



General Electric Company  
175 Cortland Avenue, San Jose, CA 95125

May 20, 1994

MFN No. 071-94  
Docket No. 52-001

Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington DC 20555

Attention: R. W. Borchardt, Director  
Standardization Project Directorate

Subject: Submittal of SSAR Sections 11A.2 and 11A.4 (Proprietary Information)

Reference: Submittal of Amendment 34, Proprietary Information to GE's ABWR  
SSAR MFN No. 033-94, Dated March 31, 1994

In accordance with the direction of NRR project staff, GE is providing twenty-five (25) copies of SSAR Sections 11A.2 and 11A.4 to the specified NRR recipients listed on Attachment 1. Further, nine (9) copies are sent herein to the Document Control Desk. This is being done to accelerate the distribution process and ensure timely staff receipt

SSAR Sections 11A.2 and 11A.4 are the proprietary portion of Amendment 34 (Reference letter) that was awaiting affidavits from Hitachi, Ltd. and the Toshiba Corporation, joint owners of this information. These affidavits are included in this transmittal.

Sincerely,

Joseph F. Quirk  
Project Manager  
ABWR Certification  
MC-782, (408)925-6219

- cc: S. A. Hucik (GE)
- W. T. Russell (NRC)
- F. J. Miraglia (NRC)
- D. M. Crutchfield (NRC)
- C. Poslusny, Jr. (NRC)
- N. D. Fletcher (DOE)
- S. M. Franks (DOE)
- D. J. McGoff (DOE)
- F. A. Ross (DOE)
- K. E. Stahlkopf (EPRI)

*See attached list*  
*2222*  
*1/9*

ATTACHMENT 1  
DIRECT SHIPMENT OF SSAR SECTIONS 11A.2 AND 11A.4  
PROPRIETARY INFORMATION

G. Bagchi	(2 copies)
R. J. Barrett	
C. H. Berlinger	
R. W. Borchardt	(2 copies)
T. G. Collins	
L. J. Cunningham	
C. I. Grimes	
J. W. Johnson	
F. Kantor	
C. E. McCracken	
P. F. McKee	
J. C. McKnight	(9 copies)
M. M. El-Zeftawy*	(9 copies)
M. M. Slosson	
J. S. Wermiel	
G. Zech	

\*ACRS

# HITACHI

Hitachi, Ltd.  
Nuclear Power Systems Div.

## AFFIDAVIT

I, Yasuo Yamada, being duly sworn, depose and state as follows:

- (1) I am Manager, Nuclear Power Plant Department, Hitachi Ltd. 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 the attached portion of the GE ABWR Standard Safety Analysis Report (SSAR), Section 11A.2, Liquid Radwaste System, and Section 11A.4, Solid Radwaste System.
- (3) In making this application for withholding of proprietary information of which it is a joint owner, Hitachi, Ltd. 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), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here 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).
- (4) Some examples of categories of information which fit into 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 Hitachi, Ltd.'s competitors without license from Hitachi, Ltd. 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 cost or price information, production capacities, budget levels, or commercial strategies of Hitachi, Ltd., its customers, or its suppliers;

- d. Information which reveals aspects of past, present, or future Hitachi, Ltd. customer-funded development plans and programs, of potential commercial value to Hitachi, Ltd.;
- e. 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 both paragraphs (4)a. and (4)b., above.

- (5) The information sought to be withheld is being submitted by the General Electric Company to NRC in confidence. The information is of a sort customarily held in confidence by Hitachi, Ltd., and is in fact so held. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in (6) and (7) following. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by Hitachi, Ltd., no public disclosure has been made, and it is not available in public sources. All disclosure 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 information in confidence.
- (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 Hitachi, Ltd. is limited on 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, 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 Hitachi, Ltd. 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 results of analytical models, methods and processes, which Hitachi, Ltd. has jointly developed with Toshiba Corporation and applied to liquid and solid radwaste systems for nuclear reactor generated waste. A substantial effort has been expended by Hitachi, Ltd. to develop this information in support of its BWR nuclear reactor business.

The development of the ABWR SSAR liquid and solid radwaste systems information was achieved at a significant cost, on the order of well over one billion Japanese Yen to Hitachi, Ltd.



