

February 24, 2011

Neil Wilmshurst
Vice President and Chief Nuclear Officer
Electric Power Research Institute
1300 West W. T. Harris Boulevard
Charlotte, North Carolina 28262-8550

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(TAC NO ME0680)

Dear Mr. Wilmshurst:

By letter dated January 19, 2011, you submitted an affidavit dated January 19, 2011, requesting that the information contained in the following documents be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

1. *Materials Reliability Program: Functionality Analysis for Babcock & Wilcox Representative PWR Internals (MRP-229-Rev. 3)*. EPRI 1022402
2. *Materials Reliability Program: Aging Management Strategies for B&W Pressurized Water Reactor Internals (MRP-231-Rev. 2)*. EPRI 1021028

The letter and affidavit have been entered into the NRC's Agencywide Documents Access and Management System (ADAMS) and can be accessed at Accession Number ML110280109. The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

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

- a. The Reports are owned by EPRI and constitute commercial information which has not been placed in the public domain by EPRI.
- b. EPRI made a substantial economic investment to develop the Reports and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of fees charged for the sale of the Reports. The Reports is entitled to the protection of the United States copyright laws. If the Reports were publicly available to consultants and/or other businesses providing services in the electric and/or nuclear power industry at no cost, these entities would be able to use the Reports for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the Reports.
- c. EPRI made a substantial investment of both money and employee hours over an extended period of time in the development of the Reports. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Reports are highly valuable to EPRI.
- d. A public disclosure of the Reports would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to sell the Reports both domestically and

internationally. If a party does not purchase the Reports from EPRI, it would require an investment of money, time and effort equivalent to that expended by EPRI for the party to duplicate the Reports.”

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, both the “Functionality Analysis for Babcock & Wilcox Representative PWR Internals” (MRP-229-Rev. 3) and the “Aging Management Strategies for B&W Pressurized Water Reactor Internals” (MRP-231-Rev. 2) marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the Nuclear Regulatory Commission (NRC). You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1847.

Sincerely,

/RA/

Sheldon D. Stuchell, Senior Project Manager
Licensing Processes Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

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/RA/

Sheldon D. Stuchell, Senior Project Manager
Licensing Processes Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Project No. 669

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TAC ME0680

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