

AFFIDAVIT

State of Maryland

to-wit:

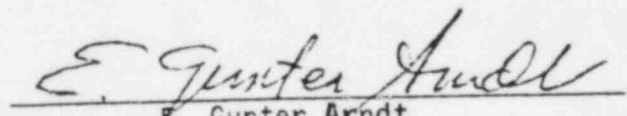
County of Montgomery

I hereby certify that on this 12th day of July, 1985, before me, the subscriber, a notary public, personally appeared E. Gunter Arndt and made oath in due form of law that to the best of his knowledge, information and belief:

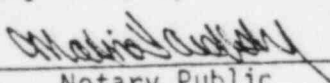
1. He is a Senior Structural Engineer in the Office of Nuclear Regulatory Research of the Nuclear Regulatory Commission. He is the NRC task leader for the proposed revision to 10 CFR Part 50, Appendix J, and for the development of the proposed regulatory guide endorsing ANSI/ANS 56.8.
2. On May 5, 1983, a meeting was held in the office of Edward Shomaker, an attorney in the Office of the NRC's Executive Legal Director. Z. Reytlatt, E. Shomaker, and he were present. The meeting had been convened to explain to Z. Reytlatt the NRC's procedures for filing, handling, and reviewing public comments and proprietary material, and to have Z. Reytlatt clarify his intentions regarding two documents he had marked as proprietary and sent to NRC.
3. During the meeting, he asked Z. Reytlatt if he had any objections to having Oak Ridge National Laboratory (ORNL) review either of the two documents. He explained to Z. Reytlatt that since ORNL, as contractor to the NRC on the subject of containment leakage rate testing was a part of the NRC technical review team on this subject, it would be routine to include them in the technical review of his submittals.
4. Z. Reytlatt agreed to the review by ORNL of both of his documents, non-proprietary as well as proprietary. Reytlatt accepted ORNL in their contractual relationship to the NRC as a part of the NRC technical review group. Reytlatt did state that he did not want his proprietary material to be made available outside the NRC other than to ORNL, and this was reflected in subsequent correspondence (references: ZR to EGA 5/23/83; EGA to ZR 9/14/83; EGA to Distrib. 9/29/83). In order to be as clear as possible, affiant tabulated for each of the two documents where Z. reytlatt said it could be sent - to NRC staff, ORNL, or NRC Public Document Room (PDR). This was done due to prior negative reactions by Z. Reytlatt to distribution of comments that he had sent to the NRC (References: ZR to FPG 8/25/82; ZR to EGA 2/28/83). For this reason, the need was obvious at the time for Z. Reytlatt to understand how his documents would be handled, and to respect his stated intentions regarding their degree of availability. Therefore, after ORNL's contractual status was explained, Z. Reytlatt was directly asked how he wanted these two documents handled, and he replied exactly as shown in affiant's notes on the meeting. This is, (1) his "Critique" of ANS 56.8 (revision 1, March 14, 1983) was not proprietary and could be made available to NRC staff, ORNL, and the NRC Public Document Room (PDR) and (2) his version of ANS 56.8 was proprietary, could be made available for review to the NRC staff and ORNL, but could not be placed in the PDR.

8507310174 850718
PDR MISC
8507310170 PDR

5. The meeting was very cordial and to all appearances fulfilled the objectives stated in #2 above.
6. Upon conclusion of the meeting, Z. Reytlblatt asked and received directions to the NRC's personnel office, indicating that he wished to look into employment opportunities.
7. According to Z. Reytlblatt's letter of April 27, 1983, he withheld from ORNL, under his contract, pages 21 and 22 of his "Critique of Containment System Leakage Test Requirements," which are described by him as being Appendix A, a theoretical background from the User's Manual to his computer program "INLOGU - Instrument Location Guide" or Reference 3. To date, these two pages have not been received by either ORNL or NRC.
8. In his May 23, 1983, formal submittal of his proprietary proposal, Z. Reytlblatt stated that, "This material is for your internal use and/or use of designated contractors...". The only such contractor was ORNL.
9. File notes show that during a June 30, 1983 telephone call from Z. Reytlblatt to affiant, affiant declined to get involved in Reytlblatt's dispute with ORNL. However, affiant was aware of Reytlblatt's subcontract with ORNL since it was in essence a subcontract to the contract that the NRC had with ORNL. As the NRC's technical coordinator on this contract, affiant had agreed with the use of these funds for this subcontract with Z. Reytlblatt if ORNL decided to do so.
10. The third paragraph of J. Rose's May 6, 1985 letter to G. Cunningham, III, concludes that ORNL used Z. Reytlblatt's proprietary material in the development of NUREG/CR-3549. In fact, Appendix A to the NUREG is a review of the document referenced in the Appendix - Z. Reytlblatt's non-proprietary "Critique." The ORNL review of Z. Reytlblatt's proprietary material was presented to the NRC in a November 14, 1983 letter that has, itself, been treated by the NRC as proprietary.
11. Furthermore, on July 14, 1983, Z. Reytlblatt wrote ORNL that he would send his proprietary pages 21 and 22 to ORNL on the same basis [charge-free] upon completion of negotiations with a third party. The May 27, 1983 letter from ORNL to Z. Reytlblatt also indicated that there was little likelihood of further need for his services beyond what had already been contracted for. Further affiant sayeth not.


E. Gunter Arndt

Subscribed and sworn to before me
on the day and year first above written.



Notary Public

My Commission Expires 7/1/86

