

September 14, 2006

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

SUBJECT: NRC REJECTION OF HOLTEC INTERNATIONAL'S REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR HOLTEC REPORT HI-2043285 REVISION 3 (TAC NO. L23850)

Dear Mr. Rosenbaum:

By your letter and affidavit dated May 3, 2006, (Document ID 5014596), Holtec International (Holtec) submitted Holtec Report HI-2043285, Revision 3, "Pressure Loss Characteristics for In-Cell Flow of Helium in Pressurized Water Reactor (PWR) and Boiling Water Reactor (BWR) Multi-Purpose Canister (MPC) Storage Cells," to the United States Nuclear Regulatory Commission (NRC) in accordance with 10 CFR Part 72 in support of an application to amend Certificate of Compliance (CoC) No. 1014 for the HI-STORM 100 Cask System (License Amendment Request 1014-3, Revision 0). The affidavit requested that Holtec Report HI-2043285, which is contained in Attachment 1 of Holtec letter No. 5014596 be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390.

Your affidavit requests that the enclosures be withheld from public disclosure pursuant to 10 CFR 2.390 for the following reasons:

- (1) 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) 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.

We have reviewed your application and all of the supporting information and have concluded that you have not marked the attachment to the May 3, 2006, letter, claimed as proprietary, in accordance with the requirements of 10 CFR 2.390(b)(1)(I). Specifically, the information requested to be withheld from public disclosure, contained in Appendix C of Holtec Report HI-2043285, is not marked as Proprietary Information or otherwise annotated as privileged information.

Additionally, you provided a third party Proprietary Information Agreement, dated August 10, 2004, signed by Frank Bongrazio, Vice President and Chief Financial Officer of Holtec

International, between Holtec International and Global Nuclear Fuels (GNF) (a licensee of the General Electric Company (GE)), indicating that the drawings 103E1228, 103E1229, 112D4612, 11D4614, 11D4658, included in Holtec Report HI-2043285, be withheld from public disclosure. We have reviewed the third party agreement and the listed drawings in accordance with the requirements of 10 CFR 2.390 and concluded that it does not contain the basis for GE's determination that the material is proprietary as required by 10 CFR 2.390. Please provide the NRC with an affidavit, signed by a GE official, that sets forth the basis for GE's claim that the information is proprietary. It should also be noted that drawing 107E1591 and one illegible drawing, included in Holtec Report HI-2043285, were not listed in the aforementioned third party Proprietary Information Agreement. If these drawings are sought to be withheld from public disclosure they should be included in the affidavit from GE.

Accordingly, we have concluded that the information sought to be withheld from public disclosure, noted above, does not meet the requirements of 10 CFR 2.390.

Thirty days from the date of this letter, the subject attachments will be placed in the Nuclear Regulatory Commission's Agencywide Documents Access and Management System (ADAMS) unless you respond by then to this letter. If within 30 days of the date of this letter, you request withdrawal of the documents in accordance with 10 CFR 2.390(c) and resubmit them in accordance with regulatory requirements (including appropriate markings), your request will be reviewed and a determination made whether the documents will be released to the public, withheld from public disclosure, or returned to you.

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

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Christopher M. Regan, Senior Project Manager
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