June 15, 2011

James M. Bleigh
Performance Contracting, Inc.
Engineered Systems Group
16047 West 110th Street
Lenexa, KS 66219

SUBJECT: PERFORMANCE CONTRACTING, INC., REQUEST FOR WITHHOLDING INFORMATION IN "DEBRIS PILES AND CONCLUSIONS" DOCUMENT

Dear Mr. Bleigh:

By letter dated December 17, 2010, you submitted an affidavit dated December 17, 2010, requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390:

> Performance Contracting, Inc., (PCI) Document No. PDT-2010.12.17 Rev. 0, "Debris Piles & Conclusions," prepared by Performance Contracting, Inc., dated December 17, 2010

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure because it is:

a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by Performance Contracting, Inc.'s competitors without license from Performance Contracting, Inc. 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.

On March 9, 2011, (Agencywide Document Access and Management System (ADAMS) Accession No. ML110460692) you were notified that we had completed our review of the application and document provided on December 17, 2010, and the additional information you provided in emails sent on January 10 and 19, 2011, and concluded that you had not supplied sufficient justification for our withholding this information from public disclosure. By email dated April 13, 2011, you provided a response to the March 9, 2011, request for additional information (RAI).

We have reviewed your application and all of the supporting information in accordance with the requirements of 10 CFR 2.390 and have concluded that you have not provided sufficient justification for us to determine that all the information sought to be withheld from public disclosure contains proprietary or confidential commercial information. The main reasons for this decision are:

- As stated in the RAI response, you have not addressed any questions related to those sections of the document in Revision 0 which you have deleted in draft Revision 1. The staff notes that Revision 0 of the document remains in the possession of the NRC; therefore, the staff must make a determination on the withholding request for Revision 0 unless the document is withdrawn.
- As you stated in the email forwarding PCI's RAI response, many of your responses are predominantly the same as those provided on January 19, 2011. In the March 9, 2011, letter, the NRC staff informed you that the January 19, 2011, responses were inadequate to make a determination to withhold information from public disclosure. Thus, many of your responses still remain inadequate for the same reasons as identified in the March 9, 2011, letter.
- The RAI response was not submitted in accordance with 10 CFR 50.4 as required.
- The revised affidavit provided with your RAI response has not been signed or notarized.

Accordingly, we have concluded that some of the information sought to be withheld from public disclosure does not meet the requirements of 10 CFR 2.390. Therefore, your request to withhold portions of the "Debris Piles & Conclusions" document from public disclosure is denied.

Within 45 days from the receipt of this letter, the subject document will be placed in the U.S. Nuclear Regulatory Commission's Public Document Room. If, within 20 days of the receipt of this letter, you request withdrawal of the documents in accordance with 10 CFR 2.390(c), your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure and returned to you. If the document is withdrawn, this will avoid wasting additional NRC and PCI resources needed to resolve the concerns related to the request to withhold the document from public disclosure.

The staff has also reviewed the technical aspects of these submittals. Although the staff agrees with some of the general conclusions in the documents, it cannot rely on the document to form the basis for conclusions regarding PCI's large flume test protocol. The staff believes that the phenomena discussed in the paper are plant and break specific. Therefore, the staff will not review any additional revisions to the document to correct technical deficiencies. The staff will continue to discuss the development of appropriate test methods with PCI.

If you have any questions regarding this matter, please contact me at 301-415-1380.

Sincerely,

/RA/

Blake Purnell, Project Manager
Generic Communications and Power
Uprate Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

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