



Entergy Nuclear Northeast  
Indian Point Energy Center  
450 Broadway, GSB  
P.O. Box 249  
Buchanan, NY 10511-0249

**Robert Walpole**  
Licensing Manager  
Tel 914 734 6710

**Withhold From Public Disclosure – 10 CFR 2.390(a)(4)**

February 6, 2009

Re: Indian Point Unit 3  
Docket No. 50-286

NL-09-022

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

**SUBJECT:** Supplement to Request For Relief 3-48 and 3-47(l) to Support the Unit 3 Refuel Outage 15 Inservice Inspection Program

- REFERENCE:**
1. Entergy Nuclear Operations letter to U.S. Nuclear Regulatory Commission, "Requests For Relief 3-45, 3-46, 3-47(l) and 3-48 to Support the Unit 3 Refuel Outage 15 Inservice Inspection Program," dated January 22, 2009
  2. Electric Power Research Institute (EPRI) letter to U.S. Nuclear Regulatory Commission, "Request for Withholding of the following Proprietary Document: Materials Reliability Program Demonstration of Equipment and Procedures for the Inspection of Alloy 600 Bottom-Mounted Instrumentation (BMI) Head Penetrations (MRP-166). Product ID1010092, Dated February 3, 2009
  3. Westinghouse letter to U.S. Nuclear Regulatory Commission, "Application For Withholding Proprietary Information From Public Disclosure, Dated February 4, 2009

Dear Sir or Madam:

Entergy Nuclear Operations, Inc. (Entergy) submitted Relief Request No. 3-48 (RR-3-48) and Relief Request No. 3-47(l) (RR-3-47(l)) for Indian Point Unit No. 3 (IP3) in Reference 1. This relief request is for the Third 10-year Inservice Inspection (ISI) Interval.

**Withhold From Public Disclosure – 10 CFR 2.390(a)(4)**  
This letter is uncontrolled when Enclosure 3 is removed

1047  
NRR

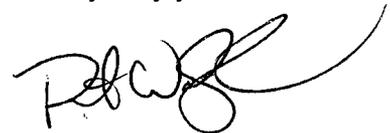
**Withhold From Public Disclosure – 10 CFR 2.390(a)(4)**

The NRC identified a need for MRP-166 “Materials Reliability Program: Demonstration of Equipment and Procedures for the Inspection of Alloy 600 Bottom Mounted Instrumentation (BMI) Head Penetrations” and WDI-TJ-1014 “BMI Examination of Indian Point Penetrations” in order to review RR-3-48. MRP-166 and WDI-TJ-1014 are both proprietary. The NRC also identified the need for a Flange to Upper Shell Drawing. These are being supplied as follows:

- EPRI sent document MRP-166 to the NRC in Reference 2 with the required affidavit requesting withholding pursuant to 10 CFR 2.390(a)(4) in support of this request. A copy of the cover letter is included in Enclosure 1.
- Enclosure 2 contains a copy of Reference 3, a Westinghouse authorization letter CAW-09-2529 with accompanying affidavit, Proprietary Information Notice and Copyright Notice. Enclosure 3 contains WDI-TJ-1014, Revision 2, “BMI Examination of Indian Point Penetrations” (Proprietary). It is requested that the information in Enclosure 3, which is proprietary to Westinghouse, be withheld from public disclosure in accordance with 10 CFR 2.390(a)(4). This request is supported in Reference 3 by the affidavit signed by Westinghouse, the owner of the information. The affidavit sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b) (4) of the Commissions regulations. Correspondence with respect to the copyright or proprietary aspects of the items listed above or supported the supporting Westinghouse affidavit should be referenced to CAW-09-2529 and should be addressed to J. A. Gresham, Manager, Regulatory Compliance and Plant Licensing, Westinghouse Electric Company LLC, P.O. Box 355, Pittsburgh, Pennsylvania 15230-0355.
- Enclosure 4 contains the Flange to Upper Shell drawing.

There are no new commitments identified in this submittal. If you have any questions or require additional information, please contact Mr. Robert Walpole, Licensing Manager at 914-734-6710.

