

April 5, 2002

Mr. Lawrence F. Womack
Vice President, Nuclear Services
Diablo Canyon Power Plant
P.O. Box 56
Avila Beach, CA 93424

SUBJECT: PUBLIC DISCLOSURE DETERMINATION

Dear Mr. Womack:

By letter dated December 21, 2001, you submitted an application requesting a site specific license for an Independent Spent Fuel Storage Installation at the Diablo Canyon Power Plant. In support of the application you provided proprietary versions of Holtec International Drawing Nos. 3438, Revision 4, "125 Ton HI-TRAC 125D Assembly" and 3437, Revision 4, "Mating Device - Pool Lid Remover Main Assembly" for use by the U. S. Nuclear Regulatory Commission (NRC) staff in its review of the application. Also included in your application was an affidavit signed by Holtec International. The December 21, 2001, letter contained an affidavit executed by Brian Gutherman of Holtec International, dated December 5, 2001, requesting that the Holtec International drawings listed above, containing business sensitive information, be withheld from public disclosure pursuant to 10 CFR 2.790. Also attached to the December 21, 2001, letter were non-proprietary versions of the drawings which will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/ADAMS.html>.

The affidavit signed by Brian Gutherman stated that the drawings should be withheld from public disclosure for the following reasons:

- (1) The information sought to be withheld from public disclosure consists of detailed design information which is owned and has been held in confidence by Holtec International.
- (2) The information is of a type customarily held in confidence by Holtec International and not customarily disclosed to the public.
- (3) The information is being transmitted to the NRC in confidence under the provisions of 10 CFR 2.790 with the understanding that it is to be received in confidence.
- (4) The information, to the best of Holtec International's knowledge, is not available in public sources.
- (5) Public disclosure of this information is likely to cause substantial harm to Holtec International's competitive position because it would provide competitors with valuable information, not otherwise available, about Holtec International's detailed equipment designs to allow a competitor to compete unfairly against Holtec International.

On the basis of your submittal, our review of your submittal and Holtec International's affidavit, and in light of the requirements of 10 CFR 2.790, we have determined that the Holtec International Drawing Nos. 3438, Revision 4, "125 Ton HI-TRAC 125D Assembly" and 3437, Revision 4, "Mating Device - Pool Lid Remover Main Assembly," and designated as containing proprietary material should be withheld from public disclosure pursuant to 10 CFR 2.790. It is the policy of 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 the basis for withholding this information from public disclosure should change in the future, such that the information could then be made available for public inspection, you should promptly notify NRC. Please be advised that 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 withheld information. In all review situations, if NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-26 (50-275, -323)
TAC No. L23399

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