

April 16, 2010

Robert Leyse
P. O. Box 2850
Sun Valley, ID 83353

Dear Mr. Leyse:

Between February 7, 2010, and February 23, 2010, you sent a series of e-mails to the Chairman of the U.S. Nuclear Regulatory Commission (NRC) and to other NRC employees, including General Counsel Stephen Burns and staff from the Public Document Room. You requested that the NRC make the following documents publicly available:

Bostrum, W.A., WAPD-104, "The High Temperature Oxidation of Zircaloy in Water," March 1954.

Lemmon, Jr., A.W. BMI-1154, "Studies Relating to the Reaction Between Zirconium and Water at High Temperatures," 1957.

In your February 17, 2010, e-mail to the General Counsel, you alleged that these two documents were not made publicly available by the NRC staff in contradiction to the listing of these two documents in a table describing the availability of documents in a draft *Federal Register* Notice (FRN) of denial of a petition for rulemaking. The draft FRN was provided to the Commission in SECY-05-113, "Denial of a Petition for Rulemaking to Revise Appendix K to Title 10 of the *Code of Federal Regulations* Part 50 and Associated Guidance Documents (PRM-50-76)," June 29, 2005.

Although these reports were listed in the draft FRN of denial, they were not referenced or listed in the final denial of the petition for rulemaking (see 70 FR 52893; September 6, 2005). The NRC staff decided to remove the references to these two documents in the final FRN because (1) they did not constitute a significant part of the basis for denying the petition and (2) the reports were not then available in the NRC's files. You should also be aware that WAPD-104 was prepared in 1954 for the Atomic Energy Commission's office for naval reactors. When the NRC was created in 1974, records related to naval reactors were assigned to the Energy Research and Development Administration (which is now the U.S. Department of Energy).

Nevertheless, the NRC has been able to obtain copies of the above reports. They are now publicly available in the NRC's Agencywide Documents Access Management System (ADAMS) at the following ADAMS Accession numbers:

WAPD-104—ADAMS Accession No. ML100900446
BMI-1154—ADAMS Accession No. ML100570218

R. Leyse

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Your February e-mails also requested copies of seven reports prepared by Pennsylvania State University (Penn State) under contract to the NRC. The enclosure to this letter provides a detailed status of each of these reports. Five of these reports are predecisional draft versions that the NRC is now reviewing. Penn State will correct these draft reports as necessary before the NRC publicly releases the reports. The other two reports are monthly progress reports which contain proprietary labor rate information; as such, the NRC will not make these reports public. Any technical information in these monthly reports will be included in one of the other topical reports and made public when those reports are released.

Please address any future questions regarding the status of the Penn State reports to Chris L. Hoxie, Code Development Branch Chief, at (301) 251-7562.

Sincerely,

/RA/ by TQuay for

Timothy J. McGinty, Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Enclosure:
As stated

R. Leyse

- 2 -

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Timothy J. McGinty, Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Enclosure:
As stated

DISTRIBUTION: G20100104/ EDATS: SECY-2010-0115
PFAB r/f RidsNrrDpr RidsNrrOd RidsNrrMailCenter RidsEdoMailCenter
RidsOgcMailCenter RidsNrrAdes RidsNrrAdro

ADAMS Accession No: ML100680791(Pkg.); ML100950085 (Letter) *via email

OFFICE	NRR:DPR:PFAB:PM	NRR:DPR:PFAB:BC	Tech Editor*
NAME	RDudley	RCarlson	CHsu
DATE	04/06/10	04/07/10	03/05/10
OFFICE	OGC	RES:DSA:D*	NRR:DPR:D
NAME	BJones	JUhle	TMcGinty (TQuay for)
DATE	04/08/10	04/13/10	04/16/10

OFFICIAL RECORD COPY

Penn State University Reports

L. E. Hochreiter, F. B. Cheung, T. F. Lin, C. Frepoli, A. Sridharan, D. R. Todd, E. R. Rosal, NUREG/CR 6975, "Rod Bundle Heat Transfer Facility Test Plan and Design," submitted to U.S. Nuclear Regulatory Commission (NRC) October 2008 (218 pages).

Status: Actually 567 pages. The NRC's Office of Nuclear Reactor Regulation (NRR) and the Office of New Reactors (NRO) is reviewing NUREG/CR-6975 (ADAMS Accession No. ML082831698). The NRC expects to publish this as a public document by December 2010

L. E. Hochreiter, F. B. Cheung, T. F. Lin, S. Ergun, A. Sridharan, A. Ireland, E. R. Rosal, NUREG/CR-6980, "RBHT Reflood Heat Transfer Experiments Data and Analysis Report," submitted to the NRC October 2008 (338 pages).

Status: Actually 539 pages, the NRC's Office of Nuclear Regulatory Research (RES) has reviewed and provided comments on NUREG/CR-6980 (ADAMS Accession No. ML082830388). Penn State is revising this NUREG. It is now predecisional but is expected to be published by December 2011.

L. E. Hochreiter, F. B. Cheung, , T. F. Lin, D. J. Miller, B. R. Lowery, NUREG/CR-XXXX, "RBHT Two Phase Mixture Level Swell and Uncovery Experiments Data Report," submitted to the NRC December 2008 (198 pages).

Status: Actually 1111 pages, not currently in NUREG format, needs staff review, no publishing date set.

L. E. Hochreiter, F. B. Cheung, , T. F. Lin, D. M. McLaughlin, J. P. Spring, P. M. Kutzler, and S. Ergun, NUREG/CR-XXXX, "Rod Bundle Heat Transfer Facility Steady State Steam Cooling Experiments," submitted to the NRC December 2008 (206 pages).

Status: Actually 474 pages, text has been reviewed, data and plots will be reviewed, no publishing date set.

L. E. Hochreiter, F. B. Cheung, T. F. Lin, D. J. Miller, B. R. Lowery, NUREG/CR-XXXX, "Rod Bundle Heat Transfer Facility Steam Cooling with Droplet Injection Experiments Data Report," submitted to the NRC December 2008 (427 pages).

Status: Actually 420 pages, text has been reviewed, data plots need to be reviewed, no publishing date set.

ENCLOSURE

Although not included in the requests for public release, the following report is also being prepared by Penn State:

E. R. Rosal, T. F. Lin, I. S. McClellan, R. C. Brewer, "Rod Bundle Heat Transfer Test Facility Description," 207 pages.

Status: NRR and NRO are reviewing this report and expect to publish by December 2010

L. E. Hochreiter, F. B. Cheung, and T. F. Lin, "Rod Bundle Heat Transfer Phase II Monthly Reports," PSU/MNE Report, NRC, January 2006.

Status: This report is a monthly progress report, which contains proprietary labor rate information and will not be made public. Any technical information in this monthly report was included in one of the other topical reports and will be made public when those reports are released. No copies of the monthly progress reports have been retained.

L. E. Hochreiter, F. B. Cheung, and T. F. Lin, "Rod Bundle Heat Transfer Phase II Monthly Reports," PSU/MNE Report, NRC, 2005

Status: This report is a monthly progress report, which contains proprietary labor rate information and will not be made public. Any technical information in this monthly report was included in one of the other topical reports and will be made public when those reports are released. No copies of the monthly progress reports have been retained.

Email from Robert Leyse to Stephen Burns Re:
Release of Documents Referenced in SECY-05-0113
Dated: February 17, 2010

Email from Richard Dudley to Bob Leyse Re:
Release of Documents Referenced in SECY-05-0113
Dated: March 4, 2010

Email from Richard Dudley to Bob Leyse Re:
Release of Documents Referenced in SECY-05-0113
Dated: March 31, 2010