

September 3, 2004

Mr. Warren J. Bilanin
Director, Nuclear Power Sector
EPRI
3412 Hillsview Avenue
Palo Alto, CA 94304

SUBJECT: NUCLEAR ENERGY INSTITUTE – REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Bilanin:

By letter dated August 24, 2004, the Nuclear Energy Institute (NEI) submitted an affidavit dated August 5, 2004, executed by you, requesting that the following documents be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390:

- "Materials Reliability Program: Alloy 82/182 Pipe Butt Weld Safety Assessment for the US PWR Plant Designs: Westinghouse and CE Design Plants (MRP-109)", EPRI Report 1009804, July 2004.
- "Materials Reliability Program: Alloy 82/182 Pipe Butt Weld Safety Assessment for US PWR Plant Designs: Babcock & Wilcox Design Plants (MRP-112)", EPRI Report 1009805, July 2004.

Nonproprietary copies of the documents were provided for placement in the Nuclear Regulatory Commission's (NRC's) Public Document Room and for addition to the Agencywide Documents Access and Management System Public Electronic Reading Room.

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

- (i) The Documentation has been held in confidence by EPRI, its owner.
- (ii) The Documentation is a type customarily held in confidence by EPRI and there is a rational basis thereof.
- (iii) The Documentation will be transmitted to the NRC in confidence.
- (iv) The Documentation is not available in public sources.
- (v) A public disclosure of the Documentation would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Documentation both domestically and internationally.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 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 documents:

- "Materials Reliability Program: Alloy 82/182 Pipe Butt Weld Safety Assessment for the US PWR Plant Designs: Westinghouse and CE Design Plants (MRP-109)", EPRI Report 1009804, July 2004.
- "Materials Reliability Program: Alloy 82/182 Pipe Butt Weld Safety Assessment for US PWR Plant Designs: Babcock & Wilcox Design Plants (MRP-112)", EPRI Report 1009805, July 2004.

marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.390(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.

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, I may be reached at (301) 415-2829.

Sincerely,

/RA/

Joseph L. Birmingham, Project Manager
Policy and Rulemaking
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

cc: Mr. Alex Marion
Director, Engineering
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, NW
Washington, DC 20006-3708

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Joseph L. Birmingham, Project Manager
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cc: Mr. Alex Marion
Nuclear Energy Institute
am@nei.org

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