



**HITACHI**

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April 8, 2011

Director, Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attn: Document Control Desk

Subject: Revised License Renewal Application ("LRA") and Decommissioning Funding Plan for  
Vallecitos Nuclear Center

References:

- (1) NRC License SNM-960, Docket 70-754, TAC # L33042
- (2) SNM-960 License Renewal Application – D. W. Turner, 9/30/2009
- (3) SNM-960 License Renewal Application – D. W. Turner, 2/24/2010
- (4) SNM-960 License Renewal Application – D. W. Turner, 9/30/2010
- (5) NRC Letter, C. Ryder to S. Murray – 11/18/2010
- (6) NRC Letter, B. Smith to D. Turner – 11/29/2010

GE - Hitachi Nuclear Energy Americas LLC (GEH) hereby re-submits its application pursuant to 10 CFR 70.33 to renew Special Nuclear Materials License SNM-960 for the Vallecitos Nuclear Center (VNC), in Sunol, California, for a term of 10 years. The current license expired June 30, 2010, but is under timely renewal as provided in 10 CFR 2.109 (a).

Upon learning that the license renewal application submitted on September 30 2010 was not accepted for docketing, GEH made a complete review of the application history, including with individuals not involved in prior application submittals, and developed a clear path forward to address shortcomings identified by those reviewers and the NRC. GEH's plan to revise and clarify the application was summarized in a meeting between GEH and the NRC on February 8, 2010, and the NRC's feedback during that meeting was also addressed by GEH. The result of that significant effort is hereby submitted for docketing and review by the NRC.

With regard to this re-submittal, changes were made to provide sufficient detail on the facilities, processes and equipment to support the NRC's review and determination of the adequacy of the safety program. The organization of Chapter 1 has been revised to explain the site more clearly and to include significantly expanded details of the facilities, processes and equipment used for SNM-960 activities. The first section of Chapter 1 discusses the features and location of the site and provides an overview of all of the facilities on the site. The second section of Chapter 1 provides details on the process descriptions for those facilities where SNM-960 work is performed. The third section provides detail regarding the facilities and equipment used in the buildings where SNM-960 work is conducted. Finally, Chapter 1 covers the requisite corporate information, licensed quantities, and authorized activities and special authorizations. An understanding of many of the details provided in Chapter 1 is important for the review of all other chapters in the LRA.

Major changes to Chapter 4 were made to provide additional details of the Radiological Protection program at VNC, with specific regulatory references. Likewise, Chapter 6 has been revised to include comprehensive lists of chemicals, and quantities and concentrations in use within the facilities at the site conducting SNM-960 work. The procedures section of Chapter 11 has been revised and expanded to clarify the program of procedural control used at VNC. In addition, a change management process that

parallels the 10 CFR 70.72 process, but for a facility not required to develop an Integrated Safety Analysis (ISA) or to identify Items Relied On For Safety (IROFS), is included as a special authorization in Chapter 1 and integrated with the configuration management program described in Chapter 11. The recognition of key MC&A regulatory requirements has been included in the procedures section of Chapter 11 as discussed in the February 8 meeting.

With regard to decommissioning funding, the NRC made clear that GEH would need to provide sufficient detail and justification for the method used to develop cost estimates to show that such method was adequate to meet the requirements of 10 CFR 70.25 (e). Chapter 10, the LRA chapter on decommissioning, now provides additional information describing the decommissioning funding methods used by GEH and provides a summary of the justification and pedigree of that method. The Decommissioning Funding Plan and Cost Estimate document has also been significantly revised to provide additional details that identify the origin of the model used by GEH, actual details from the model, and justification based on current experience using the same techniques for decontamination projects undertaken by GEH. The SNM-960 facilities and activities have been separated from other activities on the site. The summary tables include all the major breakdown of the tasks required by NRC guidance. GEH believes this includes all information required by 10 CFR 70.25 (e) in sufficient detail to justify the adequacy of GEH's decommissioning cost estimate. Furthermore, it should be noted that the decommissioning costs are underpinned by a substantial "parent guaranty" from General Electric Company that provides financial assurance several times in excess of the estimated decommissioning costs.

Based on previous reviews, GEH understood that the NRC expected to see a correlation between the current application and the information contained in "Appendix B" of the previous license renewal application. We take this occasion to clarify that the information in the previous Appendix B is over 10 years old, and accordingly a significant portion of it is either no longer applicable to SNM-960 activities or has been modified. Therefore, while this revised application contains all the detail from the old Appendix B that continues to be applicable to the SNM-960 activities, it does not contain Appendix B items that are no longer relevant. For example, the details of the "storage pool" are not discussed, as the storage pool is no longer used for any SNM-960 activities.

A Radiological Contingency & Emergency Plan (RC&EP) is not required for SNM licensed activities because a release of radioactive materials would not cause a member of the public to exceed 1 rem effective dose equivalent or an intake of 2 milligrams of soluble uranium as provided in 10 CFR 70.22(i)(1)(i) and (i)(2). An evaluation demonstrating that an RC&EP is not required was provided to NRC on April 21, 1989 and NRC concurred on December 20, 1990. Accident potentials and consequences for the site have remained the same or have decreased since that time.

