ELECTRIFY THE WORLD

EPRI

November 12, 2002

Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Request for Withholding of Proprietary Information Entitled, "FALCON-BETA-RIA," beta, pre-release software used to create EPRI's Topical Report Number 1002865 (the "Information")

Dear Sirs:

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, entitled "FALCON-BETA-RIA" (the "Information"). A copy of the Information and the affidavit in support of this request are enclosed.

The Information is being provided to the NRC in response to a letter, dated August 25, 2002, from Mr. Peter Wen of the NRC to Mr. Alexander Marion of the NEI, following the submittal of an industry topical report on revisions to RIA criteria (EPRI 1002865).

EPRI desires to disclose the Information in confidence to the NRC staff for informational purposes to assist the NRC in reviewing the technical basis for the proposed criteria revisions. EPRI will provide training in use of the Information to the NRC staff responsible for the review. Moreover, EPRI would welcome any discussions with the NRC related to the Information that the NRC desires to conduct.

The Information is for the NRC's internal use and may be used only for the purposes for which it is disclosed by EPRI. The Information 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 me at (650) 855-2288. Technical questions on the contents of the Information should be directed to Odelli Ozer at (650) 855-2089.

Sincerely,

Wilfred Dere, Esq.
EPRI, Inc.

T007

Enclosure

cc: Peter C. Wen (NRC), Alexander Marion (NEI), Odelli Ozer (EPRI), Rosa Yang (EPRI)

CORPORATE HEADQUARTERS
3412 Hillview Avenue | Palo Alto CA 94304-1395 USA | 650 855 2000 | Customer Service 800 313 3774 | www epri com

EPRI

AFFIDAVIT

RE: Request for Withholding of Proprietary Information Entitled "FALCON-BETA-RIA," beta, pre-release software used to create EPRI's Topical Report Number 1002865 (the "Information")

I, Wilfred Dere, being duly sworn, depose and state as follows:

I am an Attorney at the Electric Power Research Institute ("EPRI") and I specifically have been delegated responsibility for the Information listed above that is sought under this affidavit to be withheld (the "Information") and authorized to apply for its 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 Information consists of trade secrets of EPRI and that the NRC will receive the Information from EPRI under privilege and in confidence.

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

(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.

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.

Wilfred Dere

Subscribed and sworn before me this day: November 12, 2002

Nichole Alexandra Edraos, Notary Public

NICHOLE ALEXANDRA EDRAOS
Comm. # 1295461
NOTARY PUBLIC - CALIFORNIA
Santa Clara County
Expires Feb 26, 2005

ELECTRIFY THE WORLD

EPRI

November 25, 2002

Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: FALCON BETA-RIA Transmittal Package for the NRC

Dear Sirs,

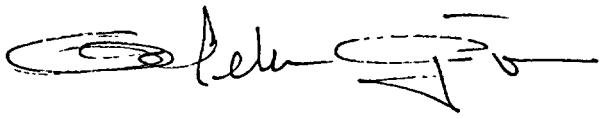
The EPRI proprietary computer program FALCON BETA-RIA is being provided to the NRC in response to a letter dated August 25, 2002 from Mr. Peter Wen of the NRC to Mr. Alexander Marion of the NEI, requesting a copy of the program which was used in preparing proposed revisions to RIA criteria described in "Topical Report on Reactivity Initiated Accident: Bases for RIA Fuel and Core Coolability Criteria" (EPRI 1002865).

The transmittal package contains the following:

- CD-ROM containing the installation procedure, the program files, a set of sample problems for both an IBM-PC and UNIX workstation and electronic copy of the User's and Theory Manuals
- Hardcopy of the installation instructions
- Hardcopy of the User's and Theory Manuals.

If you have any questions please contact me.

Sincerely,



Odelli Ozer
Project Manager, RFP Working Group 2

Enclosures

CORPORATE HEADQUARTERS
3412 Hillview Avenue | Palo Alto CA 94304-1395 USA | 650 855 2000 | Customer Service 800 313 3774 | www epri com