



UNITED STATES
NUCLEAR REGULATORY COMMISSION
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Memorandum to Stuart A. Richards, Chief
 Inspection Program Branch
 Division of Inspection Program Management
 Office of Nuclear Reactor Regulation
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From Mary Ann Ashley, Team Leader
 Construction Inspection Program Development
 Reactor Inspection Section
 Inspection Program Branch
 Division of Inspection Program Management

Subject: PROPRIETARY INFORMATION IN CONSTRUCTION SCHEDULES

The following is a summary of my meeting with OGC (Office of the General Counsel) on May 13, 2004, to discuss the issues associated with the proprietary nature of construction schedules. The meeting attendees from OGC were Trip Rothchild, Catherine Holzle, and Shelly Cole.

I presented the following information as background. Vendors of new reactors consider construction schedules proprietary because they consider the sequencing of construction activities as key to their ability to achieve a specific cost. The concern is that, if publically available, electronic construction schedule files could be downloaded and manipulated by anyone with database software and would reveal the schedule logic which the vendors consider their competitive edge. The concern is not specifically related to the current project, since the vendor would have already successfully bid on the project but rather it would reduce their competitive edge on subsequent projects. The schedules are needed by the Nuclear Regulatory Commission to allow for efficient use of inspection resources and for the ability to link work activities to their associated inspection, test, analysis, and acceptance criteria.

In our discussion we assumed that the vendor or licensee could successfully present the case that the schedule information was proprietary. We then focused on how the NRC could obtain daily updates of schedule information without the need for the licensee to make daily proprietary statements and the need for the NRC to have to make daily proprietary determinations. One aspect of the discussion was regarding the impact on the proprietary status of the information if the NRC would make some schedule information public through the documentation of our inspection efforts in inspection reports. However, the sampling nature of NRC inspections and the limited amount of information on component identification and in-plant location found in inspection reports would make it unlikely that sufficient schedule information would be divulged to compromise the proprietary nature of the schedule.

The decision reached was that the licensee would submit the schedule initially stating their case to withhold the schedule information as proprietary. The staff would ensure that the request

met the necessary criteria to be withheld, would process and document the decision. Since the nature of the information would not change, no additional determinations would be needed and the daily schedule updates would be considered proprietary and would be withheld. This

approach would allow for one proprietary determination that would be good for a single project and would continue for the length of the project. These schedules will be expressly exempted from the guidance pertaining to time limits on Proprietary Documents in paragraph 4.8 of LIC-204, Revision 2, "Handling Requests to Withhold Proprietary Information from Public Disclosure," through the life of the plant construction project.

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OFFICE	DIPM/IIPB	OGC
NAME	MAshley	CHolzle
DATE	6/3/2004	6/2/2004

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