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To: [FOIA Resource](#)
Subject: [External_Sender] FOIA Request Resubmission, Never received response from July Submission
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U.S. Nuclear Regulatory Commission
FOIA/Privacy Officer
Nuclear Regulatory Commission
Mailstop: T-5 F09
Washington, DC 20555-0001

Subject: FOIA Request for Records

Reference: (1) Holtec International Inc. Letter to NRC dated June 9, 2017, "List of License Amendments and New Applications for Planning Purposes," ADAMS ML17164A258

Dear Sir or Madam:

In Reference (1), Holtec International Inc. (Holtec) submitted to the Nuclear Regulatory Commission (NRC) an Attachment 1 entitled "List of current and anticipated licensing amendments and new applications," which it requested the NRC withhold in its entirety as proprietary information. Pursuant to the NRC's obligations under the Freedom of Information Act (FOIA) and the NRC's implementing regulations, Thomson Reuters respectfully requests that the NRC provide a copy of and make publicly available: **the publicly releasable portions of Attachment 1 to the Reference (1) letter.**

Thomson Reuters does not believe this information is subject to withholding from the public at least insofar as it relates to vendors other than Holtec itself. Reference (1), Attachment 2 contains an affidavit supporting that request. The affidavit states that the request for withholding is based on the "Freedom of Information Act ('FOIA'), 5 USC Sec. 552(b)(4) and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR Part 9.17(a)(4), 2.390(a)(4), and 2.390(b)(I) for 'trade secrets and commercial or financial information obtained from a person and privileged or confidential' (Exemption 4)." The affidavit further explains that the content of Attachment 1 is "'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." Reference (1), Attachment 2 at 1.

Thomson Reuters respectfully submits that, contrary to the assertions made in the affidavit set forth in Reference (1), the contents of Attachment 1 cannot be withheld in their entirety because Holtec has not maintained the information in confidence, similar information is in the public domain, and the contents do not meet the requirements for withholding under 10 CFR 2.390. By its own terms, for example, FOIA Exemption (4) only applies to information that has been maintained by the requester as confidential. See 10 CFR 2.390(a)(4). Information not held in confidence by the requester cannot be withheld. See, e.g., *Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), CLI-05-1, 61 NRC 160, 176-77 (2005) (explaining that even where certain submitted information might otherwise have qualified for confidential treatment, an applicant's own actions

and practice—such as putting information on its website or in newsletters—may render redaction inappropriate under FOIA Exemption 4).

Under the terms of the regulation and Commission precedent, FOIA Exemption 4 should not apply to Reference (1), Attachment 1, specifically including any information that concerns existing or planned Holtec licensing amendment applications that pertain to spent fuel storage canisters supplied by vendors other than Holtec. Holtec has widely made public statements indicating that it has applied or will apply to the NRC for licensing amendment requests or specific license approvals concerning its HI-STORM UMAX and HI-STORE Interim Storage Facility for the purpose of including other vendors' canisters in use at U.S. nuclear power plants. Below are just a few illustrative examples of such public statements disclosing Holtec's plans:

- Nuclear Energy Insider, "Holtec Builds on First-of-a-kind Learnings in Race to License US Storage Facility" (May 31, 2017), ^[1] reporting: "In a second phase, the company will file a series of license amendment requests to include all canisters currently in use at U.S. plants--supplied by Areva, Pacific Nuclear, Vectra, NAC, Sierra Nuclear and BNFL Solutions & Westinghouse."
- Holtec Press Release, "Licensing Campaign Launched to Expand Permissible Canister Types for HI-STORE CIS to Include the Entire Dry Storage Inventory in the US" (Apr. 20, 2017), ^[2] stating: "Through a series of license amendment requests, Holtec plans to expand HI-STORM CIS' authorized contents to include every canister supplied by the present and historical suppliers to US plants (viz., Areva, Pacific Nuclear, Vectra, NAC, Sierra Nuclear, BNFL Solutions & Westinghouse)." In the Press Release, Holtec further claimed: "We have demonstrated a clear and irrefutable safety analysis path to license third-party-supplied canisters for storage in HI-STORM UMAX using Areva's 24PT1-DSC as the first mover in the ongoing regulatory review. In the upcoming submittal, expected to occur by the year-end, we will apply the same principles of conservative reverse engineering to cover other third-party-supplied canisters."
- Holtec Letter to NRC, "Updated Schedule for Holtec Licensing of HI-STORE Interim Storage Facility" (Sept. 20, 2016) (ADAMS ML16265A492), stating: "[Holtec CISF/HI-STORE is a] universal storage system for all canisters presently licensed by the NRC and loaded at a US ISFSI."

Therefore, Thomson Reuters requests that Reference (1), Attachment 1 be disclosed in its entirety. Should Holtec be able to withhold certain select information in the document as proprietary under the requirements of 10 CFR 2.390, then Thomson Reuters requests that such specific information be selectively redacted and the remainder of Attachment 1 be provided and made publicly available.

Thomson Reuters agrees to pay all reasonable searching, reviewing, and copying costs associated with processing this request, pursuant to the NRC FOIA guide, up to \$1,000. If the NRC anticipates that costs will exceed this amount, we respectfully request that the NRC promptly contact us so that we can decide whether to pay a greater amount or further limit the requested information. Any

questions or comments concerning this request may be directed to the undersigned. If this request is denied in whole or in part, we ask that you identify each document that falls within the scope of this request but is withheld from release, and justify each denial by reference to specific FOIA exemptions. We also request that you release all segregable portions of otherwise exempt material.

Thomson Reuters looks forward to receiving your response to this FOIA request on an expedited basis, and in any event within twenty (20) business days of your receipt of this request, as required by FOIA, and as set forth in the NRC FOIA regulations at 10 C.F.R. § 9.25 and the FOIA guide (available at <http://www.nrc.gov/reading-rm/foia/freedom-info-act-guide.pdf>).

Respectfully submitted,

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[1] Available at <http://analysis.nuclearenergyinsider.com/holtec-builds-first-kind-learnings-race-license-us-storage-facility>.

[2] Available at <https://holtecinternational.com/2017/04/20/licensing-campaign-launched-to-expand-permissible-canister-types-for-hi-store-cis-to-include-the-entire-dry-storage-inventory-in-the-us/>.