

June 06, 2001

Dr. Theodore U. Marston
Vice President and Chief Nuclear Officer
Electric Power Research Institute
3412 Hillsview Avenue
Palo Alto, CA 94304

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE,
EPRI LETTER OF MAY 7, 2001

Dear Dr. Marston:

By letter dated May 18, 2001, the Nuclear Energy Institute (NEI) submitted both proprietary (TP-1001491, Part 2) and non-proprietary (TP-1001491-NP, Part 2) versions of "PWR Materials Reliability Program Interim Alloy 600 Safety Assessment for US PWR Plants (MRP-44), Part 2: Reactor Vessel Top Head Penetrations." In a letter to the NRC Document Control, dated May 7, 2001, you requested the proprietary material be withheld from public disclosure in accordance with 10 CFR 2.790. This is the response to that request. The non-proprietary version of the document has been placed in the NRC Public Document Room and added to the Agencywide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS) Library. Our conclusion regarding the proprietary version is below.

In the affidavit dated May 7, 2001, you stated that EPRI considered certain information proprietary and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790. The affidavit states that this 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.
- (ii) The report is a type customarily held in confidence by EPRI and there is a rational basis therefor. The report is a type, which EPRI considers as a trade secret(s) 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/or other businesses providing services in the electric/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 in preparation of the report.
- (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 be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the report both domestically and internationally. The report can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

We have carefully reviewed your May 7, 2001, request and the information contained in your request. We have concluded 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 (TP-1001491, Part 2, "PWR Materials Reliability Program Interim Alloy 600 Safety Assessment for US PWR Plants (MRP-44), Part 2: Reactor Vessel Top Head Penetrations") 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. However, it should be noted that during the April 12, 2001, public meeting between the staff and the EPRI Materials Reliability Program (MRP), some portions of the material contained in the proprietary version of the subject report, and redacted in the non-proprietary version, was made publically available (see meeting summary dated April 27, 2001, ADAMS Accession No. ML011200336). The staff requests that you provide a revised non-proprietary version containing the information previously made public.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. 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, for example, if the scope of a Freedom of Information Act request included your information. In all review situations, if the NRC needs additional information from you or makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/Signed by P. Wen

Peter C. Wen, Project Manager
Generic Issues, Environmental, Financial
and Rulemaking Branch
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

cc: See Next Page