

**Attachment 32**

**General Atomics-Electronics Systems Inc. letter GA-ESI 4493, Request by General Atomics Electronic Systems, Inc. to Withhold Certain Information from Public Disclosure under 10CFR2.390 dated October 14, 2011 (Letter Items 11 and 12)**

|   |  |       |                 |       |      |     |          |        |         |     |  |
|---|--|-------|-----------------|-------|------|-----|----------|--------|---------|-----|--|
| <b>BECHTEL POWER CORPORATION</b>  | Job Number:<br><br>25402   |       |                 |       |      |     |          |        |         |     |  |
| <b>SUPPLIER DOCUMENT REVIEW STATUS</b>  |  |       |                 |       |      |     |          |        |         |     |  |
| <b>STATUS CODE:</b>   |  |       |                 |       |      |     |          |        |         |     |  |
| 1 <input type="checkbox"/> Work may proceed.  | 3 <input type="checkbox"/> Rejected. Revise and resubmit.                    |       |                 |       |      |     |          |        |         |     |  |
| 1C <input type="checkbox"/> Work may proceed. Editorial comments need only be incorporated if revised for other purposes.   | 4 <input checked="" type="checkbox"/> Review not required. Work may proceed. |       |                 |       |      |     |          |        |         |     |  |
| 2 <input type="checkbox"/> Revise and resubmit. Work may proceed subject to incorporation of changes indicated.   | PO 77469 release 77448   |       |                 |       |      |     |          |        |         |     |  |
| Permission to proceed does not constitute acceptance or approval of design details, calculations, analysis, test methods, or materials developed or selected by the Supplier and does not relieve the Supplier from full compliance with contractual obligations. |  |       |                 |       |      |     |          |        |         |     |  |
| Reviewed by   | Arch   | Civil | CS              | Elect | Mech | MET | PD       | Constr | Startup | STE |  |
|   | N/A  | N/A   | JTT<br>10/18/11 | N/A   | N/A  | N/A | N/A      | N/A    | N/A     | N/A |  |
| Status By:  |  |       |                 |       |      |     | DATE     |        |         |     |  |
| Joe Temples <i>Joe T. Temples</i>   |  |       |                 |       |      |     | 10/18/11 |        |         |     |  |



October 14, 2011  
GA/ESI-4493

Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 2055

Subject: **Request by General Atomics Electronic Systems, Inc. to Withhold Certain Information from Public Disclosure under 10CFR2.390**

Reference: Tennessee Valley Authority / Watts Bar 2 Completion Project

To Whom It May Concern:

General Atomics Electronic Systems Inc., (GA-ESI) hereby submits the following documents related to its Radiation Monitoring System pursuant to the specific request of Bechtel Power Corp. Control Systems in support of the Tennessee Valley Authority's Watts Bar 2 Completion Project:

04509050 RM-1000 EMC Test Report  
7-3-240 Safety-Related Commercial Grade Item Parts Acceptance

Certain portions of the enclosed documents include GA-ESI proprietary commercially strategic information which GA-ESI has held in confidence, and which is not available through public sources. Accordingly, GA-ESI is submitting these documents in confidence and, as set forth in the enclosed affidavit of Mr. Paul G. Berner, GA-ESI requests that this information be treated as proprietary information under the provisions of 10CFR2.390 and be withheld from public disclosure. The enclosed affidavit addresses specifically the considerations listed in paragraph (b)(4) of 10 CFR Section 2.390 of the of the NRC's regulations.

GA-ESI is submitting both a proprietary version of the documents plus a nonproprietary version of the same. In the proprietary versions of the documents, the proprietary material is delineated by "business sensitive" or "trade secret" designation on specific paragraphs and highlighted text, sentence, figure or drawing to which the designation applies. In the nonproprietary versions, the proprietary information has been obscured/blacked-out.

If you have questions regarding this submittal, please do not hesitate to contact Mr. Paul Berner at (858) 522-8246 or [paul.berner@ga-esi.com](mailto:paul.berner@ga-esi.com), or me at (858) 455-2823 or [keith.asmussen@ga.com](mailto:keith.asmussen@ga.com).

Very truly yours,

A handwritten signature in black ink that reads "Keith E. Asmussen".

