



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76012

22 MAY 1979

PR-112

Docket No. 99900507

Sargent & Lundy Engineers
Attn: Mr. R. H. Patterson
Senior Partner
55 East Monroe Street
Chicago, Illinois 60603

Gentlemen:

As stated in our February 12, 1979, letter, we sent your nondisclosure agreement to NRC Headquarters for review. The Office of Executive Legal Director (OELD) has provided us their opinion concerning the NRC inspector's right of access to confidential proprietary information with, or without, the signing of a nondisclosure agreement. The OELD advice was that the inspector should not sign such an agreement. The following are excerpts from the OELD report.

"We do not advise that NRC inspectors sign nondisclosure agreements provided by nonlicensed vendors or licensees, because inspectors are already prohibited by statute and regulations from improperly disclosing or misusing confidential information. Under federal law an NRC inspector may not disclose confidential information that comes to him in the course of his duties or by reason of any examination or investigation made by him, except as may be authorized by law or regulation. . . . Violation of this law subjects the offender to a \$1,000 fine, one year's imprisonment, and removal from employment. The NRC's standard of conduct regulations, 10 CFR Part 0, specifically bring this criminal statute to the attention of NRC employees and impose a 'positive duty' on each employee 'to acquaint himself' with its terms. . . . These statutory and regulatory provisions provide ample incentive to the inspector not to misuse or improperly disclose confidential information.

"With regard to the NRC as holder of information, the Commission respects legitimate concerns for protection of trade secrets and confidential commercial or financial information insofar as permitted by statute and regulations. However, as 10 CFR Part 2 and Part 9 make clear, it is inappropriate to bind the Commission, as the language of Sargent & Lundy's proposed agreement would, to absolute nondisclosure when circumstances may require, in the interest of public health and safety, disclosure of proprietary information."

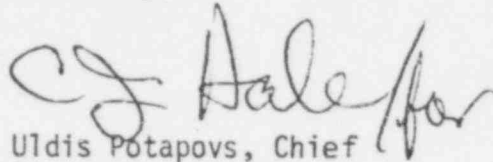
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Consistent with the OELD advice, we will not permit our inspectors to sign nondisclosure agreements. If you anticipate that this NRC policy will create an impasse during our future inspections of Sargent & Lundy, or if you would like to discuss this matter further, please advise us. We will be happy to arrange a meeting with you and Region IV management or NRC Headquarters personnel whichever is appropriate.

Sincerely,

A handwritten signature in cursive script, appearing to read "Uldis Potapovs".

Uldis Potapovs, Chief
Vendor Inspection Branch