

July 14, 2003

Mr. Brian Gutherman
Licensing Manager
Holtec International
Holtec Center, 555 Lincoln Drive West
Marlton, NJ 08053

SUBJECT: PUBLIC DISCLOSURE DETERMINATION (TAC NO. L23399)

Dear Mr. Gutherman:

By letter dated October 15, 2002, Pacific Gas and Electric Company (PG&E) submitted proprietary versions of two Holtec International (Holtec) reports: Nos. HI-2002501, "Functional Specification for the Diablo Canyon Cask Transporter," and HI-2002570, "Design Criteria Document for the Diablo Canyon Cask Transfer Facility." Non-proprietary versions of the reports were submitted December 13, 2002.

The non-proprietary versions have been made available electronically for public inspection in the U.S. Nuclear Regulatory Commission (NRC's) 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 Public Electronic Reading Room). PG&E requested that the proprietary versions be withheld from public disclosure pursuant to 10 CFR 2.790.

The PG&E letter dated October 15, 2002, included an affidavit executed by you on October 11, 2002, requesting that Holtec Report No. HI-2002501 and No. HI-2002570 be withheld from public disclosure pursuant to 10 CFR 2.790.

The affidavit states that the submitted information should be withheld from public disclosure for the following reasons:

- (1) The information sought to be withheld from public disclosure is owned and has been held in confidence by Holtec.
- (2) The information is of a type customarily held in confidence by Holtec, is not customarily disclosed to the public and is transmitted to the Commission in confidence.
- (3) Public disclosure of the information is likely to cause substantial harm to Holtec's competitive position.

Based on the October 15 and December 13, 2002, submittals, our review of the proprietary information listed, and the requirements of 10 CFR 2.790, we have determined that the reports are proprietary commercial information and should be withheld from public disclosure pursuant to 10 CFR 2.790. It is the NRC's policy to achieve an effective balance between legitimate

concerns for protection of competitive positions and the right of the public to be fully apprised of 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 the NRC. Please be advised that the 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 the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

James R. Hall, Senior Project Manager
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-26
TAC No. L23399

cc: Mailing List

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Diablo Canyon Power Plant, Units 1 and 2

cc:

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Member, United States
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