POWERING PROGRESS THROUGH
SCIENCE AND TECHNOLOGY

EPRI

proj. 669

August 9, 2001

Document Control Clerk
U.S. Nuclear regulatory Commission
OWN 11555 Rockville Pike
Washington DC, 20555

Subject: PWR Steam Generator Examination Guidelines, Revision 5, Volume 1: Requirements, EPRI Final Report, TR-107569-V1R5, September 1997

Gentlemen:

This is a request under 10CFR2.790(a)(4) that the NRC withhold from public disclosure the information identified in the enclosed affidavit consisting of EPRI owned Proprietary Information identified above (the "Report"). Copies of the Report and the affidavit in support of this request are enclosed.

EPRI desires to disclose the Report in confidence to the NRC as a means of exchanging information in support of generic regulatory improvements relating to NEI 97-06, "Steam Generator Program Guidelines." Further, EPRI welcomes any discussion with the NRC regarding the Report that the NRC desires to conduct.

The Report is for the NRC's internal use and may be used only for the purposes for which it is disclosed by EPRI. The report should not be otherwise used or disclosed to any person outside the NRC without prior written permission from EPRI.

If you have any questions about the legal aspects of this request for withholding, please do not hesitate to contact me at (650) 855-2039. Questions on the contents of the Report should be directed to David A. Steininger of EPRI at (650) 855-2019.

Sincerely,

Theodore U. Marston, Ph.D.
Vice President & Chief Nuclear Officer

Enclosures (10)

cc: Licensing

add: Joe Birmingham to eirids

D035
T010

EPRI

AFFIDAVIT

RE: "PWR Steam Generator Examination Guidelines: Revision 5, Volume 1: Requirements," EPRI Report TR-107569-V1R5, September 1997.

I, TED MARSTON, being duly sworn, depose and state as follows:

I am a Director at the Electric Power Research Institute ("EPRI") and I have been specifically delegated responsibility for the report listed above that is sought under this affidavit to be withheld (the "Report") and authorized to apply for their withholding on behalf of EPRI. This affidavit is submitted to the Nuclear Regulatory Commission ("NRC") pursuant to 10 CFR 2.790 (a)(4) based on the fact that the Report consists of trade secrets of EPRI and that the NRC will receive the Report from EPRI under privilege and in confidence.

The basis for withholding such Report from the public is set forth below:

(i) The Report has been held in confidence by EPRI, its owner. All those accepting copies of the Report must agree to preserve the confidentiality of the Report.

(ii) The Report is a type customarily held in confidence by EPRI and there is a rational basis therefor. The Report is a type, which EPRI considers as a trade secret(s) and is held in confidence by EPRI because to disclose it would prevent EPRI from licensing the Report at fees, which would allow EPRI to recover its investment. If consultants and/or other businesses providing services in the electric/nuclear power industry were able to publicly obtain the Report, they would be able to use it commercially for profit and avoid spending the large amount of money that EPRI was required to spend in preparation of the Report. The rational basis that EPRI has for classifying this/these Report(s) as a trade secrets is justified by the Uniform Trade Secrets Act, which California adopted in 1984 and which has been adopted by over twenty states. The Uniform Trade Secrets Act defines a "trade secret" as follows:

> "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
>
> (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
>
> (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(iii) The Report will be transmitted to the NRC in confidence.

(iv) The Report is not available in public sources. EPRI developed the Report only after making a determination that the Report was not available from public sources. It required a large expenditure of dollars for EPRI to develop the Report. In addition, EPRI was required to use a large amount of time of EPRI employees. The money spent, plus the value of EPRI's staff time in preparing the Report, show that the Report is highly valuable to EPRI. Finally, the Report was developed only after a long period of effort of at least several months.

(v) A public disclosure of the Report would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Report both domestically and internationally. The Report can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

I have read the foregoing and the matters stated therein are true and correct to the best of my knowledge, information and belief. I make this affidavit under penalty of perjury under the laws of the United States of America and under the laws of the State of California.

Executed at 3412 Hillview Avenue, Palo Alto, being the premises and place of business of the Electric Power Research Institute:

August 9, 2001

Theodore U. Marston

Subscribed and sworn before me this day: August 9, 2001

Nichole Alexandra Edraos, Notary Public

NICHOLE ALEXANDRA EDRAOS
Comm. # 1295461
NOTARY PUBLIC - CALIFORNIA
Santa Clara County
My Comm. Expires Feb. 28, 2005