Very truly yours,



Robert Walpole  
Licensing Manager  
Indian Point Energy Center

Enclosures and cc: next page

**Withhold From Public Disclosure – 10 CFR 2.390(a)(4)**

This letter is uncontrolled when Enclosure 3 is removed

**Withhold From Public Disclosure – 10 CFR 2.390(a)(4)**

- Enclosures:
1. Electric Power Research Institute (EPRI) letter to U.S. Nuclear Regulatory Commission, Dated February 3, 2009
  2. Westinghouse letter to U.S. Nuclear Regulatory Commission, "Application For Withholding Proprietary Information From Public Disclosure", Dated February 4, 2009
  3. WDI-TJ-1014, Revision 2, "BMI Examination of Indian Point Penetrations" (Proprietary)
  4. Flange to Upper Shell drawing

cc: Mr. John P. Boska, Senior Project Manager, NRC NRR DORL  
Mr. Samuel J. Collins, Regional Administrator, NRC Region I  
NRC Resident Inspector's Office Indian Point  
Mr. Paul Eddy, New York State Department of Public Service  
Mr. Robert Callender, Vice President NYSERDA

ENCLOSURE 1 TO NL-09-022

**ELECTRIC POWER RESEARCH INSTITUTE (EPRI)  
LETTER TO U.S. NUCLEAR REGULATORY COMMISSION,  
DATED FEBRUARY 3, 2009**

**ENTERGY NUCLEAR OPERATIONS, INC.  
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3  
DOCKET NO. 50-286**

**CHRISTIAN B. LARSEN**  
Vice President and  
Chief Nuclear Officer

February 3, 2009

Document Control Desk  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject: Request for Withholding of the following Proprietary Document:**

***Materials Reliability Program: Demonstration of Equipment and Procedures  
for the Inspection of Alloy 600 Bottom-Mounted Instrumentation (BMI)  
Head Penetrations (MRP-166). Product ID 1010092.***

To Whom It May Concern:

This is a request under 10 C.F.R. §2.390(a)(4) that the U.S. Nuclear Regulatory Commission (“NRC”) withhold from public disclosure the information identified in the enclosed Affidavit consisting of the proprietary information owned by Electric Power Research Institute, Inc. (“EPRI”) identified above (the “Report”). A Proprietary version of the Report and the Affidavit in support of this request are enclosed. A Non-Proprietary version of the Report will be provided in 90 days.

EPRI desires to disclose the Report in confidence at the request of EPRI member Entergy Nuclear Operations, Inc. in conjunction with Entergy’s Relief Request 3-48, “Use of Performance Demonstrated Qualified Procedures and Equipment for RPV Bottom Mounted Instrument Penetration Exams.” The Report is not to be divulged to anyone outside of the NRC or to any of its contractors, nor shall any copies be made of the Report provided herein. EPRI welcomes any discussions and/or questions relating to the information enclosed.

If you have any questions about the legal aspects of this request for withholding, please do not hesitate to contact me at (650) 855-2329. Questions on the content of the Report should be directed to Christine King of EPRI at (650) 855-2605.

Sincerely,



Together . . . Shaping the Future of Electricity

3420 Hillview Avenue, Palo Alto, CA 94304-1338 USA • 650.855.2329 • Fax 650.855.8759 • cblarsen@epri.com

## AFFIDAVIT

**RE: Request for Withholding of the Following Proprietary Document:**

***Materials Reliability Program: Demonstration of Equipment and Procedures for the Inspection of Alloy 600 Bottom-Mounted Instrumentation (BMI) Head Penetrations (MRP-166). Product ID 1010092.***

I, CHRISTIAN B. LARSEN, being duly sworn, depose and state as follows:

I am a Vice President and the Chief Nuclear Officer of Electric Power Research Institute, Inc. whose principal office is located at 3420 Hillview Avenue, Palo Alto, California ("EPRI") and I have been specifically delegated responsibility for the above-listed Report that is sought under this Affidavit to be withheld (the "Report"). I am authorized to apply to the U.S. Nuclear Regulatory Commission ("NRC") for the withholding of the Report on behalf of EPRI.

