

August 24, 2011

Mr. Robert W Schrauder, Vice President
Licensing, US ABWR Projects & Technologies
Toshiba America Nuclear Energy Corporation
3545 Whitehall Park Dr, Suite 500
Charlotte, NC 28273

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION REQUEST
RELATED TO APPROVAL OF ADDITIONAL FACILITIES FOR STORAGE OF
SAFEGUARDS INFORMATION

Dear Mr. Schrauder:

By letter to the U.S Nuclear Regulatory Commission (NRC) dated July 27, 2011, you submitted an affidavit signed on July 27, 2011, executed by you as Vice President, Licensing US ABWR Projects & Technologies, Toshiba America Nuclear Energy Corporation (TANE), requesting that information contained in the December 16, 2010, transmittal letter, Enclosure 2 and Enclosure 3 be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390:

In addition to containing security related information, the affidavit stated that the submitted information should be considered proprietary and exempt from public disclosure for the following reasons:

1. In making this application for withholding of proprietary information of which it is the owner, TANE believes that the information contained in the Audit Procedures and the Standard Terms and Conditions qualifies 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.
2. 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 and others with a legitimate need for the information, and is always subject to suitable measures to protect it from unauthorized use or disclosure.
3. The basis for holding the Audit Procedures and the Standard Terms and Conditions confidential is that they describe the specific procedures established by TANE for the control and protection of safeguards information. This information was developed at a significant expenditure of time and resources by TANE. Disclosure of the documents would have a negative impact on TANE because of a loss of competitive advantage due to the costs associated with development of the Audit Procedures and the Standard Terms and Conditions. Providing public access to such information could permit competitors to duplicate the documents without incurring the associated costs.

4. The referenced Information is being furnished to the NRC in confidence and solely for the purpose of information and review by the NRC staff.
- 5 The referenced information is not available in public sources and could not be gathered readily from other publicly available information.

We have reviewed the December 16, 2010, letter and the July 27, 2011, affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, 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, 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 301-415-1494 or George.Wunder@nrc.gov.

Sincerely,

/RA/

George F. Wunder, Senior Project Manager
BWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-001

cc: See next page

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George F. Wunder, Senior Project Manager
BWR Projects Branch
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(Revised 06/09/2011)

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