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February 25, 1985

Director  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Director  
Division of Security  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Mr. James M. Taylor  
Deputy Director  
Office of Inspection and Enforcement  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

REQUEST FOR PRODUCTION OF DOCUMENTS PURSUANT  
TO 10 CFR § 2.790(6) AND REQUEST FOR COMMISSION  
DECLASSIFICATION UNDER PART 9, APP. 2  
(10 CFR 195-196)

Vera M. English, by her undersigned counsel, hereby requests that the enclosed list of documents, all of which are in possession of NRC but are not on file in the public document room, be made available for inspection and copying, without restriction, as soon as possible. Mrs. English is complainant in DOL Case No. 85-ERA-2, in which the Secretary of Labor, after investigation, has found reasonable cause to believe that G.E.'s highest management, in its Wilmington, North Carolina, Nuclear Manufacturing Plant, discriminatorily transferred and discharged Mrs. English from her analyst job in the Wet Lab, because she constantly complained to management and finally to NRC about nuclear safety violations and hazards, quality

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control deficiencies and management's deliberate falsification and cover up violations. If substantiated, the complaint of discrimination is a Severity Level I violation. ("Misc. Matters," A, 4, 49 F.R. 8593)

The DOL hearing is scheduled to resume March 18, 1984 before ALJ Brissenden. NRC should recognize an obligation to produce, before the reopening date, all relevant evidence in its possession bearing upon this violation. 10 CFR § 2.790(a) ("violation of a license").

NRC regulations require the licensee to post, inter alia (10 CFR § 19.11(a) all "(2) \* \* \* documents incorporated into a license by reference, and amendments thereto, (3) the operating procedures applicable to licensed activities; (4) any notice of violation involving radiological working conditions \* \* \* an order issued pursuant to Subpart B of Part 2 of this chapter and any response from the licensee" and (10 CFR § 21.6(a)(3)), all procedures adopted pursuant to regulations in this part.

In addition, NRC inspectors in Region II have conducted investigations and issued reports on Mrs. English's charges against G.E. Mrs. English is party to a proceeding against G.E. and the Second Region inspection staff of NRC, catagorized by Mr. Taylor as a 10 CFR § 2.202 proceeding [7590-01], in which Mrs. English charges that the NRC inspectors' reports are deficient, inaccurate, biased and

unlawful -- i.e., violative of NRC's published standards, by which NRC is bound, but which the inspectors did not apply.

The undersigned received from NRC copies of various reports, 82-18, 84-04, 84-05, 84-13, 84-15, 84-16, 84-17, 84-18, under a protective agreement (10 CFR § 2.790(6)(i)), which Mr. Neal Abrams and Mr. Ed Shomaker stated was a condition precedent to receipt of these reports.

The undersigned does not agree that the aforesaid reports and/or the documents listed in the enclosure may lawfully be "deemed to be commercial or financial information within the meaning of § 9.5(a)(4) of this chapter." The undersigned asserts that as applied to a litigant in such proceedings as detailed above, 10 CFR § 9.5(4), which authorizes withholding from public disclosure as "confidential," matter "which is customarily held in confidence by the originator," is an unconstitutional denial of due process inasmuch as it denies complainant access to evidence necessary, or at least relevant, to prove her case and thereby vindicate her statutory right. It also frustrates performance by the charging party, "as private attorney general," of the role Congress assigned such parties "in enforcing the ban on discrimination." EEOC v. Associated Dry Goods Corp., 449 U.S. 590, 602 (1981).

Likewise, the undersigned asserts that subsection 4(i), which exempts from disclosure "(i) [i]nformation received in confidence, such as trade secrets, inventions and discoveries

and proprietary data," is unconstitutionally overbroad insofar as it exempts "information received in confidence" and "proprietary data," whatever that ambiguous, undefined, term may mean.

We have no quarrel with exemption from public disclosure of real "trade secrets, inventions and discoveries" and material properly classified as "Safeguards-Information." But at maximum, only such portions of the inspection reports and the documents enumerated on the enclosed list, which truly contain such information, may lawfully be withheld from public exposure. The "protective agreement" which the undersigned executed in exchange for receiving the documents applies to entire documents, not merely identified matter therein which can lawfully be withheld from public disclosure. To this extent, the "protective agreement" is legally overbroad and void.