EPRI requests that the Report be withheld from the public on the following bases:

Withholding Based Upon Privileged And Confidential Trade Secrets Or Commercial Or Financial Information:

a. The Report is owned by EPRI and has been held in confidence by EPRI. All entities accepting copies of the Report do so subject to written agreements imposing an obligation upon the recipient to maintain the confidentiality of the Report. The Report is disclosed only to parties who agree, in writing, to preserve the confidentiality thereof.

b. EPRI considers the Report and the proprietary information contained therein (the "Proprietary Information") to constitute trade secrets of EPRI. As such, EPRI holds the Report in confidence and disclosure thereof is strictly limited to individuals and entities who have agreed, in writing, to maintain the confidentiality of the Report. EPRI made a substantial economic investment to develop the Report, and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of licensing royalties and other additional fees from the confidential nature of the Report. If the Report and the Proprietary Information were publicly available to consultants and/or other businesses providing services in the electric and/or nuclear power industry, they would be able to use the Report for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the Report.

c. EPRI's classification of the Report and the Proprietary Information as trade secrets is justified by the Uniform Trade Secrets Act which California adopted in 1984 and a version of which has been adopted by over forty states. The California Uniform Trade Secrets Act, California Civil Code §§3426 – 3426.11, defines a "trade secret" as follows:

"Trade secret" means information, including a formula, pattern, compilation, program device, method, technique, or process, that:

(1) 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

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”

d. The Report and the Proprietary Information contained therein are not generally known or available to the public. EPRI developed the Report only after making a determination that the Proprietary Information was not available from public sources. EPRI made a substantial investment of both money and employee hours in the development of the Report. EPRI was required to devote these resources and effort to derive the Proprietary Information and the Report. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Report is highly valuable to EPRI.

e. A public disclosure of the Proprietary Information would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Proprietary Information both domestically and internationally. The Proprietary Information and Report 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 herein 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 3420 Hillview Avenue, Palo Alto, California being the premises and place of business of Electric Power Research Institute, Inc.

Date 2/3/09

Christian B. Larsen



Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_

*(Please see attached California Jurat form. 4.H.)*

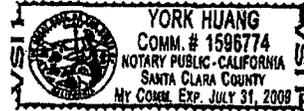
\_\_\_\_\_, Notary Public

My Commission expires \_\_\_\_\_

State of California )  
County of Santa Clara)

Subscribed and sworn to (or affirmed) before me on this 3rd day of February, 2009, by  
Christian B. Larsen, proved to me on the basis of satisfactory  
evidence to be the person(s) who appeared before me.

Signature *YH* (Seal)



DESCRIPTION OF ATTACHED DOCUMENT

Request for Withholding of Proprietary Document  
TITLE OR TYPE OF DOCUMENT

ENCLOSURE 2 TO NL-09-022

**WESTINGHOUSE LETTER TO U.S. NUCLEAR REGULATORY COMMISSION,  
“APPLICATION FOR WITHHOLDING PROPRIETARY INFORMATION FROM  
PUBLIC DISCLOSURE”, DATED FEBRUARY 4, 2009**

**ENTERGY NUCLEAR OPERATIONS, INC.  
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3  
DOCKET NO. 50-286**



Westinghouse Electric Company  
Nuclear Services  
P.O. Box 355  
Pittsburgh, Pennsylvania 15230-0355  
USA

U.S. Nuclear Regulatory Commission  
Document Control Desk  
Washington, DC 20555-0001

Direct tel: (412) 374-4643  
Direct fax: (412) 374-3846  
e-mail: greshaja@westinghouse.com

Our ref: CAW-09-2529

February 4, 2009

APPLICATION FOR WITHHOLDING PROPRIETARY  
INFORMATION FROM PUBLIC DISCLOSURE

Subject: WDI-TJ-1014, Revision 2, "BMI Examination of Indian Point Penetrations" (Proprietary)

The proprietary information for which withholding is being requested in the above-referenced report is further identified in Affidavit CAW-09-2529 signed by the owner of the proprietary information, Westinghouse Electric Company LLC. The affidavit, which accompanies this letter, sets forth the basis on 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 Section 2.390 of the Commission's regulations.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by Entergy Nuclear Northeast.

