



HITACHI

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April 12, 2023

Stephanie Anderson
U.S. Nuclear Regulatory Commission
Region IV – R-IV/DRSS/DIORB

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 2022-002 Decommissioning Reactor Inspection Exit Meeting on
11/9/2022

To: Ms. Anderson

A letter will be submitted under oath or affirmation for docketing according to the content of this presented to you at the Vallecitos Nuclear Center.

Included herein is a sequence of file numbers of photos taken during the NRC Decommissioning Reactor inspection held during the week of 4/10/2022. Although these photos are unmarked at this time due to the format of the media, they do contain GE-Hitachi proprietary information. These photos currently reside 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 the Vallecitos Nuclear Center and GE-Hitachi.

All photos were taken on April 11, 2023. Photo number sequence 0597 through 0624, also annotated as 108-0597 through 108-0624.

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

Sincerely,

Jeffrey Smyly, Regulatory Compliance
Vallecitos Nuclear Center

AFFIDAVIT

I, **Phillip D. Ollis**, state as follows:

- (1) I am the Sr. Licensing Engineer, Facility Licensing, of GE Hitachi Nuclear Energy – Americas, LLC (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 described in GEH's letter, GEH letter Number M230064, Jeff Smyly to Stephanie Anderson, entitled "NRC Request for Inspection Documents" dated 4/12/2023. GEH proprietary information is in the form of electronic images (photos) taken on 4/11/2023 during a 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 April 11, 2023. Photo number sequence 0597 to 0624 also annotated as 108-0597 through 108-0624 were taken between 0900 and 1500 hours PT during the inspection.

- (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.
- (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 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 affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

Executed on this 3rd day of May 2023



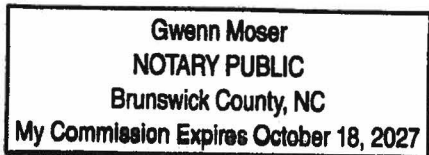
Phillip D. Ollis
GE Hitachi Nuclear Energy - Americas LLC

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 3rd day of May 2023.



Notary Public in and for the
State of North Carolina



My Commission Expires: Oct 18, 2027