

August 10, 2017

Mr. Mike Layton  
Director, Division of Spent Fuel Management  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

**Subject:** Comment Regarding Section 2.4.1, "Design Alternatives" of the Environmental Report for the HI-STORE Consolidated Interim Storage Facility License Application

**Reference:** (1) Holtec International ("Holtec") Letter to NRC, dated March 30, 2017, Kimberly Manzione to Michael Layton, "Holtec International HI-STORE CIS (Consolidated Interim Storage Facility) License Application," Docket No. 72-1051 (ADAMS ML17115A418).

(2) NRC Letter to NAC International Inc., dated July 5, 2017, Michael Layton to George Carver, "Acceptance Review and Cask Licensing Decisions Based Upon Applicant's Use of 'Conservative Reverse Engineering' and Publicly Available Information Regarding Third-Party Proprietary Licensed Cask Designs," Docket Nos. 72-1029 and 72-1040 (ADAMS ML17163A031).

(3) NRC Staff Memorandum to Anthony Hsia, Deputy Director, DSFM, NMSS, dated July 7, 2017, "Summary of June 7, 2017, Partially Closed Licensing Meeting with Holtec International to Discuss Technical Topics Related to Three Amendment Applications," Docket Nos. 72-1008, 72-1014, 72-1040 (ADAMS ML17188A274).

Dear Director Layton:

NAC International Inc. ("NAC") appreciates your response in Reference 2, and is writing to point out that a similar concern exists with a statement submitted by Holtec International Inc. ("Holtec") in Attachment 4 to Reference 1, "Environmental Report on the HI-STORE CIS Facility, HI-2167521R0 (non-proprietary)," at p. 45/482, Section 2.4.1, as follows:

**"2.4.1 Design Alternative**

Currently, the NRC has licensed and approved SNF storage systems owned by Holtec, AREVA, NAC, and EnergySolutions. Holtec has proposed to use its proprietary system to store SNF at the CIS Facility and use of its system is analyzed as part of the Proposed Action. A potential design alternative would be to use the AREVA, NAC, and EnergySolutions systems. Holtec considered this alternative, but rejected these systems because Holtec's proprietary design is the only licensed technology with the universal capability to store all

SNF from all commercial reactors. Consequently, a design alternative utilizing a different SNF storage system was not carried forward for detailed analysis.” [emphasis supplied]

As the NRC is well aware, the AREVA, NAC, and EnergySolutions systems are already licensed under 10 CFR Part 72, and are deployed by customers for storage of SNF at commercial reactors. The proprietary information regarding these systems is not currently available for use by Holtec for the proposed CIS Facility nor, to our knowledge, for amendments to Holtec’s licensed systems in competition with these other vendors. Thus, as explained below the statement that “[H]oltec’s proprietary design is the only licensed technology with the universal capability to store all SNF from all commercial reactors” (emphasis supplied) is clearly not accurate and, moreover, is misleading. While we recognize that the quoted paragraph (Section 2.4.1) is in the context of an alternatives analysis in an applicant’s environmental report (“ER”), such an inaccurate and misleading statement should be corrected before any acceptance and docketing of the subject HI-STORE CIS Facility license application.

The NRC in Reference 2 recently addressed certain NAC concerns regarding Holtec claims that it will expand the HI-STORM UMAX storage system (CoC No. 1040) to store NAC and other non-Holtec canisters. NAC was concerned that, among other things, Holtec appeared to inappropriately rely on the proprietary design information and related NRC certifications of NAC and other cask vendors. For the following reasons, the Holtec statement quoted above from its Reference 1 CIS Facility ER is not accurate and is contradicted by the NRC in References 2 and 3:

1. The NRC has not approved Holtec’s application for Amendment No. 3 to the HI-STORM UMAX storage system for storage of non-Holtec canisters (Areva’s 24PT1-DSC). As stated by the NRC in Reference 2, p. 1, “At this time, the NRC cannot state whether it agrees that the body of information provided by Holtec in the application for Amendment No. 3 to the Model No. HI-STORM UMAX storage system meets the requirements in Subpart L of Title 10 of the *Code of Federal Regulations* (10CFR) Part 72.”
2. HI-STORM is not currently licensed to store any other contents stored in third-party canisters, much less to “store all SNF from all commercial reactors.” As stated by the NRC in Reference 2, p. 1-2, “If the NRC accepts Holtec’s [CISF] application for review, the NRC will make its determination of whether Holtec’s proposed amendment to the HI-STORM UMAX storage system meets the regulations in 10 CFR Part 72 solely on information provided by Holtec. The NRC will not base its regulatory decision on any proprietary information submitted by, or any subsequent NRC approvals on, a third party vendor.”
3. Holtec’s application for Amendment No. 3 to the Model No. HI-STORM UMAX storage system is in “non-acceptance status.” As stated by the NRC in Reference 3, p. 2: “By letter dated August 30, 2016, Holtec submitted a request to amend CoC No. 1040, the HI-STORM UMAX system. Holtec supplemented the amendment request by letter dated September 9, 2016, and November 4, 2016. The staff, as part of the acceptance review process, issued a RSI on January 23, 2017. Holtec responded to the RSI in a letter dated March 3, 2017. The HI-STORM UMAX amendment request is in a non-acceptance status.”

Accordingly, the misleading statement in Section 2.4.1 of the Holtec CIS Facility ER, appearing above, should be promptly corrected while there is an opportunity and time to do so. As the NRC noted in References 2 and 3, it has not yet accepted Holtec’s CIS Facility license application for review and the HI-STORM UMAX amendment request is in “non-acceptance status.” Holtec, for

its part, despite these subsequent NRC statements has not corrected its earlier misleading statement in its Reference 1 license application that "Holtec's proprietary design is the only licensed technology with the universal capability to store all SNF from all commercial reactors." Clearly, Holtec did not at the time it made this statement nor at any time thereafter possess any such "...only licensed technology with the universal capability...."

In the interim, however, customers and various government officials (for example, see the extensive distribution list on pp. 4-8 of Reference 1) will review the ER and could believe that Holtec has an advantage over other cask vendors when in reality that does not exist. The reason Holtec in its CIS Facility license application ER cannot consider other design alternatives is because NAC and other vendors are not working with Holtec on the project. As Holtec presumably recognizes, to be able to consider these third-party vendor design alternatives in its ER it would need access to the other vendors' proprietary information about the characteristics of the SNF within the casks, the design and technical specifications of the casks, and the inspection and maintenance requirements for those alternative NRC-certified systems. Holtec does not possess this information because Holtec is not the designer, owner, CoC holder, or vendor for the other NRC-certified systems. NAC has not provided Holtec with any NAC proprietary information related to our NRC approved storage or transportation cask systems which are in use by NAC's customers.

Statements made in Section 2.4.1 of the Holtec ER, as noted above which are inaccurate and misleading, at the very least should not be repeated by the NRC in its environmental impact statement for the subject HI-STORE CIS Facility license application. In fact, the NRC, as part of its sufficiency review of the related CIS Facility license application, should request that Holtec correct the statement, so as to limit the extent to which this inaccurate and misleading statement remains in the public domain.

Sincerely,



Wren Fowler  
Director, Licensing  
NAC International Inc.

Cc:

Mr. Marc Dapas, Director, Office of Nuclear Material Safety and Safeguards  
Mr. John McKirgan, Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management