The subject document was prepared as an internal Westinghouse document and classified as proprietary. Westinghouse is providing the document for use by the NRC staff in its audit activities and requests that the document be considered proprietary in its entirety. As such, a non-proprietary version will not be issued.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-09-2529, and should be addressed to J. A. Gresham, Manager, Regulatory Compliance and Plant Licensing, Westinghouse Electric Company LLC, P.O. Box 355, Pittsburgh, Pennsylvania 15230-0355.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. A. Gresham'.

J. A. Gresham, Manager  
Regulatory Compliance and Plant Licensing

Enclosures

cc: George Bacuta (NRC OWFN 12E-1)

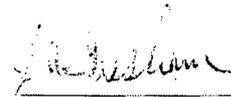
AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

ss

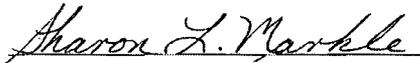
COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared J. A. Gresham, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company LLC (Westinghouse), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:



J. A. Gresham, Manager  
Regulatory Compliance and Plant Licensing

Sworn to and subscribed before me  
this 4<sup>th</sup> day of February, 2009



Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Sharon L. Markle, Notary Public  
Monroeville Boro, Allegheny County  
My Commission Expires Jan. 29, 2011

Member, Pennsylvania Association of Notaries

- (1) I am Manager, Regulatory Compliance and Plant Licensing, in Nuclear Services, Westinghouse Electric Company LLC (Westinghouse), and as such, 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 licensing and rule making proceedings, and am authorized to apply for its withholding on behalf of Westinghouse.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the Westinghouse "Application for Withholding" accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by Westinghouse in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.390 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 Westinghouse.
  - (ii) The information is of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public. Westinghouse has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitutes Westinghouse policy and provides the rational basis required.

Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

    - (a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of

Westinghouse's competitors without license from Westinghouse constitutes a competitive economic advantage over other companies.

- (b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), the application of which data secures a competitive economic advantage, e.g., by optimization or improved marketability.
- (c) Its use by a competitor would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing a similar product.
- (d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of Westinghouse, its customers or suppliers.
- (e) It reveals aspects of past, present, or future Westinghouse or customer funded development plans and programs of potential commercial value to Westinghouse.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the Westinghouse system which include the following:

- (a) The use of such information by Westinghouse gives Westinghouse a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the Westinghouse competitive position.
- (b) It is information that is marketable in many ways. The extent to which such information is available to competitors diminishes the Westinghouse ability to sell products and services involving the use of the information.
- (c) Use by our competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at our expense.

- (d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Westinghouse of a competitive advantage.
  - (e) Unrestricted disclosure would jeopardize the position of prominence of Westinghouse in the world market, and thereby give a market advantage to the competition of those countries.
  - (f) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, 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 WDI-TJ-1014, Revision 2, "BMI Examination of Indian Point Penetrations" (Proprietary) dated April 18, 2006, being transmitted by Entergy Nuclear Northeast letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted by Westinghouse for Indian Point Unit 3 is expected to be applicable for other licensee submittals in response to certain NRC requirements for justification of examination techniques.

This information is part of that which will enable Westinghouse to:

- (a) Perform ultrasonic and eddy current examination of Bottom Mounted Instrument (BMI) tubes at Indian Point Unit 3.

Further this information has substantial commercial value as follows:

- (a) Westinghouse plans to sell the use of similar information to its customers for purposes of performing in-service examination of reactor vessel BMI tubes.
- (b) Westinghouse can sell support and defense of the examination technique contained in this document.
- (c) The information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by Westinghouse.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Westinghouse because it would enhance the ability of competitors to provide similar examinations and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of applying the results of many years of experience in an intensive Westinghouse effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

Further the deponent sayeth not.

### **PROPRIETARY INFORMATION NOTICE**

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

In order to conform to the requirements of 10 CFR 2.390 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary in the proprietary versions is contained within brackets, and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in both versions by means of lower case letters (a) through (f) located as a superscript immediately following the brackets enclosing each item of information being identified as proprietary or in the margin opposite such information. These lower case letters refer to the types of information Westinghouse customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.390(b)(1).

