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| In the Matter of |) | |
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| |) | Docket No. 72-1051 |
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| HOLTEC INTERNATIONAL |) | |
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| (Consolidated Interim Storage Facility) |) | |
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On July 16, 2018, the NRC provided notice in the *Federal Register* of Holtec International's (Holtec) license application to construct and operate a Consolidated Interim Storage Facility (CISF) in Lea County, New Mexico.¹ The *Federal Register* notice set a deadline of September 14, 2018, for members of the public to file a request for a hearing and petition for leave to intervene on Holtec's application. The *Federal Register* notice also provided instructions for potential parties who believe they may require access to certain non-public information, including sensitive unclassified non-safeguards information (SUNSI), on how to request access to such information.²

On July 19, 2018, Mr. Terry J. Lodge, on behalf of a number of organizations (Consolidated Requesters), submitted a request addressed to the Commission and members of the NRC staff requesting (1) a 90-day extension of the deadline for members of the public to submit comments on the environmental scoping process for the Holtec CISF license application;³ and (2) a suspension of the deadline announced in the July 16, 2018, *Federal*

² *Id.* at 32,922-24.

³ On March 30, 2018, the NRC staff published a notice in the *Federal Register* announcing its intent to prepare an environmental impact statement in connection with the Holtec CISO application, and providing members of the public until May 29, 2018, to submit comments on the scope of the NRC staff's environmental review. *Holtec International HI-STORE*

Register notice by which members of the public must submit a request for a hearing and petition for leave to intervene (Request).⁴ Holtec has filed a response opposing the Request.⁵

In the Request, the Consolidated Requesters state that approximately 25% of the Environmental Report prepared by Holtec as part of its license application is currently not publicly available and that this redacted information may aid in the formulation of contentions in support of an intervention petition.⁶ To that end, the Request states that one of the Consolidated Requesters—Don't Waste Michigan (DWM)—filed a request under the Freedom of Information Act (FOIA) on July 5, 2018, seeking this redacted information.⁷ The Consolidated Requesters thus assert that present circumstances “compel the delay of commencement of the intervention petition filing period until after interested parties have attained relief under FOIA.”⁸

The Request is denied. The Consolidated Requesters have based their Request on the lack of access to certain non-public portions of Holtec's Environmental Report, which at the time of the Request were the subject of a pending FOIA request. However, as stated above, the *Federal Register* notice announcing the opportunity to file a request for a hearing in this proceeding provides detailed procedures that allow potential parties to request access to non-public information they believe is necessary to meaningfully participate in the proceeding,

Consolidated Interim Storage Facility Project, 83 Fed. Reg. 13,802 (Mar. 30, 2018). This public comment period was later extended to July 30, 2018. See 83 Fed. Reg. 22,714 (May 16, 2018). The NRC staff has separately responded to this request, stating that it is not planning to further extend the scoping comment period. *LTR-18-0296 Letter to T. Lodge re: Request for an Extension of the Environmental Scoping Period and Suspension of the Notice of Opportunity to Request a Hearing and to Petition for Leave to Intervene for Holtec International's Proposed Consolidated Interim Spent Fuel Storage Facility License in Lea County, New Mexico* (July 30, 2018) (ADAMS Accession No. ML18211A182).

⁴ *Request for Additional 90-day Extension of Scoping Period* (July 19, 2018) (ML18208A465). The Request was resubmitted through the NRC's Electronic Information Exchange (EIE) on July 27, 2018.

⁵ *Holtec Response to Intervenor's Group Letter* (July 30, 2018) (ML18211A653).

⁶ Request at 2-3.

⁷ *Id.* at 3.

⁸ *Id.* at 4.

including SUNSI.

Regardless of the resolution of DWM's FOIA request, any of the Consolidated Requesters intending to participate as parties in this proceeding may, separate from the NRC's FOIA process, file a request in accordance with the procedures included in the *Federal Register* notice for access to SUNSI. Unlike a FOIA request, these procedures afford certain rights to potential parties, such as a 25-day deadline to submit contentions based upon information received if access is granted, or the right to challenge an adverse access determination before a presiding officer or administrative judge.⁹ Although these procedures also state that requests submitted later than 10 days after publication of the *Federal Register* notice will not be considered absent a showing of good cause for the late filing—a deadline which has passed—I will, pursuant to my authority under 10 C.F.R. § 2.307(c), consider any such requests filed within 10 days of the issuance of this order. The Consolidated Requesters are reminded that, pursuant to these procedures, a request for access to SUNSI must include specific information to allow the NRC to sufficiently determine that the potential party is likely to establish standing to participate in the proceeding and has established a legitimate need for access.¹⁰

⁹ 83 Fed. Reg. at 32,923.

¹⁰ *Id.*

Accordingly, pursuant to my authority under 10 C.F.R. § 2.346(b), I deny the request to delay or suspend the September 14, 2018, deadline for members of the public to submit a request for a hearing and petition for leave to intervene in this proceeding.¹¹

IT IS SO ORDERED.

For the Commission

NRC SEAL

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 20th day of August, 2018

¹¹ The Consolidated Requesters also cite recent unavailability or technical difficulties with Regulations.gov and ADAMS in their request, though these are predominantly in the context of their separate request to extend the deadline for members of the public to submit comments in the environmental scoping process. Request at 2, 3. As stated above, *infra* n.3, the NRC staff has separately responded to this request. To the extent these technical difficulties overlap with their request to delay or suspend the deadline for submission of hearing requests, these circumstances similarly do not warrant a delay or suspension of that deadline which, at the time of the request, remained 57 days away.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER OF THE SECRETARY** have been served upon the following persons by Electronic Information Exchange (EIE).

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[Original signed by Brian Newell]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 20th day of August, 2018