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**BY OVERNIGHT MAIL**

September 27, 2000

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Subject: USNRC Docket No. 72-1014  
HI-STORM 100 Certificate of Compliance 1014  
HI-STORM License Amendment Request 1014-1, Revision 1

References: 1. Holtec Project 5014  
2. Holtec Letter, B. Gutherman, to NRC Public Document Room, dated August 31, 2000

Dear Sir:

On August 31, 2000, Holtec International submitted the proprietary version of License Amendment Request (LAR) 1014-1, Revision 1 to the NRC. We have subsequently discussed the reasons for classifying certain portions of the LAR submittal as proprietary with SFPO project management. We, of course, understand the necessity to repeal the proprietary declaration applied to this information as soon as possible to allow full public participation in the rulemaking process. However, we must request that the information classified as proprietary remain so until our commercial interests in these unique technological approaches have been protected under United States patent regulations.

We are currently preparing to file for patent protection of the technologies presented as Holtec-proprietary in LAR 1014-1. Upon completion of this filing, we will release the subject information to the public document room as non-proprietary information. As requested by SFPO project management, we are providing a revised affidavit pursuant to 10 CFR 2.790 that is applicable to our LAR 1014-1, Revision 1. The revised affidavit provides the additional information requested, including a date by which all Holtec proprietary information in LAR 1014-1 may be considered non-proprietary and released to the public.

*Nmssso1public*



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**H O L T E C**  
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This letter also serves to clarify our commitment regarding the submittal of additional copies of the HI-STORM 100 System Final Safety Analysis Report (FSAR) and other information required to facilitate an efficient NRC review of LAR 1014-1 (Ref. 2). Specifically, we will submit the following by October 9, 2000:

1. Six (6) copies of the HI-STORM FSAR, Revision 0.
2. Ten (10) copies of complete replacement sections and appendices of proposed FSAR, Revision 1 changes in support of LAR 1014-1, Revision 1 (text, tables, and figures). Sections and appendices with no changes arising from LAR 1014-1 will not be submitted.
3. A Table of Contents for the FSAR document with annotations indicating the sections being provided in support of this amendment request. (Our intent is to update the Table of Contents each time a proposed revised FSAR section is changed during the review process to assist you in maintaining administrative and QA control of the contents of the FSAR).

If you have any questions or require additional information, please contact me at (856) 797-0900, extension 668.

Sincerely,

Approval:

Brian Gutherman, P.E.  
Licensing Manager

K.P. Singh, Ph.D, P.E.  
President and CEO

cc: Mr. Christopher Jackson, USNRC (w/attach.)

Document ID: 5014401

Attachment: Affidavit Pursuant to 10 CFR 2.790

**AFFIDAVIT PURSUANT TO 10CFR2.790**

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I, Brian Gutherman, being duly sworn, depose and state as follows:

- (1) I am Licensing Manager of Holtec International and have reviewed the information described in paragraph (2) which is sought to be withheld, and am authorized to apply for its withholding.
- (2) The information sought to be withheld is the following Holtec International information contained in Holtec's License Amendment Request 1014-1, Revision 1:

Drawings and Bills-of-Material:

Drawings 2889 through 2892, Revision 0  
Drawings 3067 through 3075, Revision 0  
Drawing 3187, Revision 1.  
BM-3065 and 3066, Revision 0  
BM-3189, Revision 2

Proposed TSAR Text and Tables (shown in shaded text)

Portions of Subsection 1.1.  
Portions of Subsection 1.2.1.2.1.  
Portions of Subsection 1.2.2.2.  
Table 1.2.7.  
Portions of Subsection 2.0.4.  
Tables 2.0.4 and 2.0.5.  
Portions of Subsection 2.2.3.2.  
Portions of Subsection 2.2.3.7.  
Subsection 2.2.3.15.  
Portions of Table 2.2.7.  
Appendix 2.A.  
Portions of Section 3.0.  
Portions of Subsection 3.1.2.1.1.1.

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Portions of Subsection 3.1.2.1.1.5.  
Portions of Subsection 3.1.2.1.1.6.  
Portions of Subsection 3.1.2.4.  
Portions of Subsection 3.3.1.3.  
Subsection 3.4.7.3.  
Portions of Subsection 3.4.8.  
Table 3.4.10.  
Portions of Appendix 4.A (including equations within shaded text).  
Portions of Subsection 8.1.1.  
Portions of Subsection 8.1.7.  
Portions of Table 8.1.5.  
Portions of Table 8.1.8.

TSAR Figures

Figures 1.1.4 and 1.1.5.  
Figures 3.4.30 through 3.4.47.  
Figures 4.A.1 through 4.A.3.

CoC Material

Proposed Changes to CoC Appendix A, Technical Specification Section 5.5.  
Proposed Changes to CoC Appendix B, Design Features Sections 3.4.3 and 3.4.6.

This information is considered proprietary to Holtec International.

- (3) In making this application for withholding of proprietary information of which it is the owner, Holtec International relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4) and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10CFR Part 9.17(a)(4), 2.790(a)(4), and 2.790(b)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential"

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(Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions also qualify under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).

- (4) Some examples of categories of information which fit into the definition of proprietary information are:
- a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by Holtec's competitors without license from Holtec International 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.
  - c. Information which reveals cost or price information, production, capacities, budget levels, or commercial strategies of Holtec International, its customers, or its suppliers;
  - d. Information which reveals aspects of past, present, or future Holtec International customer-funded development plans and programs of potential commercial value to Holtec International;
  - e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

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The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs 4.a, 4.b, 4.d, and 4.e, above.

- (5) The information sought to be withheld is being submitted to the NRC in confidence. The information (including that compiled from many sources) is of a sort customarily held in confidence by Holtec International, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by Holtec International. No public disclosure has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within Holtec International is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his designee), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside Holtec International are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.

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- (8) The information classified as proprietary was developed and compiled by Holtec International at a significant cost to Holtec International. This information is classified as proprietary because it contains detailed descriptions of analytical approaches and methodologies not available elsewhere. This information would provide other parties, including competitors, with information from Holtec International's technical database and the results of evaluations performed by Holtec International. Release of this information would improve a competitor's position without the competitor having to expend similar resources for the development of the database. A substantial effort has been expended by Holtec International to develop this information.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to Holtec International's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of Holtec International's comprehensive spent fuel storage technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology, and includes development of the expertise to determine and apply the appropriate evaluation process.

The research, development, engineering, and analytical costs comprise a substantial investment of time and money by Holtec International.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

Holtec International's competitive advantage will be lost if its competitors are able to use the results of the Holtec International experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

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The value of this information to Holtec International would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive Holtec International of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.

- (10) Holtec International requires this information to remain proprietary until such time as our commercial interests are protected through the filing of a request for patent with the United States Patent Office. This preparation of this filing is under way as of the date of this affidavit and is expected to be complete within 90 days. Therefore, the information described in this affidavit will not longer be considered Holtec proprietary and may be disclosed to the public on, or after December 18, 2000.

