



Global Nuclear Fuel

A Joint Venture of GE, Toshiba, & Hitachi

Proprietary Notice

This letter transmits proprietary information in accordance with 10 CFR 2.390. Upon removal of Enclosure 1, the balance of the letter may be considered non-proprietary.

MFN 14-067
October 16, 2014

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, D.C. 20555-0001

Subject: Stern Laboratory Data

In response to the Nuclear Regulatory Commission (NRC) request in Reference 1, this letter transmits the Stern laboratory data used in the generation of results presented to the NRC during an audit in 2012.

Please note that Enclosure 1 contains proprietary information of the type that Global Nuclear Fuel – Americas (GNF-A) maintains in confidence and withholds from public disclosure. The information contained in Enclosure 1 has been handled and classified as proprietary to GNF-A as indicated in the affidavit contained in Enclosure 2. GNF-A hereby requests that the information in Enclosure 1 be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17.

Enclosure 1 contains detailed thermal-hydraulic design information which is deemed proprietary in its entirety. Thus, a non-proprietary version of this enclosure has not been provided in accordance with NRC Information Notice 2009-07, Requirements for Submittals, (2), which states: "In instances in which a nonproprietary version would be of no value to the public because of the extent of the proprietary information, the agency does not expect a nonproprietary version to be submitted."

Brian R. Moore, Ph.D.

Global Nuclear Fuel – Americas, LLC
Core & Fuel Engineering Manager
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D066
NRR

If you have any questions about the information provided here, please contact me at (910) 819-6684 or Jim Harrison at (910) 620-1826.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian R. Moore". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Brian R. Moore
Core & Fuel Engineering Manager
GE-Hitachi Nuclear Energy Americas LLC

Project No. 712

References:

1. Letter from Anthony J. Mendiola (NRC) to Jerald G. Head (GEH), Subject: Request for Stern Laboratory Data, MFN 14-041, June 27, 2014.

Enclosures:

1. Stern Laboratory Data – CD-ROM – GNF-A Proprietary Information – Class II (Internal)
2. Affidavit dated October 2014

cc: J Golla, USNRC
PL Campbell, GEH/Washington
JG Head, GEH/Wilmington
JF Harrison, GEH/Wilmington
PLM Specification 002N2287 R0

ENCLOSURE 2

MFN 14-067

Affidavit

Global Nuclear Fuel – Americas

AFFIDAVIT

I, Brian R. Moore, state as follows:

- (1) I am Engineering Manager, Core & Fuel Engineering, Global Nuclear Fuel - Americas, LLC (“GNF-A”), 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 contained in Enclosure 1 of GNF letter MFN 14-067, Brian R. Moore (GNF) to Document Control Desk (NRC), entitled “Stern Laboratory Data,” dated October 16, 2014. The content of Enclosure 1, which is a CD-ROM entitled “Stern Laboratory Data”, is proprietary in its entirety. The label on the CD-ROM carries the notation “GNF Proprietary Information – Class II (Internal)^{3}.” The superscript notation ^{3} refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.
- (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 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).
- (4) 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 GNF-A's competitors without license from GNF-A constitutes a competitive economic advantage over other companies;
 - b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;
 - c. Information which reveals aspects of past, present, or future GNF-A customer-funded development plans and programs, resulting in potential products to GNF-A;

- d. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. above.

- (5) To address 10 CFR 2.390 (b) (4), the information sought to be withheld is being submitted to 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, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to 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 (6) and (7) following.
- (6) 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, or subject to the terms under which it was licensed to GNF-A.
- (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, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, 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 agreements.
- (8) The information identified in paragraph (2) is classified as proprietary because it contains detailed information regarding the Stern Laboratory test facility, the details of the test section, the conduct of the testing, and the results. This information has been developed by GNF-A at a significant cost.

The development of the testing processes, along with the interpretation and application of the results, is derived from an extensive experience database that constitutes a major GNF-A asset.

- (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 information is part of GNF-A'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 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 is true and correct.

Executed on this 15th day of October 2014.

A handwritten signature in black ink that reads "Brian R. Moore". The signature is written in a cursive, flowing style.

Brian R. Moore
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ENCLOSURE 1 - CD-ROM

MFN 14-067

Stern Laboratory Data

GNF-A Proprietary Information – Class II (Internal)

PROPRIETARY INFORMATION NOTICE

This enclosure contains proprietary information of Global Nuclear Fuel - Americas, LLC (GNF-A) and is furnished in confidence solely for the purpose(s) stated in the transmittal letter. No other use, direct or indirect, of the document or the information it contains is authorized. Furnishing this enclosure does not convey any license, express or implied, to use any patented invention or, except as specified above, any proprietary information of GNF-A disclosed herein or any right to publish or make copies of the enclosure without prior written permission of GNF-A.

The content of Enclosure 1, which is a CD-ROM entitled “Stern Laboratory Data”, is proprietary in its entirety. The label on the CD-ROM carries the notation “GNF Proprietary Information – Class II (Internal)^{3}.” The superscript notation ^{3} refers to Paragraph (3) of the affidavit in Enclosure 2, which provides the basis for the proprietary determination.