

August 26, 2005

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

SUBJECT: PUBLIC DISCLOSURE DETERMINATION

Dear Mr. Rosenbaum:

By your letter dated July 27, 2005, Holtec International (Holtec) submitted responses to the request for additional information (RAI) which had been issued by our April 23, 2004, staff letter. Your submittal included an affidavit executed by you, on July 26, 2005, that requested the responses to the RAIs and some of the revised portions of the Safety Analysis Report (SAR) pertaining to burnup credit analysis to be withheld from public disclosure pursuant to 10 CFR 2.390. The affidavit lists a number of reasons for withholding the above documents from public disclosure. However, the staff believes that only the following reason appears to be relevant.

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.

On the basis of Holtec International's submittal, our review of Holtec International's submittal and affidavit, and in light of the requirements of 10 CFR 2.390, we have determined that the RAI responses and the revised portions of the SAR pertaining to burnup credit analysis designated as containing proprietary material should be withheld from public disclosure pursuant to 10 CFR 2.390.

It is the policy of NRC to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised as to 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 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.

E. Rosenbaum

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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 NRC. Please be advised that 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 NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

Meraj Rahimi, Senior Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No.: 71-9261
TAC No.: L23651

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Sincerely,

/RA/

Meraj Rahimi, Senior Project Manager
 Licensing Section
 Spent Fuel Project Office
 Office of Nuclear Material Safety
 and Safeguards

Docket No.: 71-9261
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