

ENCLOSURE 4

MFN 13-008

EPRI Affidavit

AFFIDAVIT

**RE: Request for Withholding EPRI Proprietary Information in NEDE-33798P,  
Application of NSF to GNF Fuel Bundle Channels**

I, Christine King, being duly sworn, depose and state as follows:

I am the Director of Nuclear Fuels & Chemistry at Electric Power Research Institute, Inc. whose principal office is located at 3420 Hillview Avenue, Palo Alto, CA ("EPRI") and I have been specifically delegated responsibility for the materials that are sought under this Affidavit to be withheld (the "NFIR/EPRI Proprietary Materials"). I am authorized to apply to the U.S. Nuclear Regulatory Commission ("NRC") for the withholding of the NFIR/EPRI Materials on behalf of EPRI.

EPRI requests that the NFIR/EPRI Proprietary Materials be withheld from the public. The specific information to be withheld is included in NEDE-33798P, *Application of NSF to GNF Fuel Bundle Channels*, February 2013. The EPRI proprietary information in NEDE-33798P is identified by a solid underline inside double square brackets. [[This sentence is an example. <sup>{E}</sup>]] Tables or figures containing EPRI proprietary information are identified with double square brackets before and after the object. In each case, the superscript notation {E} refers to this affidavit, which provides the basis for the proprietary determination.

The request the NFIR/EPRI Proprietary Materials to be withheld on the following basis:

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

a. EPRI's classification of the NFIR/EPRI Materials 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:

b. The NFIR/EPRI Materials are owned by EPRI and have been held in confidence by EPRI. All entities accepting copies of the NFIR/EPRI Materials do so subject to written agreements imposing an obligation upon the recipient to maintain the confidentiality of the NFIR/EPRI Materials. The NFIR/EPRI Materials are disclosed only to parties who agree, in writing, to preserve the confidentiality thereof.

c. EPRI considers the NFIR/EPRI Materials and the proprietary information contained therein (the "Proprietary Information") to constitute trade secrets of EPRI. As such, EPRI holds the NFIR/EPRI Materials in confidence and disclosure thereof is strictly limited to individuals and entities who have agreed, in writing, to maintain the confidentiality of the NFIR/EPRI Materials. EPRI made a substantial economic investment to develop the NFIR/EPRI Materials, 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 NFIR/EPRI Materials. If the NFIR/EPRI Materials and the Proprietary Information were publicly available to

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*Teresa S. Berry*  
**TERESA S. BERRY**  
Notary Public, Chatham County GA  
My Commission Expires Dec. 8 2015

consultants and/or other businesses providing services in the electric and/or nuclear power industry, they would be able to use the NFIR/EPRI Materials for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the NFIR/EPRI Materials.

"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 NFIR/EPRI Materials and the Proprietary Information contained therein are not generally known or available to the public. EPRI developed the NFIR/EPRI Materials 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 NFIR/EPRI Materials. EPRI was required to devote these resources and effort over a period of several years to derive the Proprietary Information and the NFIR/EPRI Materials. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the NFIR/EPRI Materials 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 NFIR/EPRI Materials 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 the Westin Savannah Harbor Golf Resort and Spa at 1 Resort Drive, Savannah, Georgia 31421

*Christine King*

1/30/13

*Teresa S. Berry*

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