

72-22



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

November 29, 1999

Mr. Michael H. Schwartz  
Chairman of the Board  
Energy Resources International, Inc.  
1015 18<sup>th</sup> Street, NW, Suite 650  
Washington, D.C. 20036

SUBJECT: PUBLIC DISCLOSURE DETERMINATION

Dear Mr. Schwartz:

By letter dated December 18, 1998, Private Fuel Storage (PFS) submitted in conjunction with its response to a Nuclear Regulatory Commission (NRC) request for information, "Energy Resources International, Utility At-Reactor Spent Fuel Storage Costs for the Private Fuel Storage Facility Cost-Benefit Analysis," dated December 1997 and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790. By letter dated May 27, 1999, you submitted an affidavit executed by you on May 27, 1999, providing PFS' and Energy Resources International's (ERI's) rationale for why the document should be withheld from public disclosure. The affidavit stated that the document contained sensitive information concerning the estimated cost to design, license, construct, and operate spent fuel storage facilities and that ERI provided the cost study to its client PFS under the agreement that PFS hold ERI's cost study in confidence.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure because the information is commercially sensitive to the conduct of ERI's business, i.e., the provision of energy consulting analysis and services related to the nuclear power and spent fuel management, and its disclosure to competitors and customers could place ERI at a competitive disadvantage and cause ERI substantial harm.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the "Energy Resources International, Utility At-Reactor Spent Fuel Storage Costs for the Private Fuel Storage Facility Cost-Benefit Analysis," dated December 1997 marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

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 inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review

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this determination in the future, for example, if the scope of a Freedom of Information Act request includes your 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. If you have any questions regarding this matter, I may be reached at 301-415-8500.

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

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*JS*

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Private Fuel Storage

cc:

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The Honorable Michael O. Leavitt  
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