

November 3, 2005

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

SUBJECT: PUBLIC DISCLOSURE DETERMINATION (TAC NO. L23850)

Dear Mr. Rosenbaum:

By your letter dated October 20, 2005, (Document ID 5014580), Holtec International (Holtec) provided a copy of computer data files in support of the application to amend Certificate of Compliance (CoC) No. 1014 for the HI-STORM 100 Cask System (License Amendment Request 1014-3, Revision 1). Your letter included an affidavit dated October 20, 2005. The affidavit requested that information, annotated as Holtec Proprietary Information, and which was contained on a data Digital Video Disc (DVD) as Attachment 1 of Holtec letter (Document ID 5014580) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390.

Your October 20, 2005, affidavit requests that the annotated information in Attachment 1 be withheld from public disclosure pursuant to 10 CFR 2.390 for the following reasons:

- 1) The information 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.
- 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.
- 3) The information discloses patentable subject matter for which it may be desirable to obtain patent protection.

Based on your October 20, 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 (Document ID 5014580), should be withheld from public disclosure pursuant to 10 CFR 2.390. It is the Nuclear Regulatory Commission's (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 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.  
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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 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. 72-1014  
TAC No. L23850

E. Rosenbaum

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Docket No. 72-1014  
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