

CATEGORY 1

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 ABBOTT, R.B. Niagara Mohawk Power Corp.
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 Document Control Branch (Document Control Desk) *see reports*

SUBJECT: Forwards proprietary GE-NE-523-B13-01869-113KKM, "Summary of Kernkraftwerk Muehleberg Shroud Sample Metallurgical Evaluation," Rept summarizes determination of cause of cracking at overseas plant. Proprietary info withheld.

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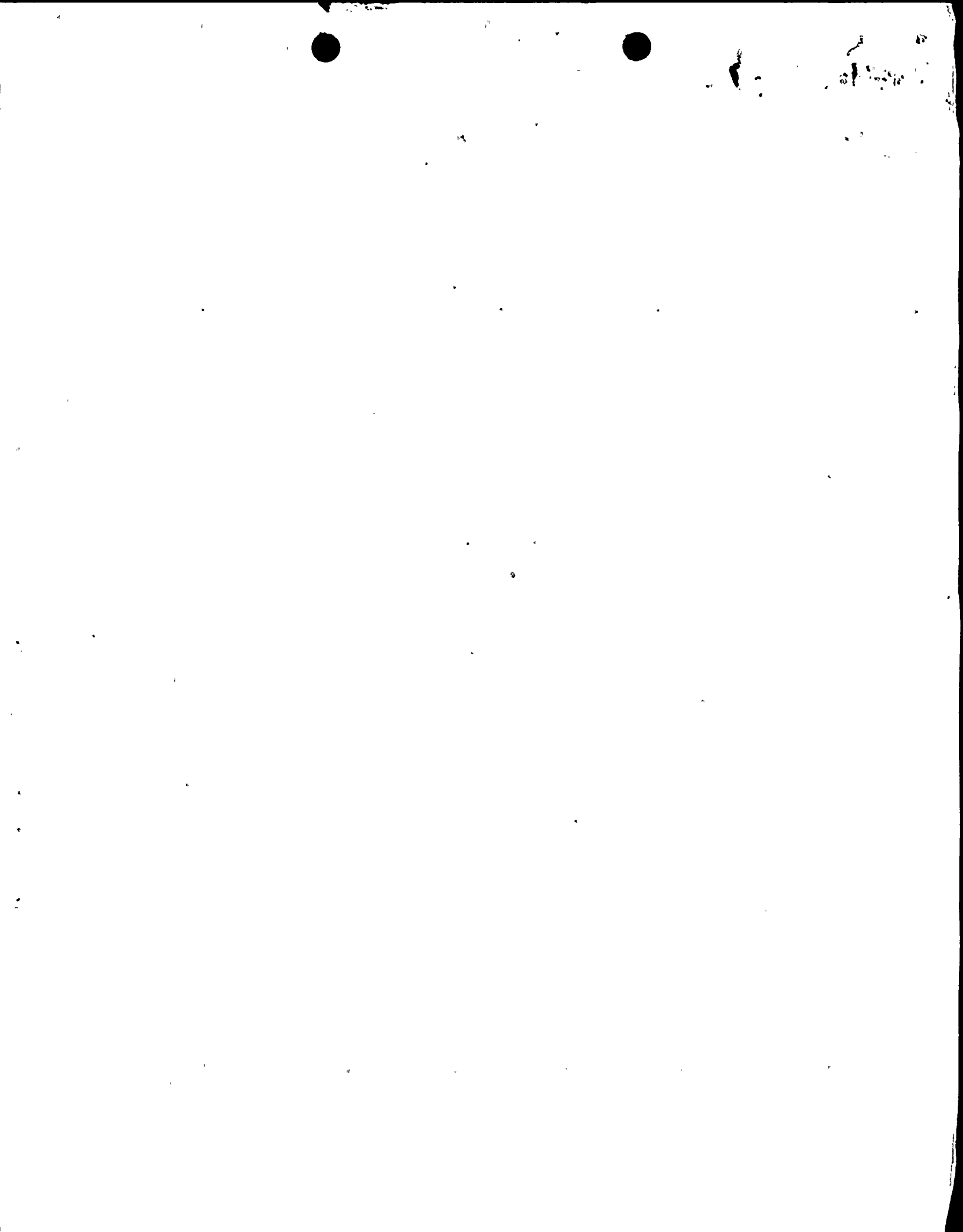
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Niagara Mohawk

