

October 31, 2005

Mr. Russ M. Fawcett
Manager, Core, Fuel & Advanced Design
Global Nuclear Fuel
Castle Hayne Rd., M/C H25
Wilmington, NC 28401

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR DRAFT PRESENTATION FOR OCTOBER 25, 2005, MEETING ON FUEL
INFORMATION SUPPORTING CERTIFICATION OF THE ESBWR,
(FLN 2005-24)

Dear Mr. Fawcett:

By letter dated October 17, 2005, and associated affidavit executed on October 17, 2005, by Jens G. M. Andersen, you indicated that the information contained in "GNF Draft Presentation Regarding Fuel Information Supporting the GE ESBWR Design Control Document Submittal, October 25, 2005," that was submitted for the ESBWR design certification review, should be withheld as proprietary. You requested that this information be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations*, Section 2.390 (10 CFR 2.390).

We request that a nonproprietary copy of this information be submitted.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (1) The information discloses a process, method, or apparatus including supporting data and analyses, where prevention of its use by Global Nuclear Fuel-Americas, LLC (GNF-A) competitors without license from GNF-A constitutes a competitive economic advantage over other companies; and
- (2) The information, 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.

We have reviewed your letter and affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information. If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should

R. Fawcett

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promptly notify the Nuclear Regulatory Commission (NRC). You should also understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-2863.

Sincerely,

/RA/

Lawrence Rossbach, Project Manager
New Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Program
Office of Nuclear Reactor Regulation

Project No. 717

cc: See next page

R. Fawcett

-2-

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the Nuclear Regulatory Commission (NRC). You should also understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

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*See previous concurrence

ACCESSION NUMBER: ML052990289

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ESBWR

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