

September 23, 2002

Mr. Oscar Shirani



SUBJECT: ALLEGATION - NMSS-2002-A-0002  
Holtec International / U. S. Tool & Die, Inc.

Dear Mr. Shirani:

The U. S. Nuclear Regulatory Commission (NRC) has completed its review of comments you provided in an email letter dated August 19, 2002, in which you stated your disagreement with the staff's conclusions in my letter to you dated July 10, 2002.

NRC had previously completed its review of two of your concerns about activities at Holtec International and U. S. Tool & Die, Inc., and documented the staff's response in my letter to you dated May 28, 2002. That letter stated that, based on reviews of the information provided by you and on the results of an NRC inspection conducted in response to your allegation, the staff determined that your concerns were substantiated, but that there was not a resulting safety or regulatory concern requiring further NRC action. Consequently, the allegation file was closed. Subsequently, you sent by email on June 13, 2002, a letter indicating that you did not agree with the staff's conclusions reported in my May 28, 2002 letter. You had also previously sent additional comments in emails to the NRC dated May 8, 2002, and May 30, 2002. My letter to you dated July 10, 2002, provided the results of the staff's review of the information you provided in emails dated May 8, 2002, May 30, 2002, and June 13, 2002, and its determination that, although you stated that you disagreed with the staff's findings, you did not provide new information that would cause the NRC to change its conclusions, and the file remained closed.

As is more fully set forth in Enclosure 1, the staff has determined, based on a review of the comments in your August 19, 2002, letter, that no new information has been provided that would cause the NRC to change its conclusions, and the file remained closed.

Since you have not submitted any new information that causes the staff to change its conclusions, the allegation file remains closed. Unless the NRC receives additional information that suggests that our conclusions should be altered, we plan no further action on this matter.

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*D/8*

Mr. Oscar Shirani

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Allegation: NMSS-2002-A-0002

We appreciate your bringing these matters to our attention. Safety and safeguards concerns from concerned individuals serve a vital role in the protection of public health and safety. If you have any questions, you may contact me at 1(800) 368-5642 (toll free) or (301) 415-7877.

Sincerely,



Robert L. O'Connell  
Allegation Coordinator  
Office of Nuclear Material Safety  
and Safeguards

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NMSS-2001-A-0002

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### Comments and Staff Response

In the 8/19/02 letter, the Concerned Individual (CI) changes the focus from his previous allegation that *US Tool and Die was dispositioning nonconformances as use-as-is without Holtec review, to Holtec was dispositioning nonconformance reports for use-as-is with vague statements and accepting them only by engineering judgment.* Also, the CI seems to believe that design changes always involve changes to calculations. Also, the CI says that, in the past, engineering judgment was not accepted by the NRC without proper documentation.

Staff Response: Holtec nonconformance report (NCR) dispositions were examined at inspections conducted at Holtec in September 2001 and May 2002. The inspectors found that the dispositions were adequately explained, although sometimes followup questions were required for a fuller understanding. NRC does not have an absolute requirement for the degree of completeness of explanations of rationale for NCR dispositions. As a general rule, inspectors look to determine if the disposition makes technical sense. If the disposition is technically adequate, the inspectors do not engage the question of the adequacy of the explanation. If the disposition does not appear reasonable, the inspectors explore the rationale more deeply. Licensees and certificate holders are encouraged to record adequate rationale, but there is no NRC requirement to do so for NCRs. Design changes do not always involve changes to calculations. Often design changes are approved based on engineering judgment, and that is an acceptable engineering practice. However, in the cases described by the CI, and examined during the inspections, design changes were not required for the use-as-is dispositions, as explained in our earlier responses. Therefore, we conclude no additional inspection is warranted based on the additional supplemental information.

The letter also describes audits findings involving General Electric Nuclear Energy, Sargent and Lundy, and ComEd. The CI also forwarded the letter to the Region III office, which has stated that no new information was provided regarding that matter that would change the staff's conclusions.

Finally, the letter states:

*"All the details that I previously provided to you regarding welding and the temperature changes affecting the material yield strength intended to highlight the reasons that the Repair should be treated as design change and the engineers should properly document their review of the changes made to the original design of dry cask storage and avoid making vague engineering judgment statements. Your staff need to answer the above concerns before prematurely conclude that this allegation is closed."*

Staff Response: The staff has previously reviewed the concerns and concluded that there is not a significant safety or regulatory concern requiring further NRC action. The CI has not provided any new information that would refute the staff's conclusions, but has simply, for the third time, restated his perception of a problem. No new information has been provided. The staff has determined that there is not a significant safety or regulatory concern requiring further NRC action. Consequently, this file remains closed.

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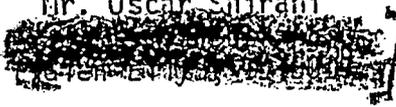
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