Richard B. Abbott
Vice President
Nuclear Engineering

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Fax: (315) 349-4417

April 16, 1998
NMP1L 1304

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

RE: Nine Mile Point Unit 1
 Docket No. 50-220
 DPR-63

Subject: *Background Information for Nine Mile Point Unit 1 Core Shroud Boat Sample Evaluation*

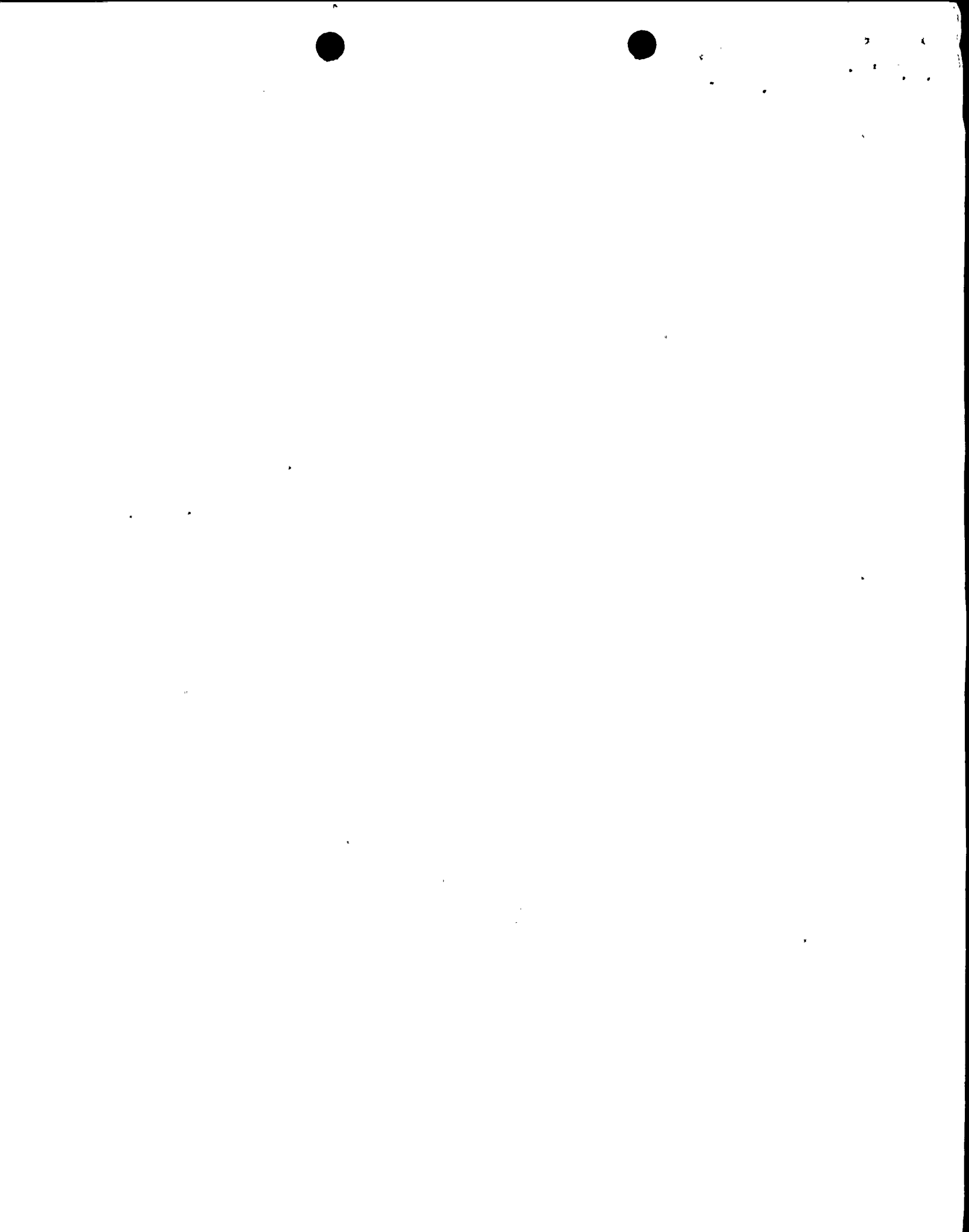
Gentlemen:

By letter dated September 30, 1997 (NMP1L 1254), Niagara Mohawk Power Corporation (NMPC) submitted analyses and an evaluation of the Nine Mile Point Unit 1 (NMP1) core shroud boat samples. The submittal included Altran Report No. 97181-TR-01, Revision 1, which presented the conclusion that neutron fluence was not a factor in the cracking observed in the NMP1 core shroud boat sample. The Altran report discussed a review of irradiation assisted stress corrosion cracking (IASCC) observed in an overseas plant. The NRC requested that NMPC provide this information on the overseas plant for Staff review.

