



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 19, 2016

Thomas A. Vehec
Vice President
NextEra Energy
Duane Arnold Energy Center
3277 DAEC Road
Palo, IA 52324-9785

SUBJECT: DUANE ARNOLD ENERGY CENTER - REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE (CAC NO. MF6617)

Dear Mr. Vehec:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated March 11, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16076A208), NextEra Energy Duane Arnold, LLC (the licensee) resubmitted an affidavit with response to request for additional information for a license amendment request (LAR) to revise and relocate pressure and temperature limit curves to a pressure and temperature limits report.

The affidavit dated March 3, 2016, executed by Neil Wilmshurst, Vice President and Chief Nuclear Officer, Electric Power Research Institute (EPRI), Inc., requested 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. This document was initially submitted as Enclosure 3 but was incorrectly identified as Enclosure 4. The licensee corrected this administrative error in the affidavit by submitting a correction letter dated March 30, 2016 (ADAMS Accession No. ML16097A599).

FPL Energy Duane Arnold, LLC, Duane Arnold Energy Center Submittal to the NRC for "Response to Request for Additional Information – LAR to Revise and Relocate Pressure and Temperature Limit Curves to a Pressure and Temperature Limits Report – MF6617," Enclosure 3, Nextera Energy Duane Arnold Response to EVIB RAI-1 with Proprietary EPRI BWRVIP-135 Rev 3 Sections, "BWR Vessel and Internals Project, Integrated Surveillance Program (ISP) Data Source Book and Plant Evaluations, 3002003144, Technical Report, December 2014"

A nonproprietary version of this document was provided as Enclosure 1 of the March 11, 2016, submittal, and has been placed in the NRC's Public Document Room and added to ADAMS in the NRC Library at Accession No. ML16076A209

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- a. The Proprietary Information is owned by EPRI and has been held in confidence by EPRI. All entities accepting copies of the Proprietary Information do so subject to written agreements imposing an obligation

upon the recipient to maintain the confidentiality of the Proprietary Information. The Proprietary Information is disclosed only to parties who agree, in writing, to preserve the confidentiality thereof.

- b. EPRI considers the Proprietary Information contained therein to constitute trade secrets of EPRI. As such, EPRI holds the Information in confidence and disclosure thereof is strictly limited to individuals and entities who have agreed, in writing, to maintain the confidentiality of the Information.
- c. The information sought to be withheld is considered to be proprietary for the following reasons. EPRI made a substantial economic investment to develop the Proprietary Information 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 Proprietary Information. If 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 Proprietary Information for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the Proprietary Information.
- d. EPRI's classification of 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."
- e. The Proprietary Information contained therein are not generally known or available to the public. EPRI developed the Information 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 Proprietary Information. EPRI was required to devote these resources and effort to derive the Proprietary Information. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Proprietary Information is highly valuable to EPRI.

- f. 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 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, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the document identified above, 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.

If you have any questions regarding this matter, I may be reached at 301-415-8371.

Sincerely,



Mahesh Chawla, Project Manager
Plant Licensing Branch 3-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-331

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

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- f. 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 can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

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Sincerely,
/RA/
 Mahesh Chawla, Project Manager
 Plant Licensing Branch 3-1
 Division of Operating Reactor Licensing
 Office of Nuclear Reactor Regulation

Docket No. 50-331

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

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