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April 15, 2005

PG&E Letter HIL-05-004

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

Docket No. 72-27
Humboldt Bay Independent Spent Fuel Storage Installation
Submittal of Holtec Proprietary Reports (TAC No. L23683)

Dear Commissioners and Staff:

On December 15, 2003, Pacific Gas and Electric Company (PG&E) submitted an application to the U.S. Nuclear Regulatory Commission (NRC), PG&E Letter HIL-03-001, requesting a site-specific license to build and operate an independent spent fuel storage installation (ISFSI) at the Humboldt Bay Power Plant.

By letter dated July 22, 2004, the NRC staff requested additional information to continue their review of the Humboldt Bay ISFSI License Application. PG&E responded to this request for additional information (RAI) in PG&E Letter HIL-04-007, dated October 1, 2004.

As part of the NRC review of the responses, additional NRC staff questions have been raised concerning structural issues, thermal issues, and greater than class C waste. PG&E responded to these supplemental questions in PG&E Letter HIL-05-003 dated April 8, 2005. Various PG&E responses to NRC questions contained in HIL-05-003 make reference to proprietary Holtec International (Holtec) Reports.

At the request of the staff, and in accordance with 10 CFR 72.4, PG&E is attaching one CD-ROM labeled, "Proprietary Holtec Documents Supporting PG&E Responses to Supplemental NRC RAIs." The CD-ROM contains directories that correspond to RAI numbers that contain proprietary Holtec information. A total of one CD-ROM is included in this submittal. The contents are in Adobe Acrobat Portable Document Format. The CD-ROM contains the following proprietary files:

File name	File Size
2033035R2.pdf: Structural Calculation Package for MPC HB	749 KB
2022896R2.pdf: Validation of Visual Nastran Report	30.9 MB
2033014R1.pdf: Seismic Response of HI-STAR HB in Vault Subject to DBE	2.83 MB

NMSS01

Enclosure 1 to this letter contains a listing of the Holtec proprietary reports. These documents are for use by the NRC staff in their review of the Humboldt Bay ISFSI License Application. Enclosure 2 contains an affidavit signed by Holtec, the owner of the proprietary information in the reports. The affidavit sets forth the basis on which the Holtec information contained in the subject reports may be withheld from public disclosure by the Commission. The affidavit also addresses with specificity the considerations listed in the Freedom of Information Action, 5 USC Sec. 52(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(b)(1). PG&E requests that the Holtec proprietary information be withheld from public disclosure in accordance with the cited regulations.

Correspondence, with respect to proprietary aspects of the application for withholding related Holtec proprietary information from public disclosure or to the Holtec affidavit provided in Enclosure 2, should be addressed to Eric Lewis, Holtec International, Holtec Center, 555 Lincoln Drive West, Marlton, New Jersey 08053.

Nonproprietary versions of Holtec Reports HI-2033014, Revision 1, and HI-2033035, Revision 2, were previously submitted to the NRC in PG&E Letter HIL-04-004, dated June 15, 2004. Current revisions of the Holtec Reports contain changes to only proprietary information. The nonproprietary reports previously submitted contain current information, and therefore will not be resubmitted.

Based on guidance contained in Nuclear Reactor Regulation Office Instruction No. LIC-204, Revision 2, a nonproprietary version of the Holtec Report HI-2022896, Revision 2, will not be submitted due to the extent of proprietary information contained in the report.

If you have any questions regarding this submittal, please contact Mr. Terence Grebel at (805) 545-4160.

Sincerely,

Donna Jacobs
Vice President - Nuclear Services

emb/3522
Enclosures
cc: Eric Lewis
PG Fossil Gen HBPP Humboldt Distribution
cc/enc: James R. Hall

ATTACHED HOLTEC PROPRIETARY REPORTS

1. Validation of Visual Nastran Program
   Holtec Report No. HI-2022896, Revision 2

2. Seismic Response of HI-STAR HB in Vault Subject to DBE
   Holtec Report No. HI-2033014, Revision 1

3. Structural Calculation Package for MPC-HB
   Holtec Report No. HI-2033035, Revision 2

HOLTEC AFFIDAVIT FOR PROPRIETARY REPORTS

AFFIDAVIT PURSUANT TO 10CFR2.390

I, Stefan Anton, being duly sworn, depose and state as follows:

(1) I am the 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 included in the following Holtec International Calculation Report:

- Holtec Report No. HI-2033014, Seismic Response of HI-STAR HB in Vault Subject to DBE, Revision 1.
- Holtec Report No. HI-2033035, Structural Calculation Package for MPC-HB, Revision 2.
- Holtec Report No. HI-2022896, Validation of VisualNastran Desktop, Revision 2.

This information is considered proprietary to Holtec International and is annotated appropriately.

(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).

(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, 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.

(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.

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

Mr. Stefan Anton, 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 6th day of April, 2005.

Stefan Anton
Holtec International

Subscribed and sworn before me this 6th day of April, 2005.

Marie C Pepe

[illegible] OF NEW JERSEY
[illegible] Expires April 25, 2005