A Fundamental Nuclear Material Control Plan is not required for this facility because the inventory is less than 1-effective kilogram of SNM as provided in 10 CFR 74.31 and 74.51. However, current safeguard license conditions SG-2.1 and SG-2.2 should be retained in the renewed license.

In addition the following two points from the September 30, 2009 license renewal application continue to be appropriate for this license renewal request:

1. As described in Chapter 3, it has been determined that the requirements of 10 CFR 70.61 through 70.76 do not apply to VNC activities licensed under SNM-960. While VNC is licensed to possess greater than a critical mass, VNC is not engaged in any of the qualifying activities related to that material and is therefore excluded. Consequently there are no IROFS identified at the facility.
2. Environmental Monitoring and Surveillance Report summaries for the period 1999 – 2008 were prepared from information contained in the VNC Effluent Monitoring and Environmental Surveillance Program Annual reports and submitted to the NRC on September 30, 2009.

Attachment 1 to this letter is an affidavit requesting that the Decommissioning Funding Plan (Attachment 4) be withheld from public disclosure pursuant to 10 CFR 2.390 because it contains company confidential and proprietary information.

Attachment 2 to this letter is the complete updated SNM 960 License Renewal Application. This document contains security related information and should be withheld from public disclosure.

Attachment 3 to this letter is a redacted copy of the SNM 960 License Renewal Application with the security related information removed.

Attachment 4 to this letter is the complete updated Decommissioning Funding Plan containing company confidential and proprietary information. The pages of this document have been marked GEH Nuclear Energy Americas, LLC Confidential and Proprietary Information – Withhold from Public Disclosure Pursuant to 10 CFR 2.390.

We would be pleased to discuss this information with you and your staff and to have NRC review personnel visit the Vallecitos facility as appropriate to facilitate the review process.

If you have questions please contact me at (925) 862-4344.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. W. Turner', written in a cursive style.

D. W. Turner, Manager  
Vallecitos Nuclear Center

Attachments 1-4

Commitments - None

cc: DWT 2011-07  
R. Johnson, NRC NMSS, Washington, DC  
C. Ryder, NRC NMSS, Washington, DC  
E. Collins, Jr, Region IV, Arlington, TX  
B. Spitzburg, Region IV, Arlington, TX  
S. P. Murray, Manager GEH Licensing & Liabilities

**Attachment 1**

**Affidavit**

# GE-Hitachi Nuclear Energy Americas LLC

## AFFIDAVIT

I, **Scott P. Murray**, state as follows:

- (1) I am the Manager, Licensing & Liabilities of GE-Hitachi Nuclear Energy Americas LLC (GEH), and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is an attachment to GEH's letter, DWT 2011-07, D. W. Turner to Director, Office of Nuclear Material Safety and Safeguards, entitled Revised License Renewal Application ("LRA") and Decommissioning Funding Plan for Vallecitos Nuclear Center, April 8, 2011. GEH proprietary information is contained in Attachment 4, which is entitled "Vallecitos Nuclear Center Decommissioning Funding Plan, April 4, 2011", and has been labeled with the statement "GE-Hitachi Nuclear Energy Americas LLC Confidential and Proprietary Information Withhold from Public Disclosure Pursuant to 10CFR 2.390."
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, GEH relies upon the exemption from disclosure set forth in the Freedom of Information Act (FOIA), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for trade secrets (Exemption 4). The material for which exemption from disclosure is here sought also qualifies under the narrower definition of trade secret, within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975 F2d 871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F2d 1280 (DC Cir. 1983).
- (4) The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. Some examples of categories of information that fit into the definition of proprietary information are:
  - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH constitutes a competitive economic advantage over GEH and/or other companies.
  - b. Information that, if used by a competitor, would reduce their expenditure of resources or improve their competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
  - c. Information that reveals aspects of past, present, or future GEH customer-funded development plans and programs, that may include potential products of GEH.

- d. Information that discloses trade secret and/or potentially patentable subject matter for which it may be desirable to obtain patent protection.
- (5) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being submitted to the NRC in confidence. The information is of a sort customarily held in confidence by GEH, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GEH, not been disclosed publicly, and not been made available in public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary and/or confidentiality agreements that provide for maintaining the information in confidence. The initial designation of this information as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure are as set forth in the following paragraphs (6) and (7).
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, who is the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or who is the person most likely to be subject to the terms under which it was licensed to GEH. Access to such documents within GEH is limited to a “need to know” basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist, or other equivalent authority for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GEH are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary and/or confidentiality agreements.
- (8) The information identified in paragraph (2) above is classified as proprietary because it contains details of GEH’s processes, methods, design or manufacturing facilities.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GEH's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GEH'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 GEH. 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. GEH's competitive advantage will be lost if its competitors are able to use the results of the GEH experience to normalize or verify their

