

December 11, 2014

Mr. Scott Head, Manager
Regulatory Affairs
Nuclear Innovation North America, LLC
122 Jackson Way, Suite 405
Lake Jackson, TX 77566

SUBJECT: NUCLEAR INNOVATION NORTH AMERICA, LLC. - REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR SOUTH
TEXAS PROJECT, UNITS 3 AND 4, ADVANCED BOILING WATER REACTOR
SPENT FUEL RACKS REQUEST FOR ADDITIONAL INFORMATION
RESPONSES

Dear Mr. Head:

By letter dated July 7, 2014, Dr. Debabrata Mitra-Majumdar of Holtec International submitted an affidavit requesting that information in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390:

Response to Request for Additional Information

A non-proprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ML14196A239).

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- The information sought to be withheld is information provided within attachments to the responses for RAIs 09.01.02-38 and 09.01.02-48, which contains Holtec Proprietary information and is appropriately marked as such.
- 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 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.

- 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.
- 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.

We have reviewed the July 7, 2014, letter and the affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended. Withholding from public inspection shall not affect the

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right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-8484 or Tom.Tai@nrc.gov.

Sincerely,

/RA Luis Betancourt Acting for/

Tom Tai, Senior Project Manager
Licensing Branch 2
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-012, 52-013

cc: See next page

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- 3 -

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Tom Tai, Senior Project Manager
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