



HITACHI

GE Hitachi Nuclear Energy

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Proprietary Information Notice

Attachments 2 and 3 to this letter contain GE Hitachi Nuclear Energy proprietary information which is to be withheld from public disclosure in accordance with 10 CFR 2.390. Upon removal of these attachments, the balance of this letter may be made public.

M210108

September 22, 2021

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D. C. 20555-001

Subject: GEH Supplemental Information Supporting GE Nuclear Test Reactor License Renewal Audit – Audit Questions and Responses

- References:**
- 1) NRC License R-33, Docket 0500073, General Electric Hitachi (GEH) Nuclear Test Reactor (NTR)
 - 2) Letter, M. Feyrer (GEH) to D. Hardesty (NRC), Nuclear Test Reactor License Renewal (R-33), November 11, 2020
 - 3) Letter, D. A. Hardesty (NRC) to M.F. Feyrer, GE-Hitachi Nuclear Energy Americas LLC – Regulatory Audit, Re: The Reactor Description, Radiation Protection, and Accident Analysis in the Operating License Application (DPID L-2020-RNW-0038), dated 7/20/21 (ML21197A121)
 - 4) NTR License renewal virtual audit held 7/28/2021, 8/4/2021, and 8/19/2021 between the NRC and GEH

Attached find a copy of GEH responses to NRC audit topics provided in the enclosure to reference letter 3 and discussed during the NTR license renewal audit (Ref 4, 5, & 6). The written responses in Attachment 2 provide a close approximation of the audit discussions and serve as a record of those discussions. Both Attachments 2 and 3 contain GEH proprietary information that is requested to be withheld from public disclosure pursuant to 10 CFR 2.390.

If you have any questions regarding this matter, please contact me at (925) 918-6116.

Sincerely,

David J. Heckman, Site Regulatory Affairs / Licensing Lead
Vallecitos Nuclear Center

Attachment 1: GEH Affidavit

Attachment 2: Responses to NRC Audit Topics Questions (Contains Proprietary Information)

Attachment 3: Vallecitos Nuclear Center Environmental Monitoring Manual, Rev 6 (Contains Proprietary Information)

cc: NRC Region IV Administrator
D. A. Hardesty, NRC NRR/DANU/UNPL
DJH 21-003

Attachment 1

AFFIDAVIT

I, **David J. Heckman**, state as follows:

- (1) I am the Regulatory Affairs / Licensing Lead, of the Vallecitos Nuclear Center, GE Hitachi Nuclear Energy Americas, L.L.C. (GEH) and have been delegated the function by GEH of reviewing the information described in paragraph (2) which is sought to be withheld in Attachment 2 to GEH's letter, M210108, David Heckman to USNRC entitled GEH Supplemental Information Supporting GE Nuclear Test Reactor License Renewal Audit – Computer Files and have been authorized to apply for its withholding.
- (2) GEH proprietary information is contained in Attachment 2 to this letter and is identified by the statement "GEH Proprietary Information".
- (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 financial, 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.
- (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. Access to such documents within GEH 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 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, design and 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 facility design and licensing methodology is part of GEH'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 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 there 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 22nd day of September 2021.



David J. Heckman
GE Hitachi Nuclear Energy Americas, L.L.C.