### **COPYRIGHT NOTICE**

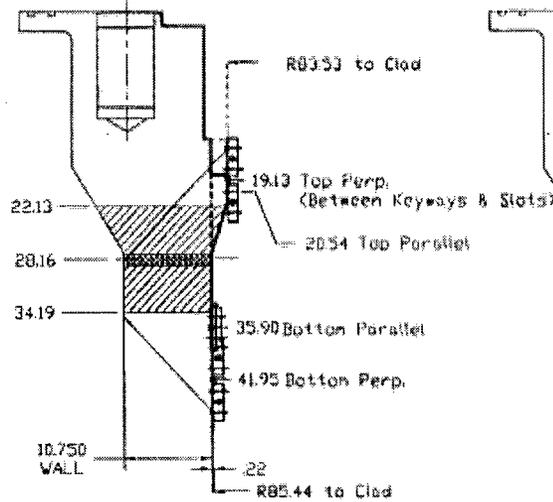
The reports transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in these reports which are necessary for its internal use in connection with generic and plant-specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.390 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection notwithstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond those necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.

ENCLOSURE 4 TO NL-09-022

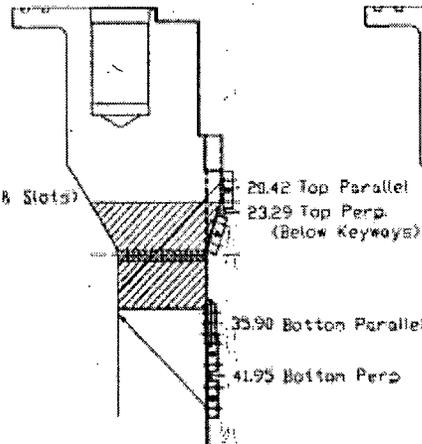
**FLANGE TO UPPER SHELL DRAWING**

ENTERGY NUCLEAR OPERATIONS, INC.  
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3  
DOCKET NO. 50-286

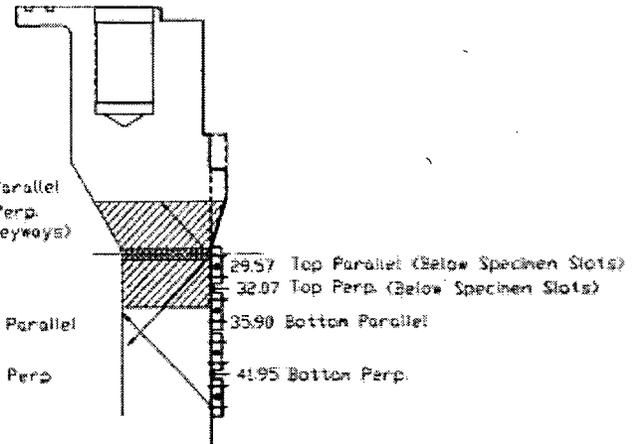
① Scan Boundaries Between Keyways & Irradiation Specimen Slots



② Scan Boundaries Below Keyways



③ Scan Boundaries Below Irradiation Specimen Slots



Perp. Scan Areas (Vessel Ø)		Scan Limit Configuration
Start	Stop	
363	7	3
7	37	1
37	43	3
43	87.25	1
87.25	92.75	2
92.75	137	1
137	143	3
143	173	1
173	187	3
187	217	1
217	223	3
223	257.25	1
257.25	272.5	2
272.5	317	1
317	323	3
323	353	1

Parallel Scan Areas (Vessel Ø)		Scan Limit Configuration
Start	Stop	
351.25	8.75	3
8.75	35.25	1
35.25	44.75	3
44.75	85.5	1
85.5	94.5	2
94.5	135.25	1
135.25	144.75	3
144.75	171.25	1
171.25	188.75	3
188.75	215.25	1
215.25	224.75	3
224.75	265.5	1
265.5	274.5	2
274.5	315.25	1
315.25	324.75	3
324.75	351.25	1

Scan Increment = 0.5" For Perp Scans  
= 0.5" (0.335") For Parallel Scans

WELD W1

INDIAN POINT #3 INT

WesDyne International

SHEET TITLE FLANGE TO UPPER SHELL

2009 EXAMINATION PROGRAM PLAN

ALL DIMENSIONS IN INCHES  
UNLESS OTHERWISE NOTED

SHEET 5 OF 22