The development of the ABWR SSAR liquid and solid radwaste systems information is derived from the extensive experience database that constitutes a major Hitachi, Ltd. asset.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to Hitachi, Ltd.'s competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of Hitachi, Ltd.'s comprehensive BWR 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 include development of the expertise to determine and apply the appropriate liquid and solid radwaste systems to the ABWR.

The research, development, engineering and analytical costs comprise a substantial investment of time and money by Hitachi, Ltd.

Hitachi, Ltd.'s competitive advantage will be lost if its competitors are able to freely use the results of Hitachi, Ltd. experience to 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.

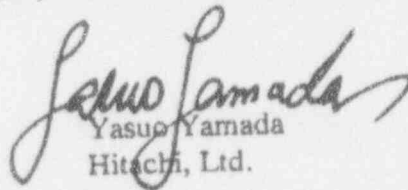
The value of this information to Hitachi, Ltd. would be lost if the information were disclosed to the public. Making such information freely available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive Hitachi, Ltd. of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these liquid and solid radwaste systems.

TOKYO, JAPAN )SS:

Yasuo Yamada, being duly sworn, deposes and says:

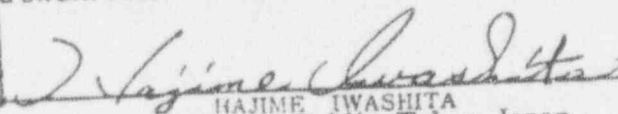
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge,

Executed at Tokyo, Japan, this twentieth day of May, 1994

  
Yasuo Yamada  
Hitachi, Ltd.

Subscribed and sworn before me this twentieth day of May, 1994



  
HAJIME IWASHITA  
Notary Public, Tokyo, Japan

1-2, MARUNOUCHI 2-CHOME, CHIYODA-KU, TOKYO, JAPAN,  
ATTACHED TO TOKYO LEGAL AFFAIRS BUREAU



平成 6 年 登 簿 第 0500 号

認 証

山田保夫は当職の面前において同綴の宣誓  
陳述書に自ら署名した。以下余白

よつて、これを認証する。

平成 6 年 5 月 20 日、本公証役場において

東京都千代田区丸の内 2 丁目 1 番 2 号

東京法務局所属

公証人

岩下



証 明

上記署名は、東京法務局所属公証人の署名に相違ないものであり、かつ、その押印は、真実のものであることを証明する。

平成 6 年 5 月 20 日

東京法務局長 荒木友雄



CERTIFICATE

This is to certify that the signature affixed to the annexed Notarial Certificate has been provided by Notary, duly authorized by the Tokyo Legal Affairs Bureau and that the Official Seal appearing on the same is genuine.

Date MAY 20 1994

Tomoo ARAKI  
Director of the Tokyo Legal Affairs Bureau

## APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: JAPAN

This public document

2. has been signed by Tomoo ARAKI

3. acting in the capacity of Director of the Tokyo Legal Affairs Bureau

4. bears the seal/stamp of

Certified

5. at Tokyo

6. MAY 20 1994

7. by the Ministry of Foreign Affairs

8. 94 - No 009083

9. Seal/stamp:

10. Signature:



*Hiroaki Saito*

(Mr.) Hiroaki SAITO

For the Minister for Foreign Affairs

# TOSHIBA

## Toshiba Corporation

### AFFIDAVIT

I, Hideki Hara, being duly sworn, depose and state as follows:

- (1) I am Senior manager, Nuclear Engineering Administration Department, Nuclear Energy Division, Energy Systems Group, Toshiba Corporation ("Toshiba"), 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 the attached portions of the GE ABWR Standard Safety Analysis Report (SSAR), Section 11A.2, Liquid Radwaste System, and Section 11A.4, Solid Radwaste System, which were documented by General Electric Company ("GE") on the basis of the technical reports provided by Toshiba to GE under the Technical Cooperation Agreement between the two companies.
- (3) In making this application for withholding of proprietary information of which it is a joint owner, Toshiba relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5USC Sec.552(b)(4), and the Trade Secrets Act, 18USC Sec.1905, and NRC regulations 10CFR9.17(a)(4), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure here 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).
- (4) Some examples of categories of information which fit into the definition of proprietary information are:

