

August 21, 2001

Dr. Theodore Marston
Vice President and Chief Nuclear Officer
Electric Power Research Institute
3412 Hillsview Avenue
Palo Alto, CA 94304-1395

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
EPRI LETTERS OF AUGUST 9, 2001

Dear Dr. Marston:

By letter dated April 9, 2001, the Nuclear Energy Institute (NEI) transmitted the following Electric Power Research Institute (EPRI) reports in support of the Integrity Elements section of NEI's "Steam Generator Program Guidelines", NEI 97-06.

- "PWR Steam Generator Examination Guidelines: Revision 5, Volume 1: Requirements," EPRI Report TR-107569-V1R5, September 1997, proprietary version;
- "Steam Generator Integrity Assessment Guidelines: Revision 1," EPRI Report TR-107621-R1, March 2000, proprietary version;
- "PWR Primary-to-Secondary Leak Guidelines: Revision 2", EPRI Report TR-104788-R2, February 2000, proprietary version;
- "Steam Generator In-Situ Pressure Test Guidelines: Revision 1," EPRI Report TR-107620-R1, June 1999, proprietary version; and
- "PWR Steam Generator Examination Guidelines: Revision 5, Volume 2: Technical Basis," EPRI Report TR-107569-V2R5, August 1998, nonproprietary;

Also, by letter dated May 10, 2001, NEI transmitted nonproprietary versions of TR-107620-R1, TR-107621-R1, TR-104788-R2, and TR-107569-V1R5 titled above.

By separate letters dated August 9, 2001, sent to the NRC Document Control Clerk, you requested that the proprietary information in EPRI reports TR-107620-R1, TR-107621-R1, TR-104788-R2, and TR-107569-V1R5 be withheld from public disclosure in accordance with 10 CFR 2.790. This letter is the response to those requests. The nonproprietary versions of the documents have been placed in the NRC Public Document Room and added to the NRC Agencywide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS) Library. EPRI report, TR-107569-V2R5, "PWR Steam Generator Examination Guidelines: Revision 5, Volume 2: Technical Basis," August 1998, which was submitted to NRC as nonproprietary, has also been added to the ADAMS PARS library.

In the affidavits enclosed in your August 9, 2001, letters, you stated that EPRI considered certain information in the subject reports proprietary and requested that the proprietary information be withheld from public disclosure pursuant to 10 CFR 2.790. The affidavit states that this information should be considered exempt from mandatory public disclosure for the following reasons:

- (i) The reports have been held in confidence by EPRI, its owner.
- (ii) The reports are a type customarily held in confidence by EPRI and there is a rational basis therefor. The reports are 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.
- (iii) The reports have been transmitted to the NRC in confidence.
- (iv) The reports are not available in public sources. EPRI developed the reports only after making a determination that the reports were 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 reports would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the reports both domestically and internationally. The reports can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

We have reviewed your August 9, 2001, request and the information contained in the subject reports. We have concluded that the submitted information sought to be withheld contains trade secrets or proprietary commercial information. Therefore, the versions of the submitted information marked as proprietary (TR-107620-R1, TR-107621-R1, TR-104788-R2, and TR-107569-V1R5) will be withheld from public disclosure pursuant to 10 CFR 2.790(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.

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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 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 included your information. In all review situations, if the NRC needs additional information from you or makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/signed by C. Carpenter

Joseph L. Birmingham, Project Manager
Generic Issues, Environmental, Financial
and Rulemaking Branch
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

cc: See list

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Joseph L. Birmingham, Project Manager
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Office of Nuclear Reactor Regulation

cc: See list

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SUBJECT: Proprietary Review of EPRI Reports TR-107620-R1, TR-107621-R1, TR-104788-R2, TR-107569-V2R5, and TR-107569-V1R5

ORIGINATOR: Joe Birmingham, (415-2829, MS 11F1)

SECRETARY: Jessie Correa, (415-1282, MS 11F1)

DATE: August 27, 2001

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