be released.

ENCLOSURE 1

**Affidavit of Robert W. Schrauder
Vice President, Licensing
US ABWR Projects & Technologies
TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION**

**TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION
10 CFR § 2.390 AFFIDAVIT OF ROBERT SCHRAUDER**

AFFIDAVIT

I, Robert W. Schrauder, hereby affirm and state as follows:

- (1) I am the Vice President of Licensing for US ABWR Projects & Technologies for Toshiba America Nuclear Energy Corporation ("TANE"), and I have been authorized to execute this affidavit on behalf of TANE.
- (2) By this letter, TANE is submitting for NRC review its response to the NRC's Request for Additional Information regarding its Safeguards Information Audit Procedures for Certain Outside Entities ("SGI Audit Procedures") and TANE Standard Terms and Condition of Control of Safeguards Information and Sensitive Security Information ("Standard Terms and Conditions") in Enclosure 2, along with revised versions of SGI Audit Procedures and Standard Terms and Conditions in Enclosures 3, 4, 5, and 6. TANE understands that these documents (*i.e.*, Enclosures 2, 3, 4, 5, and 5) are security-related information that the NRC treats as exempt from public disclosure under 10 C.F.R. § 2.390. In addition, in accordance with my responsibilities, I have reviewed the contents of Enclosures 3, 4, 5, and 6 and determined that these documents contain information proprietary to TANE. Accordingly, in addition to being marked as "security-related," Enclosures 3, 4, 5, and 6 have been marked to indicate that they should be withheld from public disclosure in their entirety pursuant to 10 C.F.R. §§ 2.390 and 9.17.
- (3) In making this application for withholding of proprietary information of which it is the owner, TANE believes that the information contained in its SGI Audit Procedures and the Standard Terms and Conditions qualify for withholding under the exemption from disclosure set forth 10 C.F.R. § 2.390(a)(4) for trade secrets and commercial or financial information.
- (4) The information identified as proprietary has in the past been, and will continue to be, held in confidence by TANE and its disclosure outside the company is limited to regulatory bodies, contractors, customers and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and is always subject to suitable measures to protect it from unauthorized use or disclosure.
- (5) The basis for holding the SGI Audit Procedures and Standard Terms and Conditions confidential is that these documents describe the specific procedures and requirements for TANE to review an Outside Entity's Safeguards Information program to establish an SGI repository at the Outside Entity's facility. The SGI Audit Procedures and Standard Terms and Conditions were developed at a significant expenditure of time and resources by TANE. Disclosure of these documents would have a negative impact on TANE because of a loss of competitive advantage due to the costs associated with development of the SGI Audit Procedures and Standard Terms and Conditions. Providing public access to such information could permit competitors to duplicate the SGI Audit Procedures and Standard Terms and Conditions without incurring the associated costs.
- (6) The referenced information is being furnished to the NRC in confidence and solely for

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the purpose of information and review by the NRC Commissioners and staff.

- (7) The referenced information is not available in public sources and could not be gathered readily from other publicly available information.

Accordingly, in addition to being withheld as security-related, TANE requests that the subject documents be withheld from public disclosure pursuant to 10 C.F.R. § 2.390(a)(4) and 10 C.F.R. § 9.17.

As permitted by 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on March 31, 2011.


Robert W. Schrauder