

G E N E R A L E L E C T R I C C O M P A N Y

AFFIDAVIT

I, William Ogden, being duly sworn, depose and state as follows:

- (1) I am Acting Manager, Nuclear Fuel and Components Manufacturing, General Electric Company, 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 to be withheld is identified portions of the submittal to the NRC dated December 3, 1990, supporting an application for permission to utilize the Uranium Recovery from Lagoon Sludge (URLS) project facility for the purpose of conducting uranium recovery development and processing.
- (3) In designating material as proprietary, General Electric utilizes the definition of proprietary information and trade secrets set forth in the American Law Institute's Restatement of Torts, Section 757. This definition provides:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business and which gives him an opportunity to use it...A substantial element of secrecy must exist so that, except by the use of improper means, there would be difficulty in acquiring information...Some factors to be considered in determining whether given information is one's trade secret are: (1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information, (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

- (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 where prevention of its use by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;
 - (b) Information consisting of supporting data and analyses, including test data, relative to a process, method of apparatus, the application of which provides a competitive economic advantage, e.g., by optimization or improved marketability;
 - (c) 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;
 - (d) Information which reveals cost or price information, production capacities, budget levels or commercial strategies of General Electric, its customers or suppliers;
 - (e) Information which reveals aspects of past, present or future General Electric customer-funded development plans and programs of potential commercial value to General Electric;
 - (f) Information which discloses patentable subject matter for which it may be desirable to obtain patent protection;
 - (g) Information which General Electric must treat as proprietary according to agreements with other parties.
- (5) In addition to proprietary treatment given to material meeting the standards enumerated above, General Electric customarily maintains in confidence preliminary and draft material which has not been subject to complete proprietary, technical and editorial review. This practice is based on the fact that draft documents often do not appropriately reflect all aspects of a problem, may contain tentative conclusions and may contain errors that can be corrected through formal review and approval procedures. Also, until the draft document is completed it may not be possible to make a definitive determination as to its proprietary nature.

General Electric is not generally willing to release such a document to the general public in such a preliminary form. Such documents are, however, on occasion furnished to the NRC staff on a confidential basis because it is General Electric's belief that it is in the public interest for the staff to be promptly furnished with significant or potentially significant information. Furnishing the document on a confidential basis pending completion of General Electric's internal review permits early acquaintance of the staff with the information while protecting General Electric's potential proprietary position and permitting General Electric to insure the public documents are technically accurate and correct.

- (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. Access to such documents within the Company is limited on a "need to know" basis and such documents are clearly identified as proprietary at all times.
- (7) The procedure for approval of external release of such a document typically requires review by the NF&CM 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 in accordance with the standards enumerated above. Disclosures outside General Electric are generally limited to regulatory bodies, customers and potential customers and their agents, suppliers and licensees, and then only in accordance with appropriate regulatory provisions or proprietary agreements.
- (8) The document mentioned in Paragraph (2) has been evaluated in accordance with the above criteria and procedures and has been found to contain information which is proprietary and which is customarily held in confidence by General Electric.
- (9) The document mentioned in Paragraph (2) is classified as proprietary because it contains features of a uranium recovery process which were performed and developed at considerable expense to General Electric and which are not available to other parties. The information is of a type customarily held in confidence by General Electric, since it reveals important features and contains valuable process information.

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- (10) The information in that document, to the best of my knowledge and belief, has consistently been held in confidence by the General Electric Company, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties have been made pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.
- (11) Public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive position of the General Electric Company and eliminate or reduce the availability of profit making opportunities because:
- (a) Such information is a significant part of a program which was developed with the expenditures of resources exceeding two million dollars.
 - (b) Competitors in the fuel market lack the methods capability and experience which General Electric has developed. Knowing the process information in this presentation would allow them to reduce uncertainty factors. This would cause General Electric to lose its current competitive advantage.
 - (c) Research, development, engineering, analytical and other costs and expenses must be included in General Electric's fuel price. The ability of General Electric's competitors to utilize such information without similar expenditure of resources would enable them to sell fuel at prices not reflecting similar cost.

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STATE OF NORTH CAROLINA

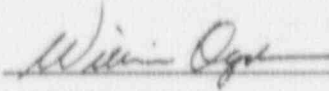
SS:

COUNTY OF NEW HANOVER

I, William Ogden, being duly sworn, deposes and says:

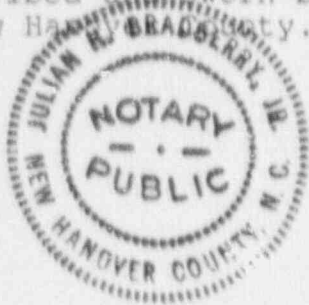
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information and belief.

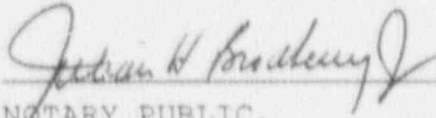
Executed at Wilmington, North Carolina, this 3 day of December, 1990.



William Ogden
GENERAL ELECTRIC COMPANY

Subscribed and sworn before me this 3 day of December, 1990, in New Hanover County.





NOTARY PUBLIC,
STATE OF NORTH CAROLINA

My Commission Expires 5 July 1995