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February 4, 2010

Ms. Vonna Ordaz, Director
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Mail Stop EBB-E3-D2M
Washington, DC 20555-0001

- Reference: [1] REVISION TO RESPONSE TO REGION III TECHNICAL ASSISTANCE REQUEST – LASALLE STATION INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI) PAD – SEISMIC DESIGN LASALLE STATION REGION III TECHNICAL ASSISTANCE REQUEST (TAR) DATED 10-20-2009
[2] USNRC Docket 72-1014
[3] Holtec Project 5014

Dear Ms. Ordaz:

On Jan 27, 2010, Holtec International participated in a telecom with the SFST staff along with personnel from Exelon Corporation and Region III to discuss NRC's memorandum [1] in response to Region III's Technical Assistance Request (TAR). We believe that the dialog cleared up a number of issues raised in the Spent Fuel Storage and Transportation (SFST) response and helped set the required path of action to close out the remaining items. The attached proprietary Holtec memo by C.W. Bullard and A.I. Soler [Attachment 1] provides a summation of the relevant technical issues and Holtec's proposed course of resolution.

We should observe that the detailed review and approval of the ISFSI pad design methodology by SFST via response to the TAR is a new development: the NRC has, in the past, required the Part 72 certificate holder to keep such methodologies outside the FSAR and thus outside the regulatory sphere of review. Therefore, there is no history of prior interaction with the SFST in the area of ISFSI pad design/qualification in the HI-STORM 100 docket. As a result Holtec's analysis methodology was developed and deployed to design ISFSI pads since the beginning of the dry storage program without the benefit of NRC's formal review. The sole exception being the Private Fuel Storage (PFS) Atomic Safety Licensing Board (ASLB) proceedings when Holtec's dynamic models implemented on our DYNAMO code were subject to independent confirmation by the NRC/Sandia team. The NRC's response document [1] was therefore based entirely on the material contained within the LaSalle calculation packages without the advantage of acquaintance with the large body of prior technical work in the field which is maintained within our company's quality program files. We believe that SFST's unfamiliarity with the details of our methodology



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Document ID 5014697.doc

undoubtedly prompted many of the queries in [1]. Furthermore, it was not unexpected that the NRC reviewers would have numerous queries on the solution methodology of a fundamentally complex structural problem (array of casks subject to lift off, precession, tilting, and other non-linear effects during a seismic event) that has little published material in the regulatory or peer reviewed literature. However, now that the NRC has decided to engage itself on this topic, we must address the pertinent issues raised promptly in our docket so as to support ongoing ISFSI work at LaSalle and other sites without disruption. The attached memo is our effort to move forward with the outstanding items in a methodical manner.

Because of the potential effect of the outstanding items raised in ref [1] on several near term ISFSI projects, we request that SFST give priority attention to this matter. We are available to continue the technical dialog in the manner (meeting or telecom) most convenient to the NRC at your convenience.

Sincerely,

Tammy S. Morin
Licensing Manager, Holtec Technical Services
Holtec International

Attachments:

- (1) Comments on SFST's Response to TAR on LaSalle ISFSI Pad Analysis
- (2) Affidavit Pursuant to 10 CFR 2.390

Distribution: Ms. Vonna Ordaz, USNRC
Mr. Douglas Weaver, USNRC
Mr. Raymond Lorson, USNRC
Dr. Stefan Anton, Holtec
Mr. Luis Hinojosa, Holtec
Mr. Robert Tindal, Holtec
Holtec Users Group (letter only)

AFFIDAVIT PURSUANT TO 10 CFR 2.390

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 information provided in Attachment 1 to Holtec letter Document ID 5014697. This Attachment contains 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.

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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 4th day of February, 2010.

Luis E. Hinojosa
Luis E. Hinojosa
Holtec International

Subscribed and sworn before me this 4th day of February, 2010.

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