

CASE NO: NRC-2018-000487  
DATE REC'D: 04/09/2018

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April 9, 2018

FOIA Officer  
Mail Stop T-2 F43  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
VIA: FOIAresource@nrc.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

On behalf of Sierra Club, and pursuant to the Freedom of Information Act (5 U.S.C. §§ 552 et seq.) and NRC FOIA regulations (10 C.F.R. Part 9), I am writing to request certain records related to an application to NRC by Holtec International for a license to build and operate a consolidated interim spent fuel storage facility in Lea County, New Mexico. In its March 30, 2017, application letter, Holtec referred to 22 attachments. Specifically, attachments 11-21 were identified as proprietary and have not been made available to the public.

Accordingly, pursuant to FOIA, Sierra Club requests that the documents described below in Section 1 be provided with no redactions. Sections 2 and 3 below request a waiver of search and copy fees and expedited consideration.

#### **1. REQUEST FOR DOCUMENTS**

Sierra Club requests the following documents:

A. The following attachments to the March 30, 2017, Holtec application letter:

- Attachment 11: HI-STORE Structural Calculation Package, HI-2177585R0
- Attachment 12: HI-STORM UMAX Structural Calculation Package, HI-2125228R9

- Attachment 13: Regulatory Guide 1.60 Time Histories Using EZ-FRISK, HI-2146083R2
- Attachment 14: HI-STORE Structural Calculations, Input/Output Files
- Attachment 15: HI-TRAC CS Thermal Analysis, HI-2177553R0
- Attachment 16: Thermal Analysis of HI-STORM UMAX and HI-STORE, HI-2177591R0
- Attachment 17: HI-STORE CTF Thermal Analysis, HI-2177597R0
- Attachment 18: HI-STORE Thermal Calculations, Input/Output Files
- Attachment 19: HI-STORE Site Boundary Dose Analysis, HI-2177599R0
- Attachment 20: HI-STORE Occupational Dose Analysis, HI-2177600R0
- Attachment 21: HI-STORE Shielding Calculations, Input/Output Files

B. Any documents that revise or update the attachments to the March 30, 2017, Holtec letter referred to above in Paragraph A.

As required by FOIA, responsive documents should be produced in their entirety if their content is non-exempt pursuant to FIOA. Also, as required by FOIA and 10 C.F.R. § 9.19, documents containing exempt information must be redacted to disclose all non-exempt material. NRC may withhold only those limited portions that are exempt from disclosure under FIOA.

If possible, please provide the requested documents in electronic (pdf) format on a rolling basis.

## **2. REQUEST FOR WAIVER OF FEES**

Pursuant to 10 C.F.R. § 9.41, Sierra Club requests that any searching and copying fees incurred as a result of this search be waived. Sierra Club satisfies the NRC's criteria in 10 C.F.R. § 9.41(b) for a fee waiver, as described in more detail below:

### (1) Purpose of request

Sierra Club seeks the requested information in order to properly evaluate the Safety Analysis Report and the Environmental Report submitted by Holtec for the proposed

CIS facility. The information will allow Sierra Club to form proper contentions in support of its petition to intervene in the licensing proceeding. In that regard, the information will promote Sierra Club's interest and the public interest in the safety and environmental protection pursuant to the Atomic Energy Act, the National Environmental Policy Act, and NRC regulations and procedures. Without this information, which Holtec has arbitrarily and unjustifiably labeled as proprietary, Sierra Club and members of the public are at a serious disadvantage in participating effectively in the licensing process.

The information requested pertains directly to the safety and risks of the structures of the proposed facility, the safety of the containers in which the radioactive waste will be stored and transported, and the risks of radioactive contamination to people and the environment.

Sierra Club will also make the information freely available to the public so that the public can be informed and participate in the licensing process.

(2) Extent to which Sierra Club will extract and analyze the substantive content of the records

Sierra Club has engaged an expert in issues regarding nuclear waste. The expert, Dr. Marvin Resnikoff, has been an expert in numerous NRC proceedings and has written numerous reports and articles in the field. Dr. Resnikoff will use the requested information to obtain Holtec's data, calculations and analysis of the safety of the storage and transportation of the radioactive waste to be stored at the proposed CIS. This information will be used to prepare contentions for intervention that will be detailed and with sufficient basis to be admissible.

