

PROJ 0704

2010-153 _____ BWR Vessel & Internals Project (BWRVIP)

July 7, 2010

Jonathan Rowley
U. S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Subject: Re-transmittal of Comments and Proprietary Information Identification Regarding
NRC Draft Safety Evaluation of BWRVIP-173

Reference: Letter from Michael D. McCoppin (NRC) to David M. Czufin (BWRVIP
Chairman), "Draft Safety Evaluation for Boiling Water Reactor Vessel and Internals
Project, 'BWRVIP-173: BWR Vessel and Internals Project, Evaluation of
Chemistry Data for BWR Vessel Nozzle Forging Materials' EPRI Technical Report
1014995 (TAC NO. MD6255)," dated June 3, 2010.

The purpose of this letter is to re-transmit BWRVIP comments and proprietary information identification regarding the NRC draft Safety Evaluation (SE) of BWRVIP-173 transmitted to the BWRVIP by the NRC letter referenced above. The reference NRC letter requested that the BWRVIP provide these comments and corrections. This re-transmittal includes an affidavit for withholding proprietary information.

Enclosed is a copy of the draft SE with EPRI proprietary information identified with yellow shading.

In addition, the BWRVIP has only one comment on the enclosed draft SE. The draft SE includes in a number of places the symbol " δ " for standard deviation. However, common industry practice is to use " σ " for standard deviation. This suggested correction has been made in a number of places, the first location of which is on page 4, line 41.

Please note that the enclosed comments contain proprietary information. A letter requesting that the comments be withheld from public disclosure and an affidavit describing the basis for withholding this information are provided as Attachment 1.

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G004
NRR

If you have any questions on this subject, please call Chuck Wirtz (FirstEnergy, BWRVIP Integration Committee Technical Chairman) at 440.280.7665.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Czufin', with a stylized flourish at the end.

Dave Czufin
Exelon
Chairman, BWR Vessel and Internals Project

NEIL WILMSHURST
Vice President and
Chief Nuclear Officer

June 28, 2010

Attention: Jonathan Rowley
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:

Comments and Proprietary Information Identification Regarding NRC Draft Safety
Evaluation of BWRVIP-173

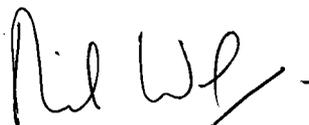
Dear Mr. Rowley:

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 "Correspondence"). Proprietary and non-proprietary versions of the Correspondence and the Affidavit in support of this request are enclosed.

EPRI desires to disclose the Correspondence in confidence to assist the NRC. The Correspondence 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 Correspondence 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 (704) 704-595-2732. Questions on the content of the Correspondence should be directed to Randy Stark of EPRI at (650)855-2122.

Sincerely,



AFFIDAVIT

RE: Request for Withholding of the Following Proprietary Document:

Comments and Proprietary Information Identification Regarding NRC Draft Safety
Evaluation of BWRVIP-173

I, Neil Wilmschurst, being duly sworn, depose and state as follows:

I am the Vice President and Chief Nuclear Officer at Electric Power Research Institute, Inc. whose principal office is located at 1300 W WT Harris Blvd, Charlotte North Carolina ("EPRI") and I have been specifically delegated responsibility for the above-listed Correspondence that is sought under this Affidavit to be withheld (the "Correspondence"). 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 Correspondence be withheld from the public on the following bases:

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

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

b. EPRI considers the Correspondence and the proprietary information contained therein (the "Proprietary Information") to constitute trade secrets of EPRI. As such, EPRI holds the Correspondence in confidence and disclosure thereof is strictly limited to individuals and entities who have agreed, in writing, to maintain the confidentiality of the Correspondence. EPRI made a substantial economic investment to develop the Correspondence, 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 Correspondence. If the Correspondence 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 Correspondence for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the Correspondence.

c. EPRI's classification of the Correspondence 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 Correspondence and the Proprietary Information contained therein are not generally known or available to the public. EPRI developed the Correspondence 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 Correspondence. EPRI was required to devote these resources and effort to derive the Proprietary Information and the Correspondence. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Correspondence 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 Correspondence 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 1300 W WT Harris Blvd being the premises and place of business of Electric Power Research Institute, Inc.

Date: 6-28-2010
Neil Wilms
Neil Wilms

(State of North Carolina)
(County of Mecklenburg)

Subscribed and sworn to (or affirmed) before me on this 28th day of June, 2010, by Neil Wilms, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Sheryl B. Stogner (Seal)

My Commission Expires 25th day of August, 2014