

July 26, 2007

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

July 26, 2007 (10:47am)

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of	)	
	)	
Entergy Nuclear Vermont Yankee, LLC	)	Docket No. 50-271-LR
and Entergy Nuclear Operations, Inc.	)	ASLBP No. 06-849-03-LR
	)	
(Vermont Yankee Nuclear Power Station)	)	

**SUBMITTAL OF AFFIDAVIT OF JOHN P. GAERTNER IN SUPPORT OF  
CONTINUED PROTECTION OF PROPRIETARY DOCUMENTS**

Pursuant to Paragraph 11 of the Order (Protective Order Governing Non-Disclosure of Certain Documents Claimed to be Proprietary) ("Protective Order") issued by the Atomic Safety and Licensing Board ("Board") on January 12, 2007 in the above captioned proceeding, Applicants Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively "Entergy") submit hereby the "Nondisclosure Certification Pursuant to 10 C.F.R. § 2.390 – Affidavit of John P. Gaertner" ("Gaertner Affidavit") demonstrating that two documents filed by the New England Coalition, Inc. ("NEC") in its Opposition to Entergy's Motion for Summary Disposition of NEC's Contention 4 (Flow Accelerated Corrosion) ("NEC's Opposition"), dated July 16, 2007, are Proprietary Documents that contain commercial information that is privileged and confidential and warrants protection under 10 C.F.R. § 2.390(a)(4) and (b)(4)(i)-(v).

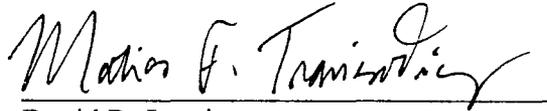
The documents in question, listed in Attachment 1 to the Gaertner Affidavit, were discussed in NEC's Opposition and in the Declaration of Ulrich Witte ("Witte Declaration") filed in support of NEC's Opposition. They were also included as Attachments F and H to the Witte Declaration.

TEMPLATE = SELV-018

SELV-02

For the reasons set forth in the Gaertner Affidavit, Entergy requests that the protections established in the Board's Protective Order continue to be afforded to these two documents.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "David R. Lewis", written over a horizontal line.

David R. Lewis

Matias F. Travieso-Diaz

PILLSBURY WINTHROP SHAW PITTMAN LLP

2300 N Street, N.W.

Washington, DC 20037-1128

Tel. (202) 663-8000

Counsel for Entergy

Dated: July 26, 2007

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**Nondisclosure Certification Pursuant to 10 C.F.R. §2.390(b)**  
**Affidavit of John P. Gaertner**

County of Mecklenburg	)	
	)	ss.
State of North Carolina	)	

I, John P. Gaertner, being duly sworn according to law, depose and state as follows:

1. I am the Senior Sector Business Operations Manager for the Electrical Power Research Institute, Inc. ("EPRI"). My business address is 1300 W.T. Harris Blvd., Charlotte, NC 28262. I am authorized to provide this certification, pursuant to 10 C.F.R. §2.390(b), on behalf of EPRI.

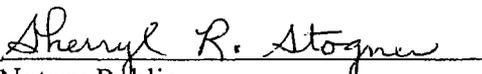
2. I have been asked to review the two documents listed in Attachment 1 to this Affidavit to determine whether they meet the requirements for protection from public disclosure set forth in U.S. Nuclear Regulatory Commission regulations and regulatory guidance. I have personally conducted or overseen such a review against the criteria in 10 CFR § 2.390(b) and the guidance in NRC Staff Regulatory Issue Summary ("RIS") 2004-11. It is my opinion that each of the documents in Attachment 1 meets the

requirements for withholding from public disclosure because each of them contains information that:

- a. Is and has been held in confidence by EPRI.
  - b. Is of a type that is customarily held in confidence by a party in EPRI's position because it contains sensitive technical analyses, techniques, know-how and data.
  - c. Is not available in public sources and could not be gathered readily from other publicly available information.
  - d. If publicly disclosed, its disclosure would create substantial harm to the competitive position of EPRI by making available to EPRI's competitors technical analyses, techniques, know-how and data that could be used to EPRI's commercial disadvantage.
  - e. Has been transmitted to Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. ("Entergy") in confidence, for its internal use only and in the course of a commercial relationship between EPRI and Entergy.
  - f. Has been provided by Entergy to other parties in the above captioned proceeding in confidence and only to fulfill its discovery obligations therein.
3. Further, the affiant sayeth not.

