

October 16, 2000

Stephen Dembek  
US Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, Maryland 20852-2738

Subject: Transmittal of Spreadsheet Files for BWROG DC Motor Method

Reference: MPR Letter to S. Dembek (NRC) Dated October 3, 2000

Dear Mr. Dembek:

In the reference letter, we forwarded two floppy disks, each containing the spreadsheet files for implementing the BWROG DC Motor Performance Method. This letter forwards an affidavit that identifies that the spreadsheet files are proprietary to MPR and the BWROG. Along with the attached affidavit, this information is suitable for review by the NRC; however, MPR hereby requests that the information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.790.

Please call me if you have any questions or comments.

Sincerely,

*Thomas Walker*  
Thomas Walker

cc: TG Scarbrough, NRC  
RM Pulsifer, NRC  
JM Kenny, BWROG Chairman  
JA Gray, Jr., BWROG Vice Chairman  
BWROG Primary Representatives  
BWROG VTRG Committee  
WG Fiock, GENE

Enclosure

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## MPR Associates, Inc.

### AFFIDAVIT

I, **Paul S. Damerell**, being duly sworn, depose and state as follows:

- (1) I am a Principal Officer of MPR Associates, Inc. ("MPR") 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 contained in two computer floppy disks that were forwarded to S. Dembek (NRC) by MPR letter dated October 3, 2000. These disks have the following markings on their labels – "Enclosure (1) BWROG DC Motor Performance Method Spreadsheets."
- (3) In making this application for withholding of proprietary information which is owned by MPR and the BWR Owners' Group (BWROG), MPR 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), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions also qualify 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, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (4) Some examples of categories of information which 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 MPR's competitors without license from MPR and the BWROG constitutes a competitive economic advantage over other companies;
  - b. Information which, 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;

- c. Information which reveals cost or price information, production capacities, budget levels, or commercial strategies of MPR, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future MPR customer-funded development plans and programs, of potential commercial value to MPR;
- e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in both paragraphs (4)a., (4)b. and (4)d., above.

- (5) The information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by MPR. No public disclosure of the information sought to be withheld has been made, and it is not available in public sources.

COMMONWEALTH OF VIRGINIA) )  
CITY OF ALEXANDRIA ) ) ss:

Paul S. Damerell, being duly sworn, deposes and says:

That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at Alexandria, Virginia, this 12<sup>th</sup> day of October 2000.



Paul S. Damerell  
MPR Associates, Inc.

Subscribed and sworn before me this 12<sup>th</sup> day of October 2000, by Paul S. Damerell.



Notary Public, Commonwealth of Virginia

My Commission Expires October 31, 2001