

Mr. Bruce Braga
Intellectual Property Counsel
Electric Power Research Institute
3412 Hillview Ave.
Palo Alto, California 94304-1395

June 25, 2002

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Braga:

By your affidavit dated May 20, 2002, you requested that Electric Power Research Institute (EPRI) documents, entitled "Generic Letter 96-06 Waterhammer Issues Resolution: Technical Basis Report," EPRI Report Number 1003098, and "Generic Letter 96-06 Waterhammer Issues Resolution: User's Manual," EPRI Report Number 1006456 (the "Information"), be withheld from public disclosure pursuant to 10 CFR 2.790. A nonproprietary copy of this document has been placed in the NRC public document room and added to the Agencywide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS) Library.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (1) The Information has been held in confidence by EPRI, its owner. All those accepting copies of the Information must agree to preserve the confidentiality of the Information.
- (2) The Information is a type customarily held in confidence by EPRI and there is a rational basis therefor. The Information is a type that EPRI holds in confidence by means of a trade secret(s). This information is held in confidence by EPRI because disclosing it would prevent EPRI from licensing the Information and collecting royalties. Such royalty fees 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 Information, 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 Information. The rational basis that EPRI has for classifying the Information as a trade secret(s) 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:

- (i) 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

- (ii) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (3) The Information will be transmitted to the NRC in confidence.
- (4) The Information is not available in public sources. EPRI developed the Information only after making a determination that the Information was not available from public sources. Developing the Information required a large expenditure of dollars and EPRI employees' time. The money spent, plus the value of EPRI's staff time in preparing the Information, shows that the Information is highly valuable to EPRI. Finally, the Information was developed only after a long period of effort of at least several months.
- (5) A public disclosure of the Information would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Information both domestically and internationally. The Information can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version(s) of the submitted information marked as proprietary 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

Therefore, the EPRI documents, entitled "Generic Letter 96-06 Waterhammer Issues Resolution: Technical Basis Report," EPRI Report Number 1003098, and "Generic Letter 96-06 Waterhammer Issues Resolution: User's Manual," EPRI Report Number 1006456, marked as proprietary, 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 documents. 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 also should 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.

If you have any questions regarding this matter, you may contact James Tatum at 301-415-2805.

Sincerely,

/RA/ Richard Lobel for:

Sunil D. Weerakkody, Chief
Balance of Plant and Containment Systems Section
Plant Systems Branch
Division of Systems Safety and Analysis
Office of Nuclear Reactor Regulation

cc: Avtar Singh
Manager, Material Reliability Program
Electric Power Research Institute
3412 Hillview Ave.
Palo Alto, CA 94304-1395

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cc: Avtar Singh
Manager, Material Reliability Program
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