



Holtec Center, 555 Lincoln Drive West, Marlton, NJ 08053

Telephone (856) 797-0900

Fax (856) 797-0909

June 29, 2007

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

Reference: 1. USNRC Docket No. 71-9325 (HI-STAR 180 Model)  
2. USNRC TAC No. L24076  
3. NRC/Holtec Phone Call on June 28, 2007

Subject: Submittal of Holtec Reports Concerning Drop Testing of HI-STAR 100 Model

Dear Sir or Madam:

In response to the discussion in the phone call on June 28<sup>th</sup> (Ref. 3), enclosed are the Holtec reports concerning the drop testing performed with the scale model of the HI-STAR 100 in electronic format on standard CD media. We request that all three Holtec proprietary reports be withheld from public disclosure per the affidavit pursuant to 10CFR2.390 (Attachment 4).

Attachment 1: "Impact Limiter Drop Test Report", Holtec Report HI-971774, Rev. 1, 1997

Attachment 2: "Improved Correlation of 30' Drop Testing at ORNL – August, 1997 Tests", HI-971823, Rev. 0, 1997

Attachment 3: "Impact Limiter Drop Test Report – Second Series", Holtec Report HI-981891, Rev. 2, 1998

Attachment 4: Affidavit Pursuant to 10CFR2.390 – Affidavit requesting proprietary information in Attachments 1, 2 and 3 be withheld from public disclosure

The above three reports were previously submitted to the NRC Document Control Desk under Docket 71-9261 (HI-STAR 100 Model). Please be informed that the first two reports are identical to those submitted under Docket 71-9261, while the third report presents an update (revision 2) to the previous submitted version. Also be informed that HI-971823 was referenced as HI-971783 in the HI-STAR 180 SAR.

Document ID: 1553015

Page 1 of 2

NMS 501  
NMSS



Holtec Center, 555 Lincoln Drive West, Marlton, NJ 08053

Telephone (856) 797-0900

Fax (856) 797-0909

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Document ID 1553015  
Page 2 of 2

We respectfully request that the SFST consider the information provided herein in their acceptance review. We appreciate this opportunity to provide you with this information, which may prove to be useful.

Sincerely,

Luis E. Hinojosa  
Project Manager

cc: (with attachments) Mr. Stewart Brown, NRC SFST, Licensing Branch  
(without attachments) Holtec Group 1

Document I.D.: 1553015

**AFFIDAVIT PURSUANT TO 10CFR2.390**

---

I, Luis E. Hinojosa, being duly sworn, depose and state as follows:

- (1) I 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 the proprietary information in the following Holtec reports:
  - a) "Impact Limiter Drop Test Report", Holtec Report HI-971774, Rev. 1, 1997
  - b) "Improved Correlation of 30' Drop Testing at ORNL – August, 1997 Tests", HI-971823, Rev. 0, 1997
  - c) "Impact Limiter Drop Test Report – Second Series", Holtec Report HI-981891, Rev. 2, 1998

This information is considered proprietary to Holtec International and 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).

**AFFIDAVIT PURSUANT TO 10CFR2.390**

---

- (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 10CFR2.390**

---

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.

**AFFIDAVIT PURSUANT TO 10CFR2.390**

---

- (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.

**AFFIDAVIT PURSUANT TO 10CFR2.390**


---


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

Mr. Luis E. Hinojosa, 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 29th day of June, 2007.

  
**MARIA J. ROSA**  
**NOTARY PUBLIC OF NEW JERSEY**  
Commission Expires 01-13-2010

  
Luis E. Hinojosa  
Holtec International

Subscribed and sworn before me this 29 day of June, 2007.