



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

November 19, 1992

Docket Nos. 50-348
and 50-364

Mr. Peter J. Morris
Manager of Strategic Safety and
Regulatory Issues
Westinghouse Electric Corporation
Post Office Box 355
Pittsburgh, Pennsylvania 15230-0355

Dear Mr. Morris:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE - JOSEPH
M. FARLEY NUCLEAR PLANT, UNITS 1 AND 2 (TAC NOS. M79818 AND M79819)

By your application and affidavit (CAW-92-342), both dated August 6, 1992, you submitted WCAP-13464, "Response to NRC Questions on Farley Steam Generator Tube Alternate Plugging Criteria Presentation Materials," dated August 1992, and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790. By application and affidavit (CAW-92-364), both dated October 7, 1992, you revised your original August 6, 1992, application and affidavit.

A portion of the material in WCAP-13464 (identified by brackets and the letter "g") is owned by the Electric Power Research Institute (EPRI). EPRI has requested in an affidavit dated August 10, 1992, submitted with your August 6, 1992, application, that the material be withheld from public disclosure pursuant to 10 CFR 2.790. Our response to EPRI granting their request for withholding is enclosed for your information.

WCAP-13464 incorporates the material provided by Westinghouse at the July 27, 1992, meeting with Southern Nuclear Operating Company in Rockville, Maryland. In your letter dated July 24, 1992, you had requested that the material provided at the meeting be withheld from public disclosure pending submittal of the proprietary and non-proprietary versions with the appropriate affidavit. This has been accomplished by your applications and affidavits dated August 6 and October 7, 1992.

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

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- (i) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of Westinghouse's competitors without license from Westinghouse constitutes a competitive economic advantage over other companies.
 - (ii) Its use by a competitor would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing a similar product.

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November 19, 1992

Mr. Peter J. Morris

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We have reviewed your application and the material based on the requirements and criteria of 10 CFR 2.790 and, on the basis of Westinghouse's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(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 should also understand that the NRC may have cause to review this determination in the future, such as, 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.

Sincerely,

ORIGINAL SIGNED BY:

Stephen T. Hoffman, Project Manager
Project Directorate II-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc w/enclosure:
See next page

* SEE PREVIOUS CONCURRENCE

OFC	LA:PD21:DRPE	PM:PD21:DRPE	EMCB*	OGC*
NAME	SDittle	SHoffman:tms	JStrosnider	MSiemien
DATE	11/18/92	11/18/92	11/16/92	11/16/92
OFC	D:PD21:DRPE			
NAME	EAdensam			
DATE	11/19/92			

Document Name: WESTPROP.LTR

Mr. Peter J. Morris
Westinghouse Electric Corporation

Joseph M. Farley Nuclear Plant

cc:

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Columbia, Alabama 36319

Enclosure as stated



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

November 19, 1992

Docket Nos. 50-348
and 50-364

Arthur Kenny, Esquire
Licensing Administrator
Electric Power Research Institute
Office of Business Development
3412 Hillview Avenue
Post Office Box 10412
Palo Alto, California 94303

Dear Mr. Kenny:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE - JOSEPH
M. FARLEY NUCLEAR PLANT, UNITS 1 AND 2 (TAC NOS. M79818 AND M79819)

By letter dated August 24, 1992, as supplemented on October 19, 1992, Southern Nuclear Operating Company submitted Westinghouse Electric Corporation (Westinghouse) Report WCAP-13464, "Response to NRC Questions on Farley Steam Generator Tube Alternate Plugging Criteria Presentation Materials," dated August 1992. WCAP-13464 contains material considered proprietary by both Electric Power Research Institute (EPRI) and Westinghouse. Our response to Westinghouse granting their request for withholding is enclosed for your information. By your letter dated August 10, 1992, you requested that the EPRI material contained in WCAP-13464 (identified by brackets and the letter "g") be withheld from public disclosure pursuant to 10 CFR 2.790.

In your affidavit, you stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- i. The Report has been held in confidence by EPRI, its owner. All those accepting the Report must agree to preserve the confidentiality of the Report.
- ii. The Report is of a type customarily held in confidence by EPRI and there is a rational basis therefore. The Report is trade secret and is held in confidence by EPRI because to disclose it would prevent EPRI from licensing the Report at fees which would allow EPRI to recover its investment. If consultants and other businesses providing services in the nuclear power industry were able to publicly obtain the Report, they would be able to use it commercially for profit and avoid spending the large amount of money that EPRI was required to spend to prepare the Report. The rational basis that EPRI has for classifying the Report as trade secrets is the Uniform Trade Secrets Act which California adopted in 1984 and which has been adopted by over twenty states. The Uniform Trade Secrets Act defines a "trade secret" as follows:

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"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.
- iii. The Report will be transmitted to the NRC in confidence.
- iv. The Report is not available in public sources. EPRI developed the Report only after making a determination that the Report was not available from public sources. It required a large expenditure of dollars for EPRI to develop the Report. In addition, EPRI was required to use a large amount of time of EPRI employees. The money spent, plus the value of EPRI's staff time in preparing the Report, show that the Report is highly valuable to EPRI. Finally, the Report was developed only after a long period of effort of at least several months.
- v. A public disclosure of the Report would cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Report both domestically and internationally. The Report can be properly acquired or duplicated by others only with an equivalent investment of time and effort.

We have reviewed your application and the material based on the requirements and criteria of 10 CFR 2.790 and, on the basis of Electric Power Research Institute statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(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 should also understand that the NRC may have cause to review this determination in the

Arthur Kenny, Esquire

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future, such as, 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.

Sincerely,

A handwritten signature in cursive script, reading "Stephen T. Hoffman".

Stephen T. Hoffman, Project Manager
Project Directorate II-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

Enclosure:

As stated

cc w/enclosure:

See next page

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NRC/Local PDRs
PD 11-1 Reading
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E. Murphy
ACRS (10)
L. Plisco, EDO
E. Merschoff, RII

cc: Plant Service List