



**HITACHI**

**GE Hitachi Nuclear Energy**

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***Proprietary Information Notice***

*Attachment 2 to this letter contains GE Hitachi Nuclear Energy proprietary information which is to be withheld from public disclosure in accordance with 10 CFR 2.390. Upon removal of Attachment 2, the balance of this letter may be made public.*

M200076

June 2, 2020

Jacob Zimmerman  
Fuel Facility Licensing Branch  
Division of Fuel Management  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

ATTN: Document Control Desk

Subject: GEH Vallecitos Decommissioning Funding Plan Supplemental Information

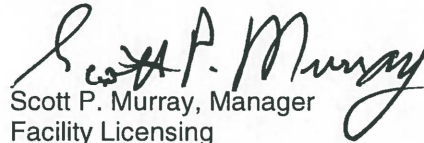
References: 1) NRC License SNM-960, Docket Number 70-754  
2) GEH Letter – Revised VNC Decommissioning Funding Plan, S.P. Murray to NRC Document Control Desk, 3/6/20  
3) GEH/NRC Telecom to Discuss NRC Request for Supplemental Information, 5/5/20  
4) NRC Letter - VNC DFP Information Request, J. Zimmerman to S.P. Murray, 5/8/20

Attachment 2 to this letter provides supplemental information regarding the Vallecitos Nuclear Center (VNC) SNM-960 decommissioning funding plan (DFP) submitted on March 6, 2020 (Reference 2). This supplement provides the information discussed on our May 5, 2020 telecom (Reference 3) and described in your May 8, 2020 letter (Reference 4).

Note the supplemental information contains company proprietary information and is requested to be withheld from public disclosure in accordance with 10 CFR 2.390.

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

Attachments: 1) Affidavit  
2) VNC SNM-960 DFP Supplemental Information

CC: O. Siurano, NRC NMSS/DFM/FFLB  
K. Kline, NRC NMSS/REFS/FAB  
SPM 20-020

## GE-Hitachi Nuclear Energy Americas LLC

### AFFIDAVIT

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

- (1) I am the Manager, Licensing & Liabilities of GE-Hitachi Nuclear Energy (GEH), 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 provided as Attachment 2 to GEH's letter, M200076, Scott P. Murray to Jacob Zimmerman, entitled GEH Vallecitos Decommissioning Funding Plan Supplemental Information, June 2, 2020. GEH proprietary information is contained in Attachment 2 and is identified by the statement "GEH Proprietary Information Withhold from Public Disclosure Pursuant to 10CFR 2.390."
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, GEH 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 GEH's competitors without license from GEH constitutes a competitive economic advantage over GEH 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.
  - c. Information that reveals aspects of past, present, or future GEH customer-funded development plans and programs, that may include potential products of GEH.
  - d. Information that discloses trade secret and/or potentially patentable subject matter for which it may be desirable to obtain patent protection.
- (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 GEH, 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 GEH, 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 GEH.

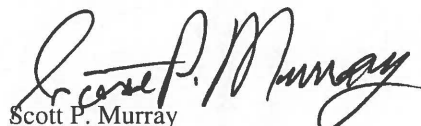
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist, or other equivalent authority for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GEH 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 GEH's processes, methods, design or manufacturing facilities.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GEH's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GEH'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 GEH. 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. GEH's competitive advantage will be lost if its competitors are able to use the results of the GEH 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 GEH 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 GEH 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.

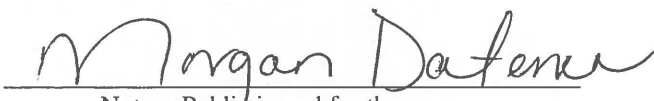
Executed on this 2<sup>nd</sup> day of June 2020

  
Scott P. Murray  
GE-Hitachi Nuclear Energy 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 2<sup>nd</sup> day of June 2020.

MORGAN DATEMA  
NOTARY PUBLIC  
NEW HANOVER COUNTY, NC  
My Commission Expires 4-30-2022

  
Notary Public in and for the  
State of North Carolina