

August 24, 2015

Mr. Mark Lombard
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: **Holtec International Letter to NRC dated August 3, 2015 (Stefan Anton to Mark Lombard), "Notice of Intent to License the ELEA Interim Storage facility and Request to Establish a New Part 72 Docket" (ADAMS ML15215A592)**

Dear Director Lombard:

I am writing with respect to the subject letter ("Letter"), which could be misconstrued by existing Part 72 license holders, future applicants and the general public. As such, I would like to provide a Part 72 process comment and then address a more significant concern regarding the Letter's announcement of future plans and intentions.

First, as a process comment, the Letter requests NRC to "open a Part 72 docket to serve as the repository of information on our planned licensing interactions with SFST...." The request is premature and is not in accordance with NRC's 10 CFR Part 72 regulations. Under 10 CFR 72.16(e), "upon receipt of an application for a license or license amendment under this part...." the NRC "will assign a docket number to the application...." (emphasis supplied). Since there is no application for a Part 72 specific license at this time, the Letter's request does not merit a NRC notice of docketing. Until an application for a license or license amendment is submitted, none of the prerequisites of 10 CFR 72.16(e) are present for the NRC to "assign a docket number to the application" or to "cause a notice of docketing to be published in the Federal Register". Presumably, NRC's assigning of a "TAC" number would be consistent with existing practice.

Second, the following statement on page 2 of the Letter is of substantial concern to NAC and likely other Part 72 vendors and applicants, particularly given the widespread propagation by Holtec of the following assertion, if it were indeed a correct assertion (which is speculative, as explained below):

"Additionally, we will expand the HI-STORM UMAX contents to include all Holtec canisters, and all canisters from shutdown plants and near term shutdown plants (Connecticut Yankee, Humboldt Bay, Kewaunee, La Crosse, Maine Yankee, Millstone Unit 1, Oyster Creek, Rancho Seco, Trojan, Yankee Rowe, Zion)."

To begin with, the declaration that "we will expand..." is a business notion. A proposed cask design remains subject to the Part 72 licensing framework. Also, the statement is unnecessary with respect to the Letter's primary request for the NRC to open a new Part 72 docket without a licensing application. Because of the regulatory nature of this formal request to the NRC (i.e., to open a docket pursuant to Part 72), such a statement should be complete and accurate (assuming it would be considered material). For the following reasons, the premise of the statement seems speculative.

- The shutdown plants listed above include several non-Holtec customers and facilities using the Part 72 technology of the other vendors, including NAC's. These vendors retain sole and exclusive ownership of their cask technology. For example, NAC is the Certificate of Compliance ("CoC")

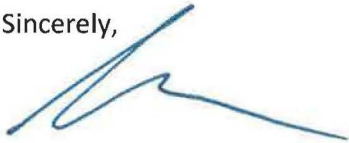
holder of record for the Part 72 dry cask storage systems in use by NAC's customers reflected in the above-quoted statement, including, Connecticut Yankee, Kewaunee, La Crosse, Maine Yankee, Yankee Rowe and Zion.

- Contrary to the suggested "expansion" of the HI-STORM UMAX contents, Holtec has no access to NAC's or, presumably, the other vendors' proprietary cask technology for any purpose and no current path for unilaterally obtaining it. The Letter seems to suggest that NAC's and other third-party proprietary cask technology will be made available for use by Holtec as part of its future business activities. Even if it were reasonable to contemplate such an event, this would require unprecedented private commercial transactions at a minimum.

It is speculative to suppose that Holtec will be able to accomplish its predicted "expansion" without access to the cask technology of the CoC holders and vendors of non-Holtec canisters. Moreover, there is no U.S. government regulatory authority or process framework by which this could take place or be compelled to take place. Please be advised that NAC has no contractual obligation or intent to furnish any access of any form to its proprietary cask technology to Holtec (nor would any of NAC's customers be free to do so without NAC's express written consent).

I hope the above is useful with respect to the subject Letter. Please contact me if you have any questions regarding the above NAC comments.

Sincerely,



George C. Carver
Vice President, Engineering and Licensing
NAC International Inc.

cc:

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