Attachment 1 is the General Electric (GE) report number GE-NE-523-B13-01869-113KKM, "Summary of Kernkraftwerk Muehleberg Shroud Sample Metallurgical Evaluation," that provides the summary of the metallurgical evaluation performed to determine the cause of the cracking at the overseas plant. This report was prepared by GE at the request of NMPC for the specific purpose of providing an example of the overseas plant metallography which is typical of examples of IASCC shroud cracking. The evaluation presented in NMPC's September 30, 1997 submittal concluded that the characteristic features of IASCC that were seen in the test sample microstructures from the overseas plant were absent from the NMP1 core shroud samples.

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GE report number GE-NE-523-B13-01869-113KKM is considered by its preparer, GE, to contain proprietary information. In accordance with the provisions of 10CFR2.790(a)(4), it is therefore requested on behalf of GE that this information be withheld from public disclosure. Attachment 2 is an affidavit in support of this request signed by George B. Stramback, Project Manager, Regulatory Services of GE.

Very truly yours,



Richard B. Abbott
Vice President - Nuclear Engineering

RBA/TRE/kap
Attachments

xc: Mr. H. J. Miller, Regional Administrator, Region I
Mr. S. S. Bajwa, Director, Project Directorate I-1, NRR
Mr. B. S. Norris, Senior Resident Inspector
Mr. D. S. Hood, Senior Project Manager, NRR
Records Management

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ATTACHMENT 1

**GE REPORT
GE-NE-523-B13-01869-113KKM**

**“SUMMARY OF KERNKRAFTWERK
MUEHLEBERG SHROUD SAMPLE
METALLURGICAL EVALUATION”**

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ATTACHMENT 2

AFFIDAVIT (GE)



