

July 9, 2010

Mr. James A. Kay, Licensing Manager  
AREVA Enrichment Services, LLC  
Solomon Pond Park  
400 Donald Lynch Boulevard  
Marlborough, MA 01752

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION'S APPROVAL OF REQUEST BY  
AREVA ENRICHMENT SERVICES TO WITHHOLD INFORMATION FROM  
PUBLIC DISCLOSURE (TAC NO. L32707)

Dear Mr. Kay:

By letter dated June 15, 2010 (transmitting an affidavit—Enclosure 1 to the letter, dated June 15, 2010), AREVA Enrichment Services LLC (AES) requested that the U.S. Nuclear Regulatory Commission (NRC) withhold from public disclosure, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.390, certain security-related information contained in mark-up pages to Revision 2 to the Eagle Rock Enrichment Facility's (EREF) license application. The information addresses proposed revisions to the Integrated Safety Analysis Summary and the Emergency Plan and has been submitted to the NRC as Enclosure 3 to the June 15, 2010, letter.

The affidavit states that the submitted security-related information should be considered exempt from mandatory public disclosure for the following reasons, among others:

1. The information for which protection from disclosure is sought has been held in confidence by AES.
2. The NRC has previously determined that sensitive unclassified non-safeguards information (SUNSI) should be withheld from public disclosure.
3. The information sought to be withheld is of a type that would customarily be held in confidence by AES.
4. The information sought to be withheld is being provided to the NRC in confidence; and, under the provisions of 10 CFR 2.390, it is to be received in confidence by the NRC.
5. The information sought to be withheld is not available in public sources to the best of AES's knowledge and belief.

We reviewed the June 15, 2010, affidavit and the contents of Enclosure 3 in accordance with the requirements of 10 CFR 2.390 and concluded that the information in Enclosure 3 may be withheld. The NRC's Regulatory Issue Summary (RIS) 2005-31, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information Handled by Individuals, Firms, and Entities Subject to NRC Regulation of the Use of Source, Byproduct, and Specific Nuclear Material,"

provides guidance on identifying and marking SUNSI. If it is necessary to include SUNSI in your submissions, it is sufficient to clearly state in the cover letter that an attached document contains security-related sensitive information—and to properly mark the information that contains the SUNSI. Note that an affidavit is not needed to support the claim that the information is security-related sensitive information.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the basis for withholding this information from public inspection should change in the future such that the information could then be made publicly available, you should promptly notify the 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.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," copies of this letter and of your June 15, 2010, affidavit will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the Agencywide Document Access and Management System (ADAMS). ADAMS is accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

If you have any questions regarding this matter, please contact me at (301) 492-3110 or via e-mail to [breeda.reilly@nrc.gov](mailto:breeda.reilly@nrc.gov).

Sincerely,

**/RA/**

M. Breeda Reilly, Senior Project Manager  
Advanced Fuel Cycle, Enrichment,  
and Uranium Conversion Branch  
Special Projects and Technical  
Support Directorate  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 70-7015

cc: Mr. Jim Curtiss, Curtiss Law  
Mr. George Harper, AES

provides guidance on identifying and marking SUNSI. If it is necessary to include SUNSI in your submissions, it is sufficient to clearly state in the cover letter that an attached document contains security-related sensitive information—and to properly mark the information that contains the SUNSI. Note that an affidavit is not needed to support the claim that the information is security-related sensitive information.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the basis for withholding this information from public inspection should change in the future such that the information could then be made publicly available, you should promptly notify the 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.

In accordance with 10 CFR 2.390 of the NRC’s “Rules of Practice,” copies of this letter and of your June 15, 2010, affidavit will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the Agencywide Document Access and Management System (ADAMS). ADAMS is accessible from the NRC’s Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

If you have any questions regarding this matter, please contact me at (301) 492-3110 or via e-mail to [breeda.reilly@nrc.gov](mailto:breeda.reilly@nrc.gov).

Sincerely,

***/RA/***

M. Breeda Reilly, Senior Project Manager  
 Advanced Fuel Cycle, Enrichment,  
 and Uranium Conversion Branch  
 Special Projects and Technical  
 Support Directorate  
 Division of Fuel Cycle Safety  
 and Safeguards  
 Office of Nuclear Material Safety  
 and Safeguards

Docket No.: 70-7015

cc: Mr. Jim Curtiss, Curtiss Law  
 Mr. George Harper, AES

**DISTRIBUTION:**

CHaney, NMSS	MBailey, NMSS	DDorman, NMSS	CSafford, OGC
SLemont,FSME	RVirgilio, FSME	TGody, RII	JWeil, OCA
JHenson, RII	RTrojanowski, RII	DMcIntyre, OPA	DSeymour, RII
CTaylor, RII	ACFB r/f		

**ML101810595**

<b>OFFICE</b>	NMSS/AFCB	NMSS/AFCB	NMSS/AFCB
<b>NAME</b>	BReilly	LAllen	THiltz
<b>DATE</b>	7/6/2010	7/6/2010	7/9/2010

**OFFICIAL RECORD COPY**

Jim Curtiss  
Curtiss Law  
P.O. Box 153  
Brookville, MD 20833

George Harper  
Vice President of Engineering  
AREVA Enrichment Services  
400 Donald Lynch Blvd  
Marlborough, MA 01752