HOLTEC INTERNATIONAL

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June 27, 2005

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

Reference: 1. USNRC Docket No. 72-1014 (HI-STORM 100), TAC No. L23850
2. Holtec Project 5014
3. Holtec Letter 5014568, dated 16 May 2005

Subject: Documentation for HI-STORM 100 CoC Amendment Request #3

Dear Sir:

Via letter on March 16th (Reference 3), we submitted a revised Amendment #3 for the HI-STORM 100 CoC. The Proposed Revised FSAR Sections attached to that letter contained information we have claimed as proprietary and that we requested be withheld from public disclosure as provided for in 10 CFR 2.390. We stated therein that, upon notification by the SFPO that the information we claim as proprietary will be withheld as requested, we would prepare a non-proprietary version of the Proposed Revised FSAR Sections suitable for public release. We have received a preliminary, verbal determination that our request for withholding would be granted and have, therefore, prepared a non-proprietary version which is attached to this letter.

We have also been requested by the SFPO to provide a copy of the latest revision of one calculation package referenced in the amendment request (Holtec Report HI-2043285), which has been revised since it was last provided to the SFPO. Revision 1 of this report is attached to this letter. We request that this report be withheld from public disclosure, because it contains Holtec International's intellectual property developed at considerable expense by the company. Public release of this material would allow this material to be used by others, resulting in commercial detriment to Holtec International. Accordingly, we have attached an affidavit pursuant to 10 CFR 2.390 to this letter. We note that the previous revision of this report was withheld from public disclosure.

The following attachments are provided:

Attachment 1: Non-Proprietary Proposed Revised FSAR Sections – This is a version of the information that accompanied the May 16th letter (Reference 3) that is identical to the previously provided version except that all information marked as proprietary has been removed.

Document ID: 5014572

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Attachment 2: "Pressure Loss Characteristics for In-Cell Flow of Helium in PWR and BWR MPC Storage Cells," Holtec Report HI-2043285, Revision 1.

Attachment 3: Affidavit Pursuant to 10 CFR 2.390 – Affidavit requesting that Attachment 2 be withheld from public disclosure.

We appreciate the SFPO's attention to our amendment application.

Sincerely,

Evan Rosenbaum, P.E.
Project Manager, LAR 1014-3

Attachments: As Stated

cc: Mr. Christopher Regan, NRC

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AFFIDAVIT PURSUANT TO 10CFR2.390

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 Attachment 2 to Holtec letter Document ID 5014572 containing calculations performed by Holtec International in support of LAR 1014-3 for our HI-STORM 100 System Certificate of Compliance (Docket 72-1014).

This information is considered proprietary to Holtec International as is appropriately annotated as such.

(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 and 4.b, 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. 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.

(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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AFFIDAVIT PURSUANT TO 10CFR2.390

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 27th day of June, 2005.

Evan Rosenbaum
Holtec International

Subscribed and sworn before me this 27th day of June, 2005.

Maria C. Massi

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