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May 16, 2005

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

Reference: 1. USNRC Docket No. 72-1014 (HI-STORM 100)
2. Holtec Project 5014
3. Holtec Letter 5014565, dated 11 March 2005
4. SFPO / Holtec Meeting on 21 April 2005

Subject: Submittal of License Amendment Request #3 to HI-STORM 100 CoC

Dear Sir:

Via letter on March 11th (Reference 3), we asked the SFPO suspend review of our request to amend the Certificate of Compliance for the HI-STORM 100 System (CoC 72-1014). We asked the SFPO to suspend their review so we could make improvements to the design of the new overpack model, named HI-STORM 100U, and to modify some of the documents to reduce the potential for RAIs.

We have completed our intended design improvements and document modifications. A summary of the changes made was presented to the SFPO Staff in a meeting held in White Flint on April 21st (Reference 4). We are pleased to submit herewith our revised request to amend the Certificate of Compliance for the HI-STORM 100 System. We note that one change we had presented in the April 21st meeting, namely a reduced thickness lid for one slightly longer PWR fuel assembly, has not been incorporated in the final prepared submittal. Further work indicated that a small increase in the MPC length for that one fuel assembly was a simpler method of addressing the length.

Because the unique and innovative features of HI-STORM 100U are subject to an ongoing patent process, we have identified all information that reveal its design and performance attributes as proprietary at this time to protect our commercial interests as provided for in federal law (10CFR2.390).

The following attachments are provided:

Attachment 1: Summary of Proposed Changes.

Attachment 2: Proposed CoC Changes in Markup Format – Deletions are shown in strikeout.
Insertions are marked by vertical bars in the right margin.

Document ID: 5014568

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Attachment 3: Proposed Revised FSAR Sections – Information on the new HI-STORM 100U overpack is compiled in supplements to each chapter, each numbered as xx.I where xx is the chapter that is supplemented. With the exception of the numbered supplements, which are all new, and Chapters 4 and 11, which are heavily modified, deletions are shown in strikeout and insertions are shown in italics. Withholding from public disclosure of portions of this attachment is requested (see Attachment 4) Only new and changed portions of the FSAR are included.

Attachment 4: Affidavit Pursuant to 10CFR2.390 – Affidavit requesting that information in Attachment 3 claimed as proprietary and appropriately marked as such be withheld from public disclosure.

We note that the Proposed Revised FSAR Sections do reflect the latest changes from HI-STORM LAR #2, currently undergoing rulemaking. The information relative to LAR #2 is taken as of the date of this letter. We believe that using the most current FSAR information will help the reviewers in their work.

We also note that, if granted, our request for withholding proprietary material in the proposed FSAR sections from public disclosure will prevent placement of Attachment 3 into the NRC's Public Document Room. Upon notification by the SFPO that the information we claim as proprietary will be withheld as requested, we will prepare a non-proprietary version of Attachment 3 suitable for public release.

We request an expedited review of this application in light of a significant user interest in the new HI-STORM 100U overpack. We appreciate the SFPO's attention to this application.

Sincerely,

Evan Rosenbaum, PE
Project Manager, LAR 1014-3
Docket No. 72-1014

Approved:

Stefan Anton, Dr.-Ing.
Licensing Manager

Attachments: As Stated



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E-Mail Distribution (Letter Only):

Holtec Groups 1, 2 and 4
HUG Main and Licensing Committees
Mr. Gordon Bjorkman, NRC
Mr. William E. Brach, NRC
Mr. Larry Campbell, NRC
Mr. Larry Camper, NRC
Mr. Wayne Hodges, NRC
Mr. Robert Lewis, NRC
Mr. Christopher Regan, NRC

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I, Evan Rosenbaum, being duly sworn, depose and state as follows:

- (1) I am the Holtec International Project Manager for LAR 1014-3 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 portions of Attachment 3 to Holtec letter Document ID 5014568 containing information for which we are currently seeking patent protection. The affected portions are appropriately annotated as Holtec Proprietary information.
- (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), 2.390(a)(4), and 2.390(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).

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- (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 paragraph 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

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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.
- (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. A substantial effort has been expended by Holtec International to develop this information. Release of this information would improve a competitor's position because it would enable Holtec's competitor to copy our technology and offer it for sale in competition with our company, causing us financial injury.

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- (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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Non-Proprietary Attachment

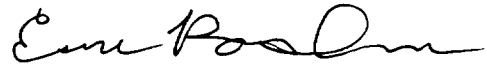
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STATE OF NEW JERSEY)
) ss:
COUNTY OF BURLINGTON)

Mr. Evan Rosenbaum, being duly sworn, deposes and says:

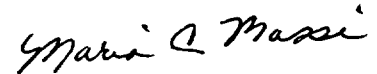
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at Marlton, New Jersey, this 16th day of May, 2005.



Evan Rosenbaum
Holtec International

Subscribed and sworn before me this 16th day of May, 2005.



MARIA C. MASSI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 25, 2010