



Electric Power
Research Institute

Powering Progress through Innovative Solutions

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SUE FRIDLEY

November 20, 1996

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

Attention: Mr. John Calvert

Subject: Request for Withholding of Proprietary Document; 10CFR2.790(a)(4)

Dear Mr. Calvert:

This is a request under 10CFR2.790(a)(4) that the NRC withhold from public disclosure the information identified in the enclosed affidavit consisting of EPRI owned Proprietary Information contained within EPRI report TR-105989-V1&2 entitled "Software Fault Reduction Using Computer-Aided Software Engineering (CASE) Tools". The report is referred to below as the "Information." The Information is marked PROPRIETARY and CONFIDENTIAL.

EPRI desires to disclose the Information in confidence to the NRC for informational purposes to assist the NRC. EPRI would welcome any discussions between EPRI and the NRC related to the Information that the NRC desires to conduct.

Enclosed is an affidavit to support EPRI's request for withholding. If you have any questions relating to the propriety of this request or the enclosed affidavit, please do not hesitate to contact me at (415) 855-2845. The fax machine closest to me is at (415) 855-8931. Questions on the technical aspects of the Information may be addressed to Albert Machiels at (415) 855-2054.

Yours truly,

Arthur Kenny
Intellectual Property Attorney
Intellectual Property Department

Enclosures

cc: A. Machiels, EPRI

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AFFIDAVIT

I, ARTHUR KENNY, being duly sworn, depose and state as follows:

I am a Intellectual Property Attorney of the Electric Power Research Institute ("EPRI") and I have been specifically delegated responsibility for reviewing the records, documents and information sought under this affidavit to be withheld (the "Information") and authorized to apply for their 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 Information consists of trade secrets of EPRI owned by EPRI and that the NRC will receive the Information from EPRI under privilege and in confidence.

The Information, which EPRI requests the NRC to withhold, consists of EPRI owned Proprietary Information contained within a EPRI report TR-105989-V1&2 entitled "Software Fault Reduction Using Computer-Aided Software Engineering (CASE) Tools". The Information has been marked as PROPRIETARY AND CONFIDENTIAL.

EPRI desires to disclose the Information to the NRC for informational purposes to assist the NRC. EPRI would welcome any discussions between EPRI and the NRC related to the Information that the NRC desires to conduct.

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

(i) The Information has been held in confidence by EPRI. EPRI intends to provide copies of the Information to EPRI members and to one or more EPRI contractors. EPRI members and contractors are bound by confidentiality agreements to preserve the confidentiality of proprietary and confidential documents received from EPRI. Receipt of the Information by such members and contractors will not impair the proprietary and confidential nature of the Information nor will such receipt impair the value of the Information as trade secrets. In addition, EPRI may license the Information to organizations that are not EPRI members.

(ii) The Information is of a type customarily held in confidence by EPRI and there is a rational basis therefor. The Information is of a type that EPRI considers to be trade secrets. Such Information is customarily held in confidence by EPRI because to disclose it would prevent EPRI from licensing the Information at fees which would allow EPRI to recover its investment. If consultants and other businesses providing services in the electric power industry were able to obtain the Information, 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 obtain the Information. The rational basis that EPRI has for classifying information as a 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 Information will be transmitted and received by the NRC in confidence. The purpose is to maintain the confidentiality of the Information.

(iv) The Information is not available in public sources. EPRI developed the Information only after making a determination that the Information was not available from public sources. EPRI was required to spend a large amount of money through payments to contractors. In addition, EPRI was required to use a large amount of time of EPRI employees. Finally, the Information was developed only after a long period of effort.

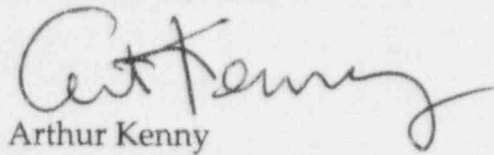
(v) A public disclosure of the Information would be highly likely to cause substantial harm to EPRI's competitive position. The Information can be properly acquired or duplicated by others only with an equivalent investment of time and effort.

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:

November 20, 1996


Arthur Kenny

Subscribed and sworn before me this day:

November 20, 1996

Tamsen Helen Gagnon NOTARY PUBLIC

