



HITACHI

GE Hitachi Nuclear Energy

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M220046

March 21, 2022

Stephanie Anderson
U.S. Nuclear Regulatory Commission
Region IV – R-IV/DRSS/DIORB
Arlington, TX 76011-4511

Subject: NRC Request for Inspection Documents

References: 1) NRC License No. DPR-1, Docket 50-018 (VBWR)
2) NRC License No. TR-1, Docket 50-070 (GETR)
3) NRC License No. DR-10, Docket 50-183 (EVESR)
4) NRC 2022-001 Decommissioning Reactor Inspection Exit Meeting on
3/17/2022

To: Ms. Anderson

An approximate facsimile of this letter was presented to you at the conclusion of the 3/17/2022 inspection exit meeting. This letter is being submitted under oath or affirmation (see attached affidavit) according to RIS 01-018.

Included herein is a sequence of file numbers of photos taken during the NRC Decommissioning Reactor inspection held during the week of 3/17/2022. Although unmarked due to the format of the media, these documents contain GE-Hitachi proprietary information. At the time of the referenced inspection exit meeting (reference 4), the photos resided only on an NRC camera in your possession. We understand that all photos taken in support of inspections are necessary and are destined to be destroyed when they no longer have value for inspection purposes. In the interim we are requesting withholding of these specific photos from public distribution pursuant to 2.390(a)(4) in that we believe a competitor could manipulate such information to cause substantial harm to Vallecitos and GE-Hitachi.

All photos were taken on March 16, 2022. Photo number sequence 114 to 1392 were taken at 1122 hours PT and photo number sequence 114 to 1433 were completed at 1347 hours PT.

If you have any questions concerning this letter, please contact me.

Sincerely,

David Heckman

Digitally signed by David Heckman
Date: 2022.03.21 07:34:14 -07'00'

David Heckman, Licensing / Reg Affairs Lead
Vallecitos Nuclear Center

Attachment: GEH Affidavit

DJH 22-007

Attachment 1

AFFIDAVIT

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

- (1) I am the Licensing / Regulatory Affairs Lead, for 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 and have been authorized to apply for its withholding.
- (2) GEH proprietary information is in the form of electronic images (photos) taken on 3/16/2022 in the course of an NRC inspection. It is understood that this information will be used for inspection-related purposes and destroyed following inspection closure. While these photos could not be marked due to the media format, GEH is requesting that the following picture numbers be withheld from public dissemination:

All photos were taken on March 16, 2022. Photo number sequence 114 to 1392 were taken at 1122 hours PT and photo number sequence 114 to 1433 were completed at 1347 hours PT.
- (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 21st day of March 2022.

A handwritten signature in black ink, appearing to read 'D. Heckman', with a long horizontal line extending to the right.

David J. Heckman

GE Hitachi Nuclear Energy Americas, L.L.C.