

ENCLOSURE 2

(Non-Proprietary)

**FAUSKE AND ASSOCIATES LLC LETTER FROM ROBERT E. HENRY,
MARCH 23, 2009**

**ONE COPY OF THE APPLICATION FOR WITHHOLDING, AW-09-01 WITH
PROPRIETARY INFORMATION NOTICE AND ONE COPY OF AFFIDAVIT**

(Note that copies of reports FAI/09-44 and FAI/09-44R are omitted from this enclosure.)

**MILLSTONE POWER STATION UNIT 3
DOMINION NUCLEAR CONNECTICUT, INC.**

March 23, 2009

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

Subject: Response to NRC Request for FAI Proprietary Report (09-44) and Non-Proprietary version (09-44R) dated March 20, 2009

Enclosed are five (5) copies of the proprietary and one (1) copy of the non-proprietary version of, "Post-Test Analysis of the FAI Millstone 3 RWST 1/4 Scale Gas Entrainment Test".

Also enclosed is:

One (1) copy of the Application for Withholding, AW-09-01 (Non-Proprietary) with Proprietary Information Notice.

One (2) copy of Affidavit (Non-Proprietary).

This submittal contains proprietary information of Fauske & Associates, LLC. In conformance with the requirements of 10 CFR Section 2.390, as amended, of the Commission's regulations, we are enclosing with this submittal an Application for Withholding from Public Disclosure and an affidavit. The affidavit sets forth the basis on which the information identified as proprietary may be withheld from public disclosure by the Commission.

Correspondence with respect to this affidavit or Application for Withholding should reference AW-09-01 and should be addressed to Robert E. Henry, Senior Vice President, Fauske & Associates, LLC, 16W070 83rd Street, Burr Ridge, Illinois 60527.

Very truly yours,



Robert E. Henry
Senior Vice President

REH:lab
Enclosures

cc: G. Bacuta (NRC OWFN 12E-1)
bcc: H. K. Fauske
K. Fauske
K. Ramsden

March 23, 2009

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

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: FAI/09-44 Proprietary Report "Post-Test Analysis of the FAI Millstone 3 RWST
1/4 Scale Gas Entrainment Test".

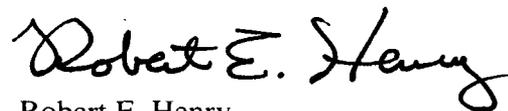
The Application for Withholding is submitted by Fauske & Associates, LLC (FAI), pursuant to the provisions of Paragraph (b) (1) of Section 2.390 of the Commission's regulations. It contains commercial strategic information proprietary to FAI and customarily held in confidence.

The proprietary material for which withholding is being requested is identified in the proprietary version of the subject report. In conformance with 10 CFR Section 2.390, Affidavit AW-09-01 accompanies this Application for Withholding, setting forth the basis on which the identified proprietary information may be withheld from public disclosure.

Accordingly, it is respectfully requested that the subject information which is proprietary to FAI be withheld from public disclosure in accordance with 10 CFR Section 2.390 of the Commission's regulations.

Correspondence with respect to this Application for Withholding or the accompanying affidavit should reference AW-09-01 and should be addressed to Robert E. Henry, Senior Vice President, Fauske & Associates, LLC, 16W070 83rd Street, Burr Ridge, Illinois 60527.

Very truly yours,



Robert E. Henry
Senior Vice President

REH:lab
Enclosures

cc: G. Bacuta (NRC OWFN 12E-1)
bcc: H. K. Fauske
K. Fauske

AFFIDAVIT

STATE OF ILLINOIS:

SS

COUNTY OF DUPAGE:

Before me, the undersigned authority, personally appeared Robert E. Henry, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Fauske & Associates, LLC (FAI) and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:

Robert E. Henry

Robert E. Henry

Senior Vice President

Sworn to and subscribed before me
this 23rd day of March, 2009.

Hans Kristian Fauske

Notary Public



- (1) I am Senior Vice President in Nuclear Services, Fauske & Associates, LLC (FAI) 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 evaluations, and am authorized to apply for its withholding on behalf of FAI.
- (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 FAI "Application for Withholding" accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by FAI 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 FAI.
 - (ii) The information is of a type customarily held in confidence by FAI and not customarily disclosed to the public. FAI 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 FAI 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 FAI's competitors without license from FAI 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 FAI, its customers or suppliers.
- (e) It reveals aspects of past, present, or future FAI or customer funded development plans and programs of potential commercial value to FAI.
- (f) It contains patentable ideas, for which patent protection may be desirable.

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

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

- (e) The FAI 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 "Post-Test Analysis of the FAI Millstone 3 RWST 1/4 Scale Gas Entrainment Test" (FAI/09-44) (Proprietary), for submittal to the Commission, being transmitted by FAI letter from Robert E. Henry dated March 23, 2009 and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted by FAI is that associated with the development of RELAP5 input data needed to model the scaled experiment for Millstone 3.

This information is part of that which will:

- (a) enable the NRC to evaluate the use of RELAP5 for gas intrusion evaluations,
- (b) help FAI assist other customers in assessing the potential for gas intrusion in plant specific configurations.

Further this information has substantial commercial value as follows:

- (a) FAI plans to continue to use RELAP5 to support industry needs with respect to gas intrusion.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of FAI because it would enhance the ability of competitors to provide similar technical evaluation justifications 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 and the expenditure of a considerable sum of money.

In order for competitors of FAI 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 for developing the enclosed methodology to assess gas intrusion in plant specific configurations.

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 FAI 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 FAI 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.