

February 11, 2005

Mr. Evan Rosenbaum  
Project Manager  
Holtec International  
555 Lincoln Drive West  
Marlton, NJ 08053

SUBJECT: NRC DENIAL OF HOLTEC INTERNATIONAL'S REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR THE HI-STORM 100 CERTIFICATE OF COMPLIANCE LICENSE AMENDMENT REQUEST 3 (TAC NO. L23799)

Dear Mr. Rosenbaum:

By your letter and affidavit dated December 30, 2004, (Document ID 5014549), Holtec International (Holtec) submitted an application to the United States Nuclear Regulatory Commission (NRC) in accordance with 10 CFR Part 72 to amend Certificate of Compliance (CoC) No. 72-1014 for the HI-STORM 100 Cask System (License Amendment Request 1014-3, Revision 0). The affidavit requested that information annotated as Holtec Proprietary Information and which is contained in Attachments 4 and 5 of Holtec letter No. 5014549 be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390.

Your affidavit requests that the enclosures be withheld from public disclosure pursuant to 10 CFR 2.390 for the following reasons:

- (1) The information which discloses patentable subject matter for which it may be desirable to obtain patent protection.
- (2) 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.
- (3) Public disclosure of the information would harm Holtec International's competitive position and foreclose or reduce the availability of profit-making opportunities
- (4) The research and development, engineering, and analytical costs comprise a substantial investment of time and money by Holtec International.

- (5) Public disclosure of the information 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.

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 and confidential commercial information.

Accordingly, we have concluded that the information sought to be withheld from public disclosure does not meet the requirements of 10 CFR 2.390. Therefore, your request to withhold the information annotated as Holtec Proprietary Information and which is contained in Attachments 4 and 5 of Holtec letter No. 5014549 from public disclosure is denied.

Within 30 days from the date of this letter, the subject documents will be placed in the Nuclear Regulatory Commission's Public Document Room. If, within 30 days of the date 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.

Sincerely,

/RA/

Christopher M. Regan, Senior Project Manager  
Licensing Section  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

Docket No. 72-1014  
TAC No. L23799

- (5) Public disclosure of the information 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.

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 and confidential commercial information.

Accordingly, we have concluded that the information sought to be withheld from public disclosure does not meet the requirements of 10 CFR 2.390. Therefore, your request to withhold the information annotated as Holtec Proprietary Information and which is contained in Attachments 4 and 5 of Holtec letter No. 5014549 from public disclosure is denied.

Within 30 days from the date of this letter, the subject documents will be placed in the Nuclear Regulatory Commission's Public Document Room. If, within 30 days of the date 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.

Sincerely,

/RA/

Christopher M. Regan, Senior Project Manager  
 Licensing Section  
 Spent Fuel Project Office  
 Office of Nuclear Material Safety  
 and Safeguards

Docket No. 72-1014  
 TAC No. L23799

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