



Nebraska Public Power District

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NLS2007040

May 4, 2007

U.S. Nuclear Regulatory Commission

Attention: Document Control Desk

Washington, D.C. 20555-0001

Subject: Affidavit Requesting Withholding from Public Disclosure
Cooper Nuclear Station, Docket No. 50-298, DPR-46

Reference: Letter from Stewart B. Minahan, Nebraska Public Power District, to the U.S. Nuclear Regulatory Commission, Document Control Desk, titled "Response to Request for Additional Information Regarding License Amendment Request for Onsite Spent Fuel Storage Expansion," dated April 17, 2007.

Dear Sir or Madam:

The purpose of this letter is to submit to the U. S. Nuclear Regulatory Commission (NRC) an affidavit requesting withholding of proprietary information from public disclosure for the Cooper Nuclear Station (CNS) along with a page suitable for public disclosure to replace the proprietary information.

By the reference letter Nebraska Public Power District (NPPD) submitted to the NRC a response to a request for additional information to support NRC review of a license amendment request to increase the capacity of onsite spent fuel storage at CNS. NPPD failed to recognize that Attachment 2 of the letter contained information that Holtec International, Inc. considered to be proprietary. As a result, an affidavit requesting withholding of the proprietary information from public disclosure as required by 10 CFR 2.390 was not provided by the letter.

The affidavit, executed by an official of Holtec International, Inc., is provided as Attachment 1. A page, suitable for public disclosure, to be inserted in Attachment 2 of the Reference letter in place of the proprietary information is provided as Attachment 2.

Through discussion with the NRC Nuclear Reactor Regulation Project Manager for CNS it was confirmed that the proprietary information had not been released to the public. Further, through coordination with the organizations that received a copy of the letter, it was confirmed that this letter had not been released to the public.

COOPER NUCLEAR STATION

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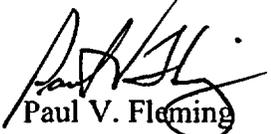
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Should you have any questions concerning this matter, please contact me at (402) 825-2774.

Sincerely,



Paul V. Fleming
Licensing Manager

/rr

Attachments

cc: Regional Administrator w/ Attachments
USNRC - Region IV

Cooper Project Manager w/ Attachments
USNRC – NRR Project Directorate IV-1

Senior Resident Inspector w/ Attachments
USNRC - CNS

Nebraska Health and Human Services w/ Attachments
Department of Regulation and Licensure

NPG Distribution w/o Attachments

Records w/ Attachments

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Attachment 1
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Attachment 1

**Holtec International, Inc. Affidavit Requesting Withholding of Proprietary Information
As Required by 10 CFR 2.390**

Cooper Nuclear Station, Docket No. 50-298, DPR-46

AFFIDAVIT PURSUANT TO 10 CFR 2.390

I, Pankaj Chaudhary, being duly sworn, depose and state as follows:

- (1) I am the Holtec International Project Manager for the Cooper Rerack Project 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 Holtec Drawing 4732 (or parts thereof), containing Holtec Proprietary information.
- (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).

AFFIDAVIT PURSUANT TO 10 CFR 2.390

- (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

AFFIDAVIT PURSUANT TO 10 CFR 2.390

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.

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- (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.

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk

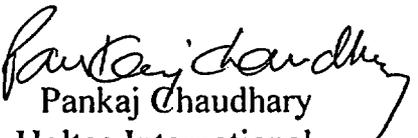
AFFIDAVIT PURSUANT TO 10 CFR 2.390

STATE OF NEW JERSEY)
) ss:
COUNTY OF BURLINGTON)

Mr. Pankaj Chaudhary, 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 30th day of April, 2007.


Pankaj Chaudhary
Holtec International

Subscribed and sworn before me this 30th day of April, 2007.



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

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Attachment 2
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Attachment 2

Replacement Page for Attachment 2 from NPPD letter NLS2007012

Cooper Nuclear Station, Docket No. 50-298, DPR-46

Holtec International, Inc., Drawing Number 4732, consisting of five sheets, was provided by pages 20 of 26 through 24 of 26 in NPPD letter NLS2007012 dated April 17, 2007. That drawing contains information considered to be proprietary by Holtec International, Inc. Page 19 of 26 was the cover page for the drawing.

A page to replace Pages 19 through 24 of Attachment 2 from NLS2007012 is attached. This page is to be used in place of the 5-page Holtec International, Inc. proprietary Drawing Number 4732.

NLS2007012
Attachment 2
Pages 19 of 26 through 24 of 26

Holtec Drawing Number 4732

Rack A Support Platform

(5 sheets)

This page is provided for use in place of Page 19 of 26 from Attachment 2 of NLS2007012, the cover page for the proprietary five-page Holtec Drawing 4732, as well as the five pages of the proprietary Holtec drawing (page 20 of 26 through page 24 of 26).

This page does not contain proprietary information and is suitable for use in the copy of NLS2007012 that is provided for public disclosure.

ATTACHMENT 3 LIST OF REGULATORY COMMITMENTS©

0.ATTACHMENT 3 LIST OF REGULATORY COMMITMENTS©

Correspondence Number: NLS2007040

The following table identifies those actions committed to by Nebraska Public Power District (NPPD) in this document. Any other actions discussed in the submittal represent intended or planned actions by NPPD. They are described for information only and are not regulatory commitments. Please notify the Licensing Manager at Cooper Nuclear Station of any questions regarding this document or any associated regulatory commitments.

COMMITMENT	COMMITMENT NUMBER	COMMITTED DATE OR OUTAGE
None		