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10 CFR 52.3  
10 CFR 2.390

March 14, 2008

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

UN#08-005

Subject: UniStar Nuclear, NRC Docket No. 52-016  
Submittal of the Spent and New Fuel Storage Analyses Topical Report  
and Application for Withholding of Documents

Reference: Letter UN#08-003, from George Vanderheyden (UniStar Nuclear)  
to U.S. Nuclear Regulatory Commission, "Submittal of Revision 2  
to the Partial Combined License Application for the Calvert Cliffs Nuclear  
Power Plant, Unit 3 and Application for Withholding of Documents,"  
dated March 14, 2008

UniStar Nuclear submitted Revision 2 to its partial Combined License (i.e., COL) application for the proposed Calvert Cliffs Nuclear Power Plant (CCNPP), Unit 3, by letter dated March 14, 2008 (Reference). This revision provided the remaining portion of the COL application as well as conforming changes to the first portion. The CCNPP, Unit 3 COL application references the U.S. EPR Standard Design Certification application.

Revision 2 of the partial COL application references a topical report prepared by Holtec International for UniStar Nuclear. Accordingly, this letter transmits proposed Revision 0 of UN-TR-08-001(P), "Spent and New Fuel Storage Analyses for U.S. EPR Topical Report," dated March 2008. This report contains proprietary information and therefore we are requesting that it be withheld from public disclosure in accordance with 10 CFR 2.390, "Public inspections, exemptions, request for withholding," paragraph (a)(4). The report is provided on a CD in Enclosure 1 and a non-proprietary version of the report, UN-TR-08-001(NP), is provided in Enclosure 2. The reports are appropriately marked and an affidavit providing the basis for this request is provided in Enclosure 3.

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The Spent and New Fuel Storage Analyses for U.S. EPR Topical Report meets the four criteria in the NRC's NRR Office Instruction, "Processing Requests for Reviews of Topical Reports," LIC-500, Revision 3, for the NRC to accept it for review. Specifically, the four criteria are met as described below.

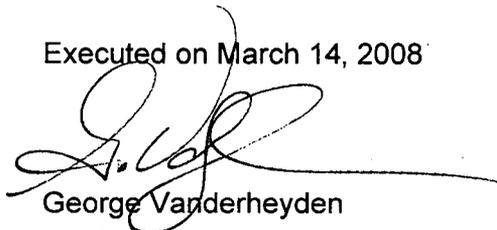
- 1) The enclosed topical report deals with the structural/seismic, thermal-hydraulic, and neutronic analyses for the new and spent fuel storage systems. These safety-related aspects of the new and spent fuel storage design will apply to U.S. EPR nuclear power plants for which a COL application will be submitted to the NRC. These analyses require the NRC's review and resultant documentation of a safety assessment.
- 2) As stated above, subsequent COL applications for U.S. EPR nuclear power plants will reference the Spent and New Fuel Storage Analyses for U.S. EPR Topical Report.
- 3) The enclosed topical report provides a complete and detailed description of the analyses and results for the U.S. EPR new and spent fuel storage systems.
- 4) Since subsequent COL applications for the U.S. EPR nuclear power plants will reference the Spent and New Fuel Storage Analyses for U.S. EPR Topical Report, the NRC would need only confirm that the site-specific information in the subsequent COL applications does not invalidate or otherwise change the commitments in the topical report. Such a confirmation would involve significantly less resources than if the NRC had to perform a complete review of the new and spent fuel systems analyses submitted with each subsequent COL application for a U.S. EPR nuclear power plant.

The general organization and content of the enclosed topical report was discussed with a representative of the NRC on March 11, 2008.

If you have any questions or need additional information, contact John Price at (410) 470-5531.

*I declare under penalty of perjury that the foregoing is true and correct.*

Executed on March 14, 2008



George Vanderheyden

March 14, 2008

UN#08-005

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- Enclosures:
- 1) Spent and New Fuel Storage Analyses for U.S. EPR Topical Report, UN-TR-08-001(P) – Proprietary version
  - 2) Spent and New Fuel Storage Analyses for U.S. EPR Topical Report, UN-TR-08-001(NP) – Non-proprietary version
  - 3) Affidavit

cc: U.S. NRC Region I (w/enclosures)  
U.S. NRC Resident Inspector, CCNPP, Units 1 and 2 (w/enclosures)  
U.S. NRC Project Manager, U.S. EPR Combined License Application  
(w/enclosures)  
NRC Project Manager, U.S. EPR Design Certification Application (w/o enclosures)

**ENCLOSURE 1**

**Spent and New Fuel Storage Analyses for U.S. Topical Report UN-TR-08-001(P)  
(Proprietary Version)**

**ENCLOSURE 2**

**Spent and New Fuel Storage Analyses for U.S. Topical Report UN-TR-08-001(NP)  
(Non-proprietary Version)**

**ENCLOSURE 3**

**Affidavit**



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I, Evan Rosenbaum, being duly sworn, depose and state as follows:

- (1) I am the Holtec International Project Manager for the Calvert Cliffs Nuclear Power Plant Unit 3 U.S. EPR Fuel Storage Racks 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 Revision 0 of Holtec Report HI-2083956, which contains Holtec Proprietary information and is appropriately marked 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).



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- (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



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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 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



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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.

- (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.