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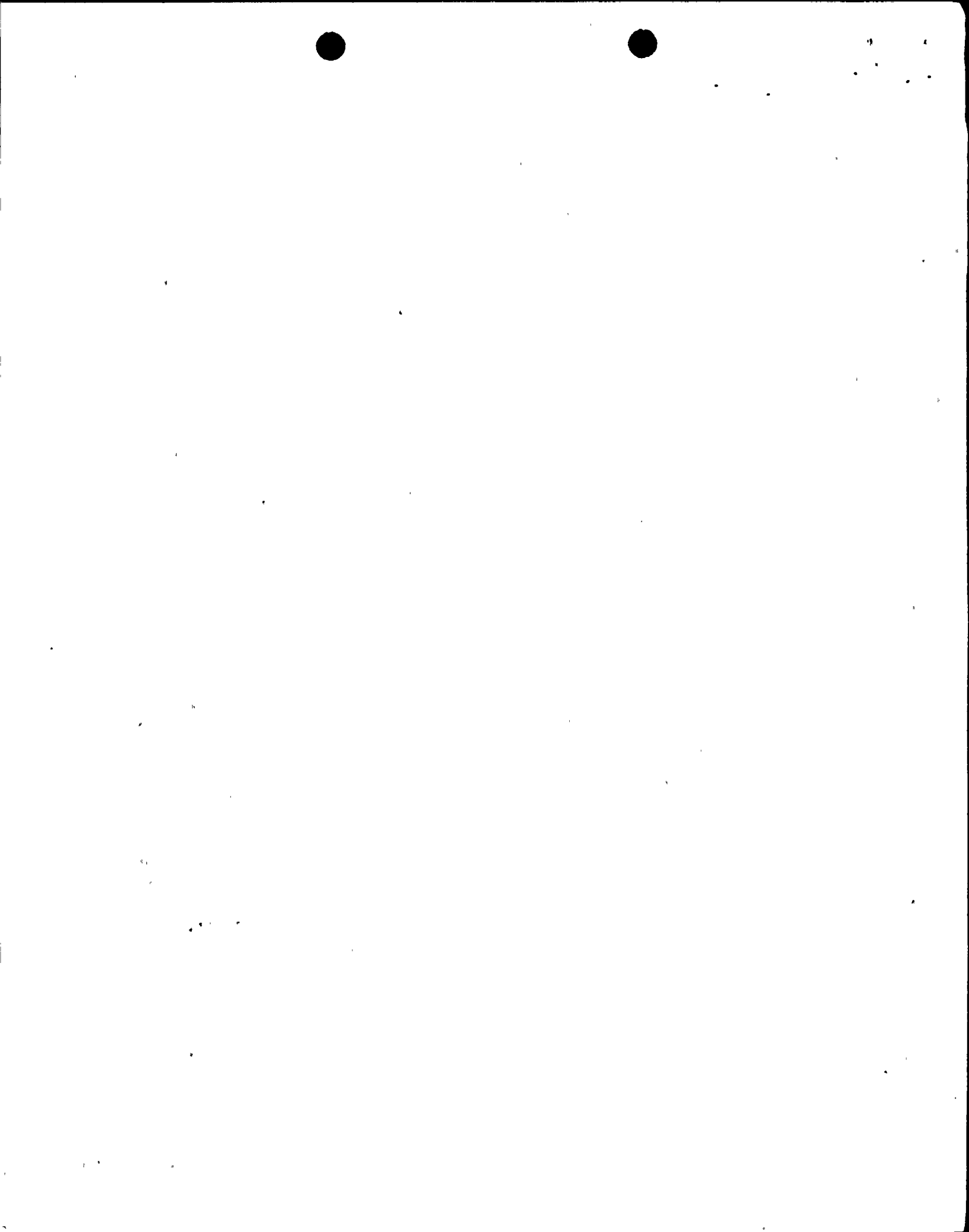
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General Electric Company

AFFIDAVIT

I, **George B. Stramback**, being duly sworn, depose and state as follows:

- (1) I am Project Manager, Regulatory Services, General Electric Company ("GE") and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in the GE proprietary report GE-NE 523-B13-01869-113KKM, *Summary of Kernkraftwerk Muehleberg Shroud Sample Metallurgical Evaluation*, Class III (GE Nuclear Energy Proprietary Information), dated March 1998. The proprietary information is the information in the entire document.
- (3) In making this application for withholding of proprietary information of which it is the owner, GE relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions also qualify under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (4) Some examples of categories of information which fit into the definition of proprietary information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;
 - b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;



- c. Information which reveals cost or price information, production capacities, budget levels, or commercial strategies of General Electric, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future General Electric customer-funded development plans and programs, of potential commercial value to General Electric;
- e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in both paragraphs (4)a. and (4)b., above.

- (5) The information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GE, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GE, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within GE is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GE are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.
- (8) The information identified in paragraph (2), above, is classified as proprietary because it contains detailed plant unique results of analytical models, methods and processes, including computer codes, which GE has developed and applied to perform evaluations of indications in the core shroud for the BWR.



The development and approval of the BWR Shroud Repair Program was achieved at a significant cost, on the order of one million dollars, to GE.

The development of the evaluation process contained in the paragraph (2) document along with the interpretation and application of the analytical results is derived from the extensive experience database that constitutes a major GE asset.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GE's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GE's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical and NRC review costs comprise a substantial investment of time and money by GE.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GE's competitive advantage will be lost if its competitors are able to use the results of the GE experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to GE would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GE of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.



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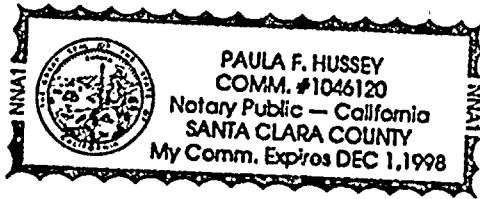
George B. Stramback, being duly sworn, deposes and says:

That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at San Jose, California, this 23rd day of March 1998.

George B. Stramback
George B. Stramback
General Electric Company

Subscribed and sworn before me this 23rd day of March 1998.



Paula F. Hussey
Notary Public, State of California

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