

August 11, 2011

Mr. Dave Czufin, Chairman  
BWR Vessel and Internals Project  
3420 Hillview Avenue  
Palo Alto, CA 94304-1395

SUBJECT: BOILING WATER REACTOR VESSEL AND INTERNALS PROJECT,  
PRESENTATION MATERIAL FOR AUGUST 17, 2011 MEETING REQUEST  
FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Czufin:

By letter dated July 29, 2011, the Boiling Water Reactor (BWR) Vessel and Internals Project (BWRVIP) submitted an affidavit dated July 29, 2011, executed by Neil Wilmshurst, Vice President and Chief Nuclear Officer, Electric Power Research Institute (EPRI), requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

“BWRVIP-62 Revision 1: Technical Basis for Inspection Relief for BWR Internal Components with Hydrogen Injection” to be presented to the U.S. Nuclear Regulatory Commission (NRC) staff on August 17, 2011

This letter and a nonproprietary copy of this document has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System under accession number ML11214A019.

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

- a. The Correspondence is owned by EPRI and has been held in confidence by EPRI. All entities accepting copies of the Correspondence do so subject to written agreements imposing an obligation upon the recipient to maintain the confidentiality of the Correspondence. The Correspondence is disclosed only to parties who agree, in writing, to preserve the confidentiality thereof.
- b. EPRI considers the Correspondence and the proprietary information contained therein (the “Proprietary Information”) to constitute trade secrets of EPRI. As such, EPRI holds the Correspondence in confidence and disclosure thereof is strictly limited to individuals and entities who have agreed, in writing, to maintain the confidentiality of the Correspondence. EPRI made a substantial economic investment to develop the Correspondence, and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of licensing royalties and other additional fees from the confidential nature of the Correspondence. If the Correspondence and the Proprietary Information were publicly available to consultants and/or other businesses providing services in the electric and/or nuclear power industry, they would be able to use the Correspondence for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the Correspondence.

c. EPRI's classification of the Correspondence 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 have been adopted by over forty states. The California 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."

d. The Correspondence and the Proprietary Information contained therein are not generally known or available to the public. EPRI developed the Correspondence only after making a determination that the Proprietary Information was not available from public resources. EPRI made a substantial investment of both money and employee hours in the development of the Correspondence. EPRI was required to devote these resources and effort to derive the Proprietary Information and the Correspondence. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Correspondence 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 Correspondence can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version(s) 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 regarding this matter, I may be reached at 301-415-8480.

Sincerely,

**/RA/**

Andrew L. Hon, Project Manager  
Licensing Processes Branch  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

Project No. 704

cc:

Mr. Gary L. Vine, Executive Director  
Electric Power Research Institute  
2000 L Street, NW Suite 805  
Washington, DC 20036

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