

DAVID J. MODEEN
Vice President and
Chief Nuclear Officer
Nuclear

October 17, 2006

Document Control Desk
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Project #669

Subject: Request for Withholding Proprietary Documentation of Materials Reliability Program related to:

Primary System Piping Butt Weld Inspection and Evaluation Guideline (MRP-139)

To Whom It May Concern:

This is a request under 10 C.F.R. §2.390(a)(4) that the U.S. Nuclear Regulatory Commission ("NRC") withhold from public disclosure the information identified in the enclosed Affidavit of David J. Modeen consisting of the proprietary information owned by Electric Power Research Institute, Inc. ("EPRI") and identified below (the "Documentation"). Copies of the Documentation and the Affidavit in support of this request are enclosed. The "Documentation" consists of the following sections of EPRI reports:

- Draft Documentation of Materials Reliability Program related to Primary System Piping Butt Weld Inspection and Evaluation Guideline (MRP-139)

EPRI desires to disclose, in confidence, the Documentation for informational purposes to assist the NRC. The Documentation is not to be divulged to anyone outside of the NRC or to any of its contractors, nor shall any copies be made of the Documentation. EPRI welcomes any discussions and/or questions relating to the information enclosed.

If you have any questions about the legal aspects of this request for withholding, please do not hesitate to contact me at (704) 595-2173. Questions on the content of the Documentation should be directed to Craig Harrington of EPRI at (972) 556-6519 or Christine King of EPRI at (650) 855-2605.

Sincerely,

ELECTRIC POWER RESEARCH INSTITUTE, INC.



David J. Modeen
Vice President & Chief Nuclear Officer

Attachment: Proposed Response to NRC Comments on MRP-139 (Four copies)
Cc: Ted Sullivan, NRR

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DO35

AFFIDAVIT

RE: Request for Withholding Proprietary Documentation of Materials Reliability Program:

- Draft Documentation of the Materials Reliability Program related to Primary System Piping Butt Weld Inspection and Evaluation Guideline (MRP-139)

I, DAVID J. MODEEN, being duly sworn, depose and state as follows:

I am a Vice President and the Chief Nuclear Officer of Electric Power Research Institute, Inc. whose principal office is located at 3420 Hillview Avenue, Palo Alto, California ("EPRI") and I have been specifically delegated responsibility for the above-listed draft materials that are sought under this Affidavit to be withheld (the "Documentation"). I am authorized to apply to the U.S. Nuclear Regulatory Commission ("NRC") for the withholding of the Documentation on behalf of EPRI.

EPRI requests that the Documentation be withheld from the public on the following bases:

Withholding Based On Draft Materials:

EPRI requests that the Documentation be withheld from public release based on the fact that the documents are draft document. Footnote 1 of 10 C.F.R. §2.390 specifically excludes draft materials from the documents which may be made available to the public. Because of the draft nature of the Documentation and the potential for variance from the final version of the report which will include such materials, it could be confusing, as well as potentially misleading, to the public if the Documentation was made publicly available.

Withholding Based Upon Privileged And Confidential Trade Secrets Or Commercial Or Financial Information:

a. EPRI considers the Documentation and the proprietary information contained therein (the "Proprietary Information") to constitute trade secrets of EPRI. The Documentation is owned by EPRI and have been held in confidence by EPRI. All entities accepting copies of the Documentation do so subject to written agreements imposing an obligation upon the recipient to maintain the confidentiality of the Documentation. The Documentation is disclosed only to parties who agree, in writing, to preserve the confidentiality thereof. Accordingly, EPRI requests that the Documentation be withheld from public release.

b. EPRI's classification of the Documentation and the Proprietary Information as trade secrets is justified by the Uniform Trade Secrets Act which California adopted in 1984 and a version of which has been adopted by over forty states. The California Uniform Trade Secrets Act, California Civil Code §§3426 – 3426.11, 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."

d. The Documentation and the Proprietary Information contained therein are not generally known or available to the public. EPRI developed the Documentation only after making a determination that the Proprietary Information was not available from public sources. EPRI made a substantial investment of both money and employee hours in the development of the Documentation. EPRI was required to devote these resources and effort over a period of several years to derive the Proprietary Information and the Documentation. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Documentation is highly valuable to EPRI.

e. A public disclosure of the Proprietary Information would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Proprietary Information both domestically and internationally. The Proprietary Information and Documentation can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

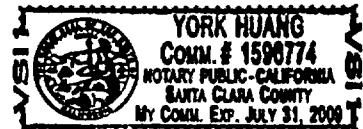
I have read the foregoing and the matters stated herein are true and correct to the best of my knowledge, information and belief. I make this affidavit under penalty of perjury under the laws of the United States of America and under the laws of the State of California.

Executed at 1300 W T Harris Blvd, Charlotte, North Carolina being the premises and place of business of Electric Power Research Institute, Inc.

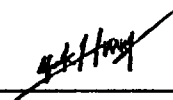
October 17, 2006



David J. Modeen



Subscribed and sworn before me this ^{18 Y.H.} 17 day of October 2006

 Notary Public

My Commission expires July 31, 2009

Please see attached Jurat form.

JURAT

State of California

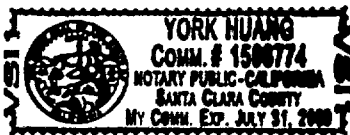
County of Santa Clara } SS.

Subscribed and sworn to (or affirmed) before me on this 18th day of October, 2006, by

David J. Modeen

(Signer)

of satisfactory evidence to be the person(s) who appeared before me.



[Signature]
NOTARY'S SIGNATURE

OPTIONAL INFORMATION

The information below is optional. However, it may prove valuable and could prevent fraudulent attachment of this form to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ SUBSCRIBING WITNESS
☐ OTHER: _____

ABSENT SIGNER (PRINCIPAL) IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

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Affidavit

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