

June 7, 2011

Christine King
Business & Operations Sr. Manager
Electric Power Research Institute
3420 Hillview Avenue
Palo Alto, CA 94304-1338

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

Dear Ms. King:

By letter dated April 18, 2011, you submitted an affidavit dated April 18, 2011, requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390(a)(4):

EPRI [Electric Power Research Institute] Alpha Monitoring Guidelines for Operating Nuclear Power Stations, 1019500

The letter and affidavit were received and entered into the Nuclear Regulatory Commission's (NRC's) Agencywide Documents Access and Management System (ADAMS) on May 2, 2011, and can be accessed at Accession Number ML11122A039. In addition to the letter and affidavit, the NRC received both the original proprietary version of the report dated December 2009, and a non-proprietary version of the report. The non-proprietary version of "EPRI Alpha Monitoring Guidelines for Operating Nuclear Power Stations, 1019500" is publicly available in the NRC's ADAMS, and can be accessed at Accession Number ML11122A037. 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 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."

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 and review by NRC staff, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the "*EPRI Alpha Monitoring Guidelines for Operating Nuclear Power Stations, 1019500*" report 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 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.

C. King

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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

Project No. 669

C. King

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Sincerely,

/RA/

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