



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 13, 1999

Dr. Alan I. Soler
Holtec International
555 Lincoln Drive
Marlton, NJ 08555

**SUBJECT: PUBLIC DISCLOSURE DETERMINATION, PRIVATE FUEL STORAGE, L.L.C.,
HI-STORM THERMAL ANALYSIS (TAC NO. L22462)**

Dear Mr. Soler:

By letter dated February 11, 1999, Private Fuel Storage, L.L.C. (PFS) submitted information to support its application to license an independent spent fuel storage installation on the reservation of the Skull Valley Band of Goshute Indians. Specifically, PFS submitted a report entitled "HI-STORM Thermal Analysis for PFS RAI, HI-992134," that contained calculation packages regarding the thermal performance of the HI-STORM spent fuel storage system.

With the calculation packages, PFS submitted an affidavit, signed by you and dated February 9, 1999. In the affidavit, you claim that the report constitutes confidential commercial information and that some portions represent trade secrets. You request that the report be withheld from public disclosure pursuant to 10 CFR 2.790.

In the affidavit, you state that the document should be withheld from public disclosure for the following reasons:

- (a) The information discloses a process, method, or apparatus, including supporting analysis and data, where prevention of its use by Holtec International's competitors without a license from Holtec constitutes a competitive advantage over other companies.
- (b) The information, 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) The information reveals aspects of past, present, or future Holtec customer-funded development plans and programs of potential commercial value to Holtec.
- (d) The information discloses patentable subject matter for which it may be desirable to obtain patent protection.

The affidavit further states that public disclosure of this information is likely to cause substantial harm to Holtec's competitive position in part because the research, development, engineering, and analytical costs comprise a substantial investment of time and money by Holtec. You state that the information contains detailed descriptions of analytical approaches and methodologies not available elsewhere. You state that release of the information would improve a competitor's position without the competitor having to expend similar resources to develop this information.

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Finally, you state that the information is of a type customarily held in confidence by Holtec and not customarily disclosed to the public. The information is being transmitted to the Nuclear Regulatory Commission (NRC) in confidence under the provisions of 10 CFR 2.790 with the understanding that it is to be received in confidence. The information, to the best of your knowledge, is not available in public sources, and any disclosure to third parties has been made pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.

On the basis of your submittal, our review of your submittal and affidavit, and in light of the requirements of 10 CFR 2.790, we have determined that the report, "HI-STORM Thermal Analysis for PFS RAI, HI-992134," should not be withheld in its entirety from public disclosure, pursuant to 10 CFR 2.790, for the following reasons:

- (1) Appendix B of HI-992134 consists of a reproduction of the staff's RAI dated December 10, 1998. This RAI was placed in the NRC's public document room upon issuance. Therefore, Appendix B of HI-992134 is already publicly available and, therefore, does not meet the criteria of 10 CFR 2.790(b)(4)(iv).
- (2) Appendix C of HI-992134 consists of text and figures which, with two exceptions, were publicly released by PFS in its submittal dated February 10, 1999.
- (3) The acceptance criteria in Section 3.0 of HI-992134 are the same acceptance criteria described in the the HI-STORM Topical Safety Analysis Report (TSAR) which is publicly available.
- (4) Much of the material in the remainder of HI-992134 is also publicly available in the HI-STORM TSAR.

The staff agrees that a limited amount of technical material in HI-992134 does meet the requirements for withholding pursuant to 10 CFR 2.790. However, you have not annotated the specific material which warrants withholding and you have not provided a non-proprietary version of HI-992134. You are requested to provide a version of HI-992134 which annotates the specific material which meets the requirements for withholding specified in 10 CFR 2.790. In addition, you are requested to provide a non-proprietary version of HI-992134. You are requested to supply these documents within 45 days from the date of this letter.

It is the policy of the NRC to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised as to the basis for and effects of licensing and rulemaking actions. 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 you have any comments on this matter, please do not hesitate to contact me or Joe Shea of the Spent Fuel Project Office at (301) 415-1428.

Sincerely,

ORIGINAL SIGNED BY SUSAN F. SHANKMAN FOR /s/
E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No.: 72-22

cc: Mr. John Donnell
Private Fuel Storage, L.L.C.
P.O. Box C4010
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