



Global Nuclear Fuel

A Joint Venture of GE, Toshiba, & Hitachi

Global Nuclear Fuel

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Proprietary Information Notice

Attachment 3 to this letter contains
~~sensitive proprietary information~~
which is to be withheld from public disclosure
in accordance with 10CFR2.390 and RIS 2005-31

SPM 13-037

July 17, 2013

Mr. Tyrone Naquin, Project Manager
Fuel Manufacturing Branch – Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTN: Document Control Desk

Dear Mr. Naquin:

Subject: GNF-A Response to NRC Request for Additional Information (RAI) Dated 6/13/13
for GNF-A DFP

References: 1) NRC License SNM-1097, Docket 70-1113
2) Updated GNF-A Fuel Fabrication Facility Decommissioning Funding Plan (DFP),
12/14/12
3) NRC Request for Additional Information – GNF-A DFP, 2/22/13
4) GNF-A Response to NRC RAI's – GNF-A DFP, 3/28/13
5) Revised GNF-A DFP, 4/26/13
6) NRC Request for Additional Information – GNF-A DFP, 6/13/13

Attached is Global Nuclear Fuel - Americas, LLC (GNF-A) response to NRC's second round requests for additional information (RAI) dated June 13, 2013 (Reference 6). In addition, per your request in RAI # 2, we have amended and are providing a revised Decommissioning Standby Trust Agreement for NRC review and approval.

Please note that Attachment 3 to this letter contains sensitive proprietary information that is requested to be withheld from public disclosure in accordance with 10 CFR 2.390 and RIS 2005-31.

Please contact me on (910) 819-5950 if you have any questions or would like to discuss this matter further.

Sincerely,

Scott P. Murray, Manager
Facility Licensing

Commitments: None

Attachments: GNF-A Affidavit
Second Round GNF-A RAI Responses
Revised GNF-A Standby Trust Agreement

Attachment 1

Global Nuclear Fuel - Americas LLC

AFFIDAVIT

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

- (1) I am the Manager, Facility Licensing of Global Nuclear Fuel – Americas, LLC (GNF-A), and have been delegated the function by GNF-A 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 contained in Attachment 3 to GNF-A’s letter, GNF-A letter Number 13-037, Scott P. Murray to US Nuclear Regulatory Director, Office of Nuclear Material Safety and Safeguards entitled GNF-A Response to NRC RAI’s Dated 6/13/13 for GNF-A DFP. GNF-proprietary information in Attachment 3 is identified by the statement “Contains GNF-A Proprietary Information”.
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, GNF-A 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 GNF-A's competitors without license from GNF-A constitutes a competitive economic advantage over GNF-A 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.
- (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 GNF-A, 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 GNF-A, 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 GNF-A. Access to such documents within GNF-A 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 GNF-A 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.

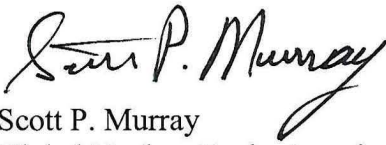
- (8) The information identified in paragraph (2) above is classified as proprietary because it contains details of GNF-A's processes, design and manufacturing facilities.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GNF-A's competitive position and foreclose or reduce the availability of profit-making opportunities. The facility design and licensing methodology is part of GNF-A's comprehensive 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.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

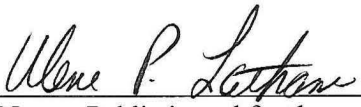
Executed on this 17th day of July, 2013.


 Scott P. Murray
 Global Nuclear Fuel - Americas LLC

STATE OF NORTH CAROLINA)
)
 COUNTY OF NEW HANOVER)

Subscribed and sworn to me, a Notary Public, in and for the State of North Carolina, this 17th day of July, 2013.





 Notary Public in and for the
 State of North Carolina

My Commission Expires: June 23, 2018

Attachment 2

RAI 1: With regard to 10 CFR 70.25(e), clarify the basis for assumption on necessary decommissioning activities (NUREG-1757, Volume 3, Section 4.1)

NUREG-1757, Volume 3, Rev. 0, Section 4.1 specifies that costs for all major decommissioning and site control and maintenance activities, including “site stabilization and long-term surveillance (if necessary),” should be included within each cost estimate. The costs for site stabilization and long-term surveillance are not included in Global Nuclear Fuel-Americas’ (GNF-A’s) Decommissioning Funding Plan (DFP) and no explanation is provided justifying why these activities are not included.

In order to determine whether the DFP should include estimated costs for “site stabilization and long-term surveillance,” the staff recommends that the licensee provides the basis for the assumption that site stabilization and long-term surveillance costs are not required.

GNF-A Response:

The DFP assumes that the site and associated facilities will be decommissioned via decontamination activities along with material removal/disposal so as to reduce the level of radioactivity remaining at the facility to residual levels that are suitable for unrestricted release in a manner that will not necessitate stabilization and long term surveillance programs.

RAI 2: With regard to 10 CFR 70.25(e), Submit standby trust agreement (STA) and supporting materials (GNF-A’s response to RAI 5 from first round of RAIs) (NUREG-1757, Volume 3, Section 4.3.2 and Appendix A, Section A.17)

The GNF-A STA differs from the model STA fund agreement in one material area. Section 5 of GNF-A’s STA includes language limiting when the Trustee can make payments from the Fund at U.S. Nuclear Regulatory Commission (NRC) direction. Specifically, section 5 of GNF-A’s STA states that:

“In the event of the Grantor’s default or inability to direct decommissioning activities, the Trustee shall make payments from the Fund as the NRC shall direct, in writing, to provide for the payment of the costs of required activities covered by this Agreement.”

The model language does not include the first clause limiting when the NRC can direct payments from the Fund. Although, the staff previously allowed GNF-A to use this language in its previous STA, performing a new evaluation today, the staff finds GNF-A’s use of the language “Grantor’s default or inability to direct decommissioning activities” too limiting. The model language provides the NRC with broader discretion on when it can direct payments. There are situations when this broader discretion is needed. For example, the NRC may have one opinion on “in the event of the Grantor’s inability to direct decommissioning” and GNF-A may have another. The issue could become a point of contention between the NRC and the licensee. In the time it takes to resolve this contention, the funds available for decommission may be diminishing. This may lead to the public and the environment being at greater risk of radiological hazards. Therefore, to ensure the NRC can access the money in the Fund when needed (in a timely manner) for decommissioning, the staff recommends the licensee revise the STA to ensure that section 5 is consistent with the model language provided in Volume 3, Appendix A, Section A.17. It is understood that section 15 of the model language states that ‘the agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the NRC....’ Approval of your revised draft STA, by the NRC, will constitute the agency’s portion of the executed trust.

GNF-A Response:

The GNF-A STA has been revised to remove the first clause of Section 5 and is awaiting signature to execute.