§ 10 CFR § 2.790 (b)(1), requires that "a person who proposes that a document or a part be withheld in whole or in part from public disclosure on the ground that it contains trade secrets or privileged or confidential commercial information" shall submit an affidavit requesting withholding which "may designate with appropriate markings the "trade secret or confidential or privileged commercial information within the meaning of § 9.5 (a)(4)," the objector desires withheld. Thus, the burden of proof is squarely placed on the objector to designate the parts of documents claimed to be



exempt from public disclosure under § 9.5(a)(4). Absent a sworn claim and proof by the opponent, G.E., that portions of the documents requested fall within § 9.5(a)(4), NRC is not permitted to withhold any document from public inspection, except on "Safeguards Information" grounds. In this respect also, the "protective agreement" is overbroad and void.

Further, G.E. has waived any "confidential" privilege it may have claimed under 10 CFR § 2.790, by providing complainant in 85-ERA-2 with papers and data stamped "Company Confidential" and permitting complainant to offer those documents in evidence without objection or any request for in camera inspection or for a protective order. An example is Exhibit C-10, in 85-ERA-2, attached to this letter. Under the "opened door" doctrine, that waiver extends not only to documents named therein and to all like or related documents, but to all documents relevant to the charge in 85-ERA-2.

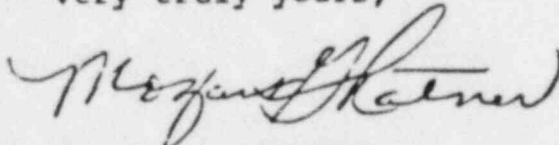
To the extent that the decisions referred to and any document on the enclosed list of data may be withheld by NRC from public inspection, and receivable in evidence only subject to NRC's non-public access restrictions, we request that all restrictions be removed except from those portions of the documents as may be designated by G.E. which NRC, after careful review, determines are legally excludable. Of course, until NRC has released the documents for public inspection, or has been ordered by a court to do so, the undersigned, while at all

times reserving Mrs. English's rights and claims in the matter,  
will abide by the "protective agreement."

To the extent that any documents are withheld from public disclosure on the ground that they contain "Safeguards Information," we request "Declassification Review" under Part 9, App. A, pp. 195-196, 10 CFR (1/1/84 ed.). Accordingly, a copy of this request is also being submitted to the Director, Division of Security.

Because of the closeness of the trial date, the recent issuance of many of the subject reports (84-15 and 84-16 were received February 25, 1985, and 84-17 and 84-18 were received February 11, 1985), we respectfully urge consideration of and response to this "Request" on an emergency basis.

Very truly yours,



Mozart G. Ratner  
Counsel for Vera M. English

cc: James Lieberman, Esq.  
✓ Chief Counsel  
✓ Regional Operations and Enforcement

Neal Abrams, Esq., Senior Attorney  
Office of Executive Legal Director

F. C. Shomaker, Esq.

**CONFIDENTIAL**

REPORTS SUBMITTED BY  
GENERAL ELECTRIC COMPANY  
(NUCLEAR ENERGY BUSINESS OPERATIONS)  
TO THE  
NUCLEAR REGULATORY COMMISSION  
FOR VIOLATIONS OF  
NRC REGULATIONS DURING THE PERIOD  
JANUARY 1, 1978 TO July 27, 1984

POTENTIAL VIOLATIONS

JANUARY 9, 1979	UF6 GAS RELEASE
FEBRUARY 14, 1979	UO2 POWDER THEFT
MAY 22, 1980	UNAUTHORIZED REMOVAL OF UO2 PELLETS
JUNE 4, 1981	ACCIDENTAL LOSS OF WASTE LIQUID

**CONFIDENTIAL**

CITED VIOLATIONS

MARCH 10, 1979	UNAUTHORIZED REMOVAL OF CONTAMINATED TRASH
JANUARY 1, 1980	SHIPMENT OF UF6 CYLINDERS

*Atty*

*Charles M. Vaughan 12/14/84*  
Charles M. Vaughan  
Manager, Regulatory Compliance

