

NRC 2003-0016

10 CFR 2.790

February 14, 2003

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

Dockets 50-266 and 50-301
Point Beach Nuclear Plant, Units 1 and 2
Request For Withholding of Proprietary Information

References:

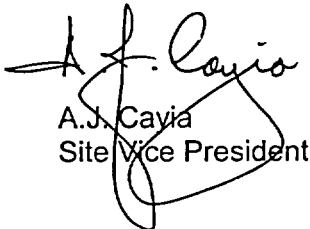
- 1) PII Report #02-1719, "Degraded Auxiliary Feedwater Recirculation Flow at the Point Beach Nuclear Station for the Nuclear Management Company (NMC)," dated December 2, 2002

During the investigation of issues related to the auxiliary feedwater system at Point Beach Nuclear Plant (PBNP), Nuclear Management Company, LLC (NMC), provided the Nuclear Regulatory Commission (NRC) two copies of Reference 1 for review and retention in the investigation files.

Reference 1 contains information proprietary to the auxiliary feedwater system discharge piping orifice manufacturer and is so denoted by the "Confidential" marking on the report. This is supported by an Affidavit (Attachment 1). The Affidavit sets forth the basis upon which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in Paragraph (b) (4) of 10 CFR 2.790 of the Commission's regulations. Accordingly, it is respectfully requested that the information be withheld from public disclosure in accordance with 10 CFR 2.790.

Correspondence with respect to the copyright or proprietary aspects of the items listed above or supporting the Affidavit should be directed to Mr. Thomas Kendall, Engineering Programs Manager, at 920/755-7661.

Sincerely,


A.J. Cayia
Site Vice President

Attachment

cc NRC Regional Administrator
NRC Resident Inspector

NRC Project Manager
PSCW

AFFIDAVIT OF THOMAS C. KENDALL
NUCLEAR MANAGEMENT COMPANY, LLC

I am Thomas C. Kendall, Engineering Programs Manager, Point Beach Nuclear Plant, Nuclear Management Company, LLC (NMC). I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant inspection activities, and am authorized to apply for its withholding on behalf of NMC.

I am making this Affidavit in conformance with the provisions of 10 CFR 2.790 of the Commission's regulations and in conjunction with the NMC application for withholding accompanying this Affidavit.

I am authorized to execute this Affidavit on behalf of NMC and that the averments of fact set forth in this Affidavit are true and correct to the best of my knowledge, information and belief.

Pursuant to the provisions of Paragraph (b)(4) of Section 2.790 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld:

- (i) The information sought to be withheld from public disclosure is owned and has been held in confidence by NMC.
- (ii) The information is explicitly held in confidence by NMC and not to be disclosed to the public. NMC has entered into a non-disclosure agreement with the manufacturer of the subject components (FlowServe, Incorporated). Said non-disclosure agreement covers all proprietary aspects of the flow control devices (variously termed "orifices" or "valves") including, but not limited to: theory of operation, dimensional details, hydraulic characteristics, etc. The agreement permits NMC to share the information, subject to the same non-disclosure restrictions, with the NRC, and with specific sub-contractors as needed to evaluate the potential of the orifices to plugging.

Contained within Performance Improvement International (PII) report are details of construction, photographs, dimensions, calculations, and computational fluid dynamics models that can be construed to be direct or derived information proprietary to FlowServe Incorporated. This information is so integral to the contents of the PII report as to be impractical for redaction.

Access to the information contained within the PII report would permit competitors to duplicate the commercial advantages of FlowServe proprietary design and compromise proprietary patented design information.

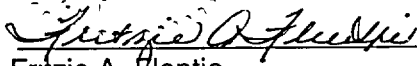
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR 2.790, it is to be received in confidence by the Commission.

- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
- (v) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in Performance Improvement International ("PII") report 02-1719, "Degraded Auxiliary Feedwater Recirculation Flow at the Point Beach Nuclear Station for the Nuclear Management Company (NMC)," dated December 2, 2002. Two complete copies of this report (as well as various excerpts) were provided to the special AFW inspection team from Region III for reference and possible retention. All pages of the report are suitably marked "Confidential" for the reasons stated above. Based on dissemination of the contents of the subject report would therefore, cause substantial harm to the competitive position of FlowServe, Incorporated because it would enhance the ability of competitors to provide similar products for commercial power reactors without commensurate expenses.



Thomas C. Kendall
Engineering Programs Manager
Point Beach Nuclear Plant

Sworn to and Subscribed before me this 14th day of February 2003



Fritzie A. Plentje
Notary Public, State of Wisconsin
My Commission Expires November 6, 2005