  
John P. Gaertner

Subscribed and sworn to before me  
this 25<sup>th</sup> day of July, 2007

  
Notary Public

My commission expires: August 23, 2009

**ATTACHMENT 1**

**EPRI DOCUMENTS FOR WHICH PROTECTION FROM DISCLOSURE  
IS SOUGHT PURSUANT TO 10 C.F.R. § 2.390**

1. EPRI Report No. 1011838 entitled "Recommendations for an Effective Flow-Accelerated Corrosion Program (NSAC-202L-R3)" (May 2006)
2. Letter from Douglas P. Munson (EPRI) to James Fitzpatrick (Entergy) (February 28, 2000).

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	)	
(Vermont Yankee Nuclear Power Station)	)	

**CERTIFICATE OF SERVICE**

I hereby certify that copies of “Submittal of Affidavit of John P. Gaertner in Support of Continued Protection of Proprietary Documents” and “Nondisclosure Certification Pursuant to 10 C.F.R. § 2.390 – Affidavit of John P. Gaertner” were served on the persons listed below by deposit in the U.S. Mail, first class, postage prepaid, or with respect to Judge Elleman by overnight mail, and where indicated by an asterisk by electronic mail, this 26th<sup>th</sup> day of July, 2007.

\*Administrative Judge  
Alex S. Karlin, Esq., Chairman  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
[ask2@nrc.gov](mailto:ask2@nrc.gov)

\*Administrative Judge  
Dr. Richard E. Wardwell  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
[rew@nrc.gov](mailto:rew@nrc.gov)

\*Administrative Judge  
Dr. Thomas S. Elleman  
Atomic Safety and Licensing Board  
5207 Creedmoor Road, #101,  
Raleigh, NC 27612.  
[tse@nrc.gov](mailto:tse@nrc.gov) ; [elleman@eos.ncsu.edu](mailto:elleman@eos.ncsu.edu)

\*Secretary  
Att’n: Rulemakings and Adjudications Staff  
Mail Stop O-16 C1  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
[secy@nrc.gov](mailto:secy@nrc.gov), [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

Office of Commission Appellate Adjudication  
Mail Stop O-16 C1  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

\*Lloyd B. Subin, Esq.  
\*Mary C. Baty, Esq.  
Office of the General Counsel  
Mail Stop O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
[lbs3@nrc.gov](mailto:lbs3@nrc.gov); [mcb1@nrc.gov](mailto:mcb1@nrc.gov)

\*Anthony Z. Roisman, Esq.  
National Legal Scholars Law Firm  
84 East Thetford Road  
Lyme, NH 03768  
[aroisman@nationallegalscholars.com](mailto:aroisman@nationallegalscholars.com)

\* Peter C. L. Roth, Esq.  
Senior Assistant Attorney General  
State of New Hampshire  
Office of the Attorney General  
33 Capitol Street  
Concord, NH 03301  
[Peter.Roth@doj.nh.gov](mailto:Peter.Roth@doj.nh.gov)

Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

\*Sarah Hofmann, Esq.  
Director of Public Advocacy  
Department of Public Service  
112 State Street – Drawer 20  
Montpelier, VT 05620-2601  
[Sarah.hofmann@state.vt.us](mailto:Sarah.hofmann@state.vt.us)

\*Ronald A. Shems, Esq.  
\*Karen Tyler, Esq.  
Shems, Dunkiel, Kassel & Saunders, PLLC  
9 College Street  
Burlington, VT 05401  
[rshems@sdkslaw.com](mailto:rshems@sdkslaw.com)  
[ktyler@sdkslaw.com](mailto:ktyler@sdkslaw.com)

\*Marcia Carpentier, Esq.  
Law Clerk  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
[mxc7@nrc.gov](mailto:mxc7@nrc.gov)

  
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Matias F. Travieso-Diaz