LIST OF REQUESTED NRC DOCUMENTS NOT ON FILE IN  
NRC PUBLIC DOCUMENT ROOM

1. Letter of November 2, 1984, from Vaughan to Stohr re site specific training program for trainees from G.E. to NRC.
2. Letter of November 2, 1984, from G.E. to NRC describing training program.
3. Attachment to November 15, 1984 Vaughan to O'Reilly letter regarding results of inspection report 84-11 (dated 10-18-84, on file).
4. Safety Evaluation Memo for Radiological Contingency Plan, identified in letter 12/11, Page to Vaughan (on file).
5. Safety Evaluation Report for Changes to Chapter 4, identified in 12/11 letter Page to Vaughan (on file).
6. Letter from Vaughan to O'Reilly dated 2/14/84
7. Letter from Stohr to Long dated 8/10/84.  
  
(6 and 7 are referred to in 10/31/84 Vaughan to O'Reilly letter in file)
8. "Revised license application pages" - dated 10/23/84, Revision 6 submitted with letter dated 10/23/84 from Vaughan to W.T. Crow, NRC section leader; specifically, Sec. 2.9 "Investigator's Report of Unusual Occurrence" - I-2.20 and "Records" sec. 2.10. I-2.21
9. Ibid, Chapters 3 - Radiation Protection sec. 3. "Admin. Regs" I-3.1; "Technical Regs" sec. 3.2; I-3.4; "Safety."
10. Ibid, Chapter 9 - Overview of Operation.
11. Ibid, Chapter 10, 11, 12, 13, 14, 15, 16.
12. Attachment to 10/12/84 Vaughan to Brown letter, on exemption regs, referred to in 9/28/84 Brown to Vaughan letter.
13. Material transmitted with letter from Chas. M. Vaughan to J.P. O'Reilly dated March 21, 1984 (source Vaughan to Brown letter, 9/28/84, in file).
14. Letter from Stohr to Long dated August 10, 1984 (same source as 13).



15. G.E.'s Radiological Contingency Plan submitted to NRC on January 14, 1982, and supplemented on April 4, 1984.
16. Application (6/1/84)/Affidavit (6/4/84) concerning UPMP (referred to in 9/11/84 letter, Cunningham to Vaughan).
17. Fundamental Nuclear Material Control Plan submitted August 31, 1984 (ref'd to in 9/7/84 letter from Brown to Vaughan).
18. Letters of February 14, 1984 and March 21, 1984, relating to the Fundamental Nuclear Control Plan, from Long to Stohr referenced to in 8/10/84 letter from Stohr to Long.
19. Enclosure to letter of August 10, 1984 from Stohr to Long (FNCP).
20. P/P 40-17, Rev. 3, Nuclear Safety Training (referenced in 84/10 p, 3, ¶ 7 and 8.
21. M.C. 41808 and M.C. 71814 (¶ 7 and 8, respectively, of 84/10 Inspection Report).
22. PROD operating procedures ref'd at p. 4 - 84/10 ¶ 8(d)
23. Response of G.E. dated 6/7/84 to notices of violation issued 10/31/83 and 5/11/84 - referred to in letter from Stohr to Long dated 6/22/84 concerning Report #70-1113/83-28
24. All responses of G.E. to findings of violation between 1978 and 1985. This is a continuing request.
25. Letter from J. O. O'Reilly to J.A. Long dated July 30, 1984, summarizing meeting held in Atlanta (II) on July 10, 1984, between G.E. Reps and O'Reilly et al., ref'd in letter from Vaughan to O'Reilly dated 8/29/84.
26. Attachment to June 7, 1984 letter from Vaughan to Stohr (responses to findings of "referenced" inspection NRC Insp. Rept. 83-28 (10/31/83).

February 22, 1985

I, Vera M. English, authorize my attorney, Mozart G. Ratner, to receive all correspondence, transcripts, and other documents pertaining to "Request for Action Under 10 CFR 2.206 Regarding Activities at the Wilmington, North Carolina Facility of the General Electric Company," Docket NO. 70-1113, and English v. General Electric Company, DOL Case No. 85-ERA-2.

Vera M. English

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