At this point, the publicly available information in the documents Holtec has submitted is not sufficient to allow Dr. Resnikoff to support contentions that would be as complete and accurate as the NRC is entitled to.

(3) Nature of the specific activity or research in which the records will be used and Sierra Club's qualifications to utilize the information for the intended use in such a way that it will contribute to public understanding

As explained above, Sierra Club seeks the requested information in order to prepare contentions in support of intervention in the licensing proceeding for the Holtec CIS proposal. The information will also allow other entities to prepare contentions and to give the public a meaningful opportunity to participate in the licensing process.

(4) Likely impact on the public understanding of the subject as compared to the level of understanding of the subject prior to disclosure

The safety of the various aspects of the Holtec project which is analyzed and calculated in the requested documents will inform the public as to the actual facts regarding safety. The general statements in the safety analysis report and the environmental report submitted by Holtec do not adequately inform the public as to the real safety risks and risks to the environment.

(5) Size and nature of the public whose understanding a contribution will be made

Sierra Club has a national membership of over 700,000 people. The Rio Grande Chapter, which includes the state of New Mexico and the city of El Paso, Texas, has over 10,000 members. Both the national organization and the Rio Grande Chapter have websites and send out periodic communications to Sierra Club members and supporters.

(6) Means of distribution of the requested information

The Sierra Club will distribute this information to its members and supporter through its website and regular communications. The information will also be set out in the contentions submitted in support of the Sierra Club's intervention in the Holtec proceedings. Those contentions will be available to the public through the NRC's public documents.

(7) Whether free access to information will be provided

Sierra Club will provide the information without charge to all members of the public. The information will be available electronically, through the Sierra Clubs website and regular communications, and in printed material, if requested.

(8) No commercial interest by Sierra Club or any other party

Sierra Club is a nonprofit organization and therefore has no commercial interest in obtaining the requested information. The sole interest of Sierra Club is to promote the public interest in enforcing the NRC requirements for protecting people and the environment.

**3. REQUEST FOR EXPEDITED CONSIDERATION**

Pursuant to 10 C.F.R. § 9.25(e), Sierra Club requests expedited consideration of this FIOA request, because there is a compelling need for prompt disclosure of the requested information. According to NRC officials, the Federal Register notice starting the 60-day time period for intervention in the Holtec licensing proceeding is imminent. The information requested is necessary and essential in order for Sierra Club to intervene and properly support its contentions.

In making this request for expedited consideration, Sierra Club notes that the NRC's blanket withholding of such significant portions of a license application is not only unprecedented, but inconsistent with NRC's professed commitment to provide as much disclosure of Holtec's licensing documents as possible.

This FIOA request is particularly urgent because NRC imposes strict deadlines for submitting intervention requests and also strict requirements on presenting sufficient information to support contentions. Sierra Club's expert needs the information in order to prepare a well-documented declaration supporting Sierra Club's contentions.

In addition, NRC has given official notice that the public has only until May 30, 2018, to submit comments concerning the scope of the environmental impact statement that NRC must prepare. The information requested will be helpful to the public in preparing those scoping comments.

Thank you for your prompt attention to this request. We look forward to receiving your response as quickly as possible on an expedited basis, and at the very latest within 10 working days, given the short time period for filing a petition to intervene. If you have any questions,

please contact the undersigned, Wallace Taylor, at 319-366-2428 or at wtaylorlaw@aol.com.

Very truly yours,



Wallace L. Taylor

**CERTIFICATION OF COMPELLING NEED FOR EXPEDITED PROCESSING**

I, Wallace L. Taylor, certify that the statements in this letter regarding the timing of the Holtec licensing proceeding and the need of Sierra Club and other organizations and individuals for a reasonable time to review the documents sought in this FOIA request in order to participate meaningfully in the proceeding are true and correct to the best of my knowledge. In my judgment, these circumstances establish a compelling need for immediate disclosure of the requested information.

April 9, 2018.



WALLACE L. TAYLOR  
Attorney for Sierra Club