

EPRI

Electric Power
Research Institute

Powering Progress through Innovative Solutions

9/3/97

Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Subject: Request for Withholding of Proprietary Document;
10CFR2.790(a)(4), letter and set of enclosures from Carl Terry
(BWRVIP Chairman) to Document Control Desk (NRC),
"Responses to Requests for Additional Information Regarding
BWRVIP Recommendations for BWR Reactor Pressure Vessel
Shell Weld Inspections," dated June 13, 1997

Gentlemen:

This is a request under 10CFR2.790(a)(4) that the NRC withhold from public disclosure the proprietary document identified above (the "Report"). One copy of the affidavit in support of this request is enclosed. The Report, comprising of one cover letter and ten copies of two of enclosures, were previously transmitted to the NRC by the June 13, 1997 transmittal identified above.

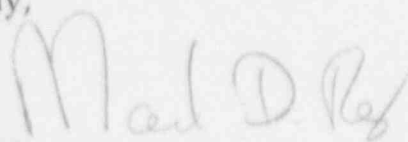
EPRI desires to disclose the Report to the NRC as a means of exchanging information with the NRC for the purpose of supporting generic regulatory improvements related to BWR reactor pressure vessel shell weld inspection requirements. EPRI would welcome any discussions between EPRI and the NRC related to the Report that the NRC desires to conduct.

The Report is for the NRC's internal use and may be used only for the purpose for which it is disclosed by EPRI. The Report should not be otherwise used or disclosed to any person outside the NRC without prior written permission from EPRI.

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If you have any questions about the legal aspects of this request for withholding, please do not hesitate to contact me at (415) 855-8957. Questions on the contents of the Report should be directed to Warren Bilanin of EPRI at (415) 855-2340.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark D. Fox". The signature is written in a cursive, flowing style.

Mark Fox
Intellectual Property Attorney
Intellectual Property Department

Enclosures

RE: Letter and Enclosures from Carl Terry (BWRVIP Chairman) to Document Control Desk (NRC), "Responses to Requests for Additional Information Regarding BWRVIP Recommendations for BWR Reactor Pressure Vessel Shell Weld Inspections," dated June 13, 1997

I, MARK FOX, being duly sworn, depose and state as follows:

I am an attorney at the Electric Power Research Institute ("EPRI") and I have been specifically delegated responsibility for reviewing the report listed above that is sought under this affidavit to be withheld (the "Report") and authorized to apply for its withholding on behalf of EPRI. This affidavit is submitted to the Nuclear Regulatory Commission ("NRC") pursuant to 10 CFR 2.790(a)(4) based on the fact that the Report consists of trade secrets of EPRI and that the NRC will receive the Report from EPRI under privilege and in confidence.

The basis for which the Report should be withheld from the public is set forth below:

(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 therefor. The Report is trade secrets 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:

"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.

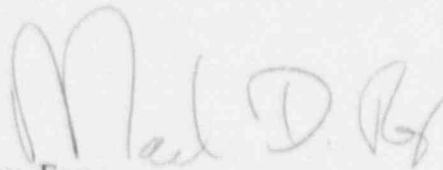
(iv) The Report is not available in public sources. EPRI developed the Report only after making a determination that the Report was not available from public sources. It required a large expenditure of dollars for EPRI to develop the Report. In addition, EPRI was required to use a large amount of time 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.

I have read the foregoing and the matters stated therein 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 3412 Hillview Avenue, Palo Alto, being the premises and place of business of the Electric Power Research Institute:

9/3/97


Mark Fox, Esq.

Subscribed and sworn before me this day:

September 3, 1997

Tamsen Helen Gagnon Notary Public

