



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

May 15, 2020

Mr. G. T. Powell
President and CEO
STP Nuclear Operating Company
South Texas Project
P.O. Box 289
Wadsworth, TX 77483

SUBJECT: SOUTH TEXAS PROJECT, UNITS 1 AND 2 - REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE (EPID L-2019-LLR-0096)

Dear Mr. Powell:

By letters dated September 26, 2019, and March 9, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML19274C393 and ML20069L499, respectively), you submitted affidavits executed by Scott Greenhaus from Structural Group, Inc. (SGI) dated September 11, 2019, and March 3, 2020, and Rasko P. Ojdovic from Simpson Gumpertz and Heger Inc. (SGH), dated September 17, 2019, and March 3, 2020, which combined, requested that the information from the following documents (contained in Enclosures 1 and 4-9 of your September 26, 2019, letter and Enclosure 1 of your March 9, 2020, letter) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390:

Enclosures 1, 4, 5, 6, 7, 8, & 9: Proposed Alternative to ASME [American Society of Mechanical Engineers] Boiler & Pressure Vessel Code Section XI Requirements for Repair/Replacement of Essential Cooling Water (ECW) System Class 3 Buried Piping in accordance with 10 CFR 50.55a(z)(1) (Relief Request RR-ENG-3-24)

Enclosure 1: Request for Additional Information for Proposed Alternative to ASME Section XI Requirements for the Repair/Replacement of Essential Cooling Water System Class 3 Buried Piping (Relief Request RR-ENG-3-24) (EPID: L-2019-LLR-0096)

Nonproprietary copies of Enclosure 1 contained in Enclosure 11 of the letter dated September 26, 2019, and Enclosure 1 contained in Enclosure 2 of the letter dated March 9, 2020, have been placed in the U.S. Nuclear Regulatory Commission's (NRC) Public Document Room and added to the NRC Library in ADAMS at the above-referenced Accession Nos. ML19274C393 and ML20069L499.

The SGI affidavits stated, in part, that the information should be considered exempt from mandatory public disclosure for the following reasons:

The information sought to be withheld from public disclosure is owned by and has been held in confidence by SGI.

- 1) The SGI plan to sell the use of this information to their customers for the purpose of installing Carbon Fiber Reinforced Polymer (CFRP) in safety related piping.
- 2) That SGI can self- [sell] support and defense of the technology to their customers in the licensing process.
- 3) The information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by SGI.
- 4) Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of SGI because it would enhance the ability of competitors to provide similar licensing services for commercial power reactors without commensurate expenses.
- 5) Public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.
- 6) The development of the technology described in part by the proprietary information is the result of applying the results of many years of experience in an intensive effort by SGI and the expenditure of a considerable sum of money and resources. In order for competitors to duplicate this information, similar technical programs would have to be performed including a significant expenditure [of] money and resources.

The SGH affidavits stated, in part, that the information should be considered exempt from mandatory public disclosure for the following reasons:

- i. This information is and has been held in confidence by SGH.
- ii. This information is of a type that is customarily held in confidence by SGH, and there is a rational basis for doing so because the information includes proprietary information that was developed and compiled by SGH at a significant cost to SGH. This information is classified as proprietary because it contains information relevant to analytical approaches and methodologies not available elsewhere.
- iii. The information is being transmitted to the NRC voluntarily and in confidence.
- iv. This information is not available in public sources and could not be gathered readily from other publicly available information.
- v. A substantial effort has been expended by SGH to develop and evaluate this information. Public release of this information could lead to additional significant cost to SGH and is likely to cause substantial harm to SGH's competitive position and foreclose or reduce the availability of profit-making opportunities. The value of this information to SGH would be lost or devalued if the information were disclosed to the public.

- vi. Public disclosure of the information sought to be withheld would provide other parties, including competitors, with valuable information. SGH's competitive advantage would be lost if its competitors are able to use the results of SGH's activities to aid their own commercial activities. For example, SGH's competitive advantage would be lost if its competitors are able to use the results of SGH's analyses to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions. Making such information available to competitors without [them] having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive SGH of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment.
- vii. The commercial value of the information extends beyond the original development cost and includes development of the expertise to determine and apply the appropriate evaluation process to the information. The research, development, engineering, and analytical costs that went into generating this information comprise a substantial investment of time and money by SGH. The precise value of this information is difficult to quantify, but clearly is substantial.

We have reviewed the application and 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. In addition, we have determined that Enclosures 4-9 of your September 26, 2019, letter contain extensive proprietary information to an extent that a non-proprietary (i.e., redacted) version would be of no value to the public.

Therefore, the version of the submitted information 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, please contact me at 301-415-6256 or via e-mail at Dennis.Galvin@nrc.gov.

Sincerely,

/RA/

Dennis J. Galvin, Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

cc: Scott Greenhaus
Executive Vice President,
Structural Group, Inc.
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DATED MAY 15, 2020

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JTsao, NRR

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ADAMS Accession No.: ML20128J843

* by e-mail

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NAME	DGalvin	PBlechman	MMitchell
DATE	05/12/2020	05/12/2020	05/08/2020
OFFICE	NRR/DEX/EMIB/BC(A)*	NRR/DORL/LPL4/BC*	NRR/DORL/LPL4/PM
NAME	TScarbrough	JDixon-Herrity	DGalvin
DATE	05/07/2020	05/12/2020	05/15/2020

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