HOLTEC
INTERNATIONAL

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BY OVERNIGHT MAIL

December 22, 2000

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

Subject: USNRC Docket No. 72-1014, TAC L23082
HI-STORM 100 Certificate of Compliance 1014
HI-STORM License Amendment Request 1014-1, Revision 1

References:
1. Holtec Project 5014
2. Holtec Letter, Brian Gutherman to Christopher Jackson, NRC, dated December 11, 2000

Dear Sir:

In response to our commitment to SFPO project management during a telephone conference yesterday, enclosed please find one copy of the modified portions of Holtec International Calculation Report No. HI-2002407, Revision 2. This includes the administrative cover documentation, Appendix G, and Attachments 1 and 2, which should be inserted into the copies of this calculation you currently have. Attachment 1 is the first (November 2000) draft of EPRI Report No. 1001207, which is cited as a reference in the calculation package. This version of the EPRI report and the technical paper authored by Goll et al have been added as attachments to the calculation package to ensure the correct versions of these documents are affiliated with the technical work of record.

The enclosed documents contain information which is commercially sensitive to Holtec International and is treated by us with strict confidentiality. This information is of the type described in 10CFR2.790(b)(4). Appendix G of Holtec Report HI-2002407, Revision 2, is considered proprietary to Holtec. The attached affidavit sets forth the bases for which the information is required to be withheld by the NRC from further disclosure, consistent with these considerations and pursuant to the provisions of 10CFR2.790(b)(1). It is therefore requested that the proprietary information enclosed be withheld from public disclosure in accordance with applicable NRC regulations.

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

Sincerely,

Brian Gutherman, P.E.
Licensing Manager

Document ID: 5014410

Cc: Mr. Christopher Jackson, USNRC (with 4 copies of enclosure and one copy of the attachment)

Attachment: Affidavit Pursuant to 10 CFR 2.790

Enclosure: Administrative sheets, Appendix G, and Attachments 1 and 2 to Holtec Report No. HI-2002407, Revision 2

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Attachment 1

AFFIDAVIT PURSUANT TO 10CFR2.790

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 Appendix G to Holtec International Calculation Report No. HI-2002407, Thermal-Hydraulic Calculations for the HI-STAR/HI-STORM Amendments, Revision 2, December 2000.

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" (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.

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.

AFFIDAVIT PURSUANT TO 10CFR2.790

(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.

(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.

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.

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Attachment 1

AFFIDAVIT PURSUANT TO 10CFR2.790

STATE OF NEW JERSEY)
) ss:
COUNTY OF BURLINGTON)

Mr. Brian Gutherman, being duly sworn, deposes and says:

That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at Marlton, New Jersey, this 22nd day of December, 2000.

Brian Gutherman
Holtec International

Subscribed and sworn before me this 22nd day of December, 2000.

Marie C Pepe