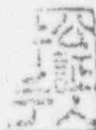


# TOSHIBA



- a. Information that discloses a process, method, or apparatus where prevention of its use by Toshiba's competitors without license from Toshiba constitutes a competitive economic advantage over other companies;
  - b. Information consisting of supporting data and analyses, including test data, relative to a process, method or 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 Toshiba, its customers or suppliers;
  - e. Information which reveals aspects of past, present or future Toshiba customer-funded development plans and programs of potential commercial value to Toshiba;
  - f. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection;
  - g. Information which Toshiba must treat as proprietary according to agreements with other parties.
- (5) The information sought to be withheld, which is being submitted by GE to NRC in confidence, contains detailed results of analytical models, methods and processes for liquid and solid radwaste systems and is considered to be proprietary for the reasons set forth in paragraphs (4)a., (4).b. and (4)c.. The information is of a sort customarily held in confidence by Toshiba, and is in fact so held. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is typically made by the section manager of the originating component, who is most likely to be acquainted with the value

# TOSHIBA



and sensitivity of the information in relation to industry knowledge. Access to such documents within the Toshiba is limited on a "need to know" basis and such documents are clearly identified as proprietary.

- (7) The procedure for approval of external release of such a document typically requires review by the senior manager of the department to which the originating section belongs, the senior managers of relating departments, the senior manager of Nuclear Engineering Administration Department and Technology Executive, for technical content, relation to concerned outside organizations, competitive effect, and determination of the accuracy of the proprietary designation in accordance with the standards enumerated above. Disclosures outside Toshiba are generally limited to regulatory bodies, customers and potential customers and their agents, suppliers and licensees then only with appropriate protection by applicable regulatory provisions or proprietary agreements.
- (8) The information sought to be withheld is part of Toshiba's comprehensive BWR 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 liquid and solid radwaste systems to the ABWR.

The research, testing, engineering and analytical work for the development of the ABWR liquid and solid radwaste systems were performed at significant cost comprising a substantial investment of time and money by Toshiba.

- (9) The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by Toshiba, no public disclosure has been made, and it is not available in public sources. All disclosure 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.
- (10) Public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive position of Toshiba and foreclose or reduce the availability of profit-making opportunities.

# TOSHIBA



Toshiba's competitive advantage will be lost if its competitors are able to freely use the results of the Toshiba experience to 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 Toshiba would be lost if the information were disclosed to the public. Making such information freely available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall and deprive Toshiba of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these liquid and solid radwaste systems.

TOKYO, JAPAN,

Hideki Hara, 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 in Tokyo, Japan, this 20 day of May 1994.

Hideki Hara  
Hideki Hara  
Toshiba Corporation

Subscribed and sworn before me this 20th day of MAY, 1994.



Terumasa Ide  
TERUMASA IDE  
Tokyo Legal Affairs Bureau  
1-1, Shimbashi 1-Chome,  
Minato-ku, Tokyo, Japan





公正証

平成 6 年 第 0392 号

認 証

添付書面の作成者である 株式会社東芝 原子力技術管理部  
部長 原 秀樹 は、本職の面前において、同書面に署名  
した。-----

よつて、これを認証する。

平成 6 年 5 月 20 日、本公証役場において

東京都港区新橋1丁目1番1号

東京法務局所属

公証人

井手昭正



証 明

上記署名は、東京法務局所属公証人の署名に相違ないものであ  
り、かつ、その押印は、真実のものであることを証明する

平成 6 年 5 月 20 日

東京法務局長 荒木友雄



CERTIFICATE

This is to certify that the signature affixed to the annexed  
Notarial Certificate has been provided by Notary, duly  
authorized by the Tokyo Legal Affairs Bureau and that the  
Official Seal appearing on the same is genuine.

Date

5 / 20 / 1994

Tomoo ARAKI

Director of the Tokyo Legal Affairs Bureau

## APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: JAPAN

This public document

2. has been signed by Tomoo ARAKI

3. acting in the capacity of Director of the Tokyo Legal Affairs Bureau

4. bears the seal/stamp of

Certified

5. at Tokyo

6. MAY. 20, 1994

7. by the Ministry of Foreign Affairs

8. 94 — N° 010050

9. Seal/stamp:

10. Signature:



*H. Saito*  
(Mr.) Hiroaki SAITO

For the Minister for Foreign Affairs