Keith E. Asmussen, Ph.D., Director  
Licensing, Safety and Nuclear Compliance

Enclosures: 1) Documents as listed in text  
2) Affidavit of Mr. Paul G. Berner

STATE OF CALIFORNIA )

) ss

COUNTY OF SAN DIEGO )

**AFFIDAVIT OF PAUL G. BERNER**

I, Paul G. Berner, Radiation Monitoring Systems Program Director of General Atomics Electronic Systems, Inc., do hereby affirm and state:

- (1) I have been delegated the function of reviewing the information sought to be withheld by General Atomics Electronic Systems, Inc. and I am authorized to execute this affidavit on behalf of General Atomics Electronic Systems, Inc.
- (2) The affidavit is submitted under the provisions of 10CFR Part 2.390 in order to withhold the enclosed confidential commercial information (as set forth in paragraph 3 following) of General Atomics Electronic Systems, Inc. from public disclosure or publication.
- (3) The information sought to be withheld is related to General Atomics Electronic Systems' Radiation Monitoring System (i.e., RM-1000) and is contained in the documents designated as:

04509050 RM-1000 EMC Test Report  
7-3-240 Safety-Related Commercial Grade Item Parts Acceptance

The proprietary material in these documents is delineated by "business sensitive" or "trade secret" designation on specific paragraphs and highlighted text, sentence, figure or drawing to which the designation applies.

- (4) In making this application for withholding of proprietary information of which it is the owner, General Atomics Electronic Systems, Inc. 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 10CFR Part 9.17(a)(4) and 2.390(a)(4) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." The material for which exemption from disclosure is hereby sought is all "confidential commercial information," and some portions also qualify 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, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).

- (5) Some examples of categories of information which 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 General Atomics Electronic Systems, Inc.'s competitors without license from General Atomics Electronic Systems, Inc. constitutes a competitive economic advantage over other companies;
  - b. Information which, if used by a competitor, would reduce his or her expenditure of resources or improve his or her competitive position in the design, manufacture, shipment, installation, assurance or quality, or licensing of a similar product.
  - c. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.
- (6) The information sought to be withheld is being submitted to the NRC in confidence. The information is of a sort customarily held in confidence, is of a sort customarily held in confidence by General Atomics Electronic Systems, Inc., 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 General Atomics Electronic Systems, Inc. No public disclosure has been made, and it is not 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 agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (7) and (8) following.
- (7) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within General Atomics Electronic Systems, Inc. is controlled to protect it from unauthorized disclosure.

- (8) 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, by the manager of the cognizant marketing function (or his designee), and by the Legal Department, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside General Atomics Electronic Systems, Inc. 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 agreements for protecting the information from further disclosure.
- (9) The information classified as proprietary was developed and compiled by General Atomics Electronic Systems, Inc. at a significant cost to General Atomics Electronic Systems, Inc. This information is classified as proprietary because it contains detailed historical data and analytical results not available elsewhere. This information would provide other parties, including competitors, with information from General Atomics Electronic Systems, Inc. technical database and the results of evaluations performed using codes developed by General Atomics Electronic Systems, Inc. Release of this information would improve a competitor's position without the competitor having to expend similar resources for the development of the database. A substantial effort has been expended by General Atomics Electronic Systems, Inc. to develop this information.
- (10) Public disclosure of the information sought to be withheld is likely to cause substantial harm to General Atomics Electronic Systems, Inc.'s competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of General Atomics Electronic Systems, Inc.'s comprehensive radiation monitoring system 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.

The research, development, engineering, and analytical costs comprise a substantial investment of time and money by General Atomics Electronic Systems, Inc.

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

General Atomics Electronic Systems, Inc. competitive advantage will be lost if its competitors are able to use the results of the General Atomics Electronic Systems, Inc.'s 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.

GENERAL ATOMICS ELECTRONIC SYSTEMS, INC.

  
Paul G. Berner, Radiation Monitoring  
Systems Program Director

State of California  
County of San Diego

On October 14, 2011 before me, Lynne-Marie Vettters, Notary Public, personally appeared Paul Berner, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and who acknowledged to me that he executed the same in their authorized capacity, and by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY of PERJURY under the laws of the state of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

  
(Signature of Notary)

