

June 24, 2005

Mr. Dale E. James
Nuclear Safety Assurance
Entergy Operations, Inc.
1448 S. R. 333
Russellville, AR 72802

SUBJECT: PUBLIC DISCLOSURE DETERMINATION (TAC NO. L23826)

Dear Mr. James:

By letter dated March 21, 2005, Entergy Operations, Inc. (Entergy) submitted a request for exemption from the requirements of 10 CFR 72.212(a)(2) and 10 CFR 72.214 pursuant to 10 CFR 72.7. Specifically, with respect to your submittal, you are requesting exemption from Appendix B, Section 2.1 of the Holtec International HI-STORM 100 Cask System CoC (1014), Fuel Specifications and Loading Conditions. In response to a request from the United States Nuclear Regulatory Commission (NRC) staff, in a letter dated May 10, 2005, you submitted Holtec International (Holtec) Report No. HI-2012771, Revision 7, "Appendix O, MPC-32 with Assembly Class 16x16A with Damage to Fuel Rods," in support of the aforementioned exemption request. Your letter included a Holtec affidavit dated April 29, 2005. The affidavit requests that information in HI-2012771, Revision 7, Appendix O, submitted as Attachment 2 to your May 10, 2005, letter be considered proprietary.

The affidavit requests that Holtec Report No. HI-2012771, Revision 7, "Appendix O, MPC-32 with Assembly Class 16x16A with Damage to Fuel Rods" be withheld from public disclosure pursuant to 10 CFR 2.390 for the following reasons:

- (1) The 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, and
- (2) The 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.

Based on your May 10, 2005, submittal, our review of the proprietary information, and the requirements of 10 CFR 2.390, we have determined that the information described above, as enclosed with your letter should be withheld from public disclosure pursuant to 10 CFR 2.390. It is the NRC's policy to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised of the basis for and effects of licensing and rulemaking actions.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this

D. James

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information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public disclosure should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. Please be advised that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your withheld information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

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

Docket No. 72-13
TAC No. L23826

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Christopher M. Regan, Senior Project Manager
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