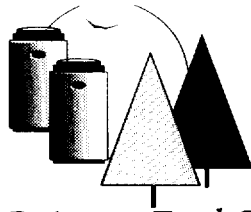


72-22



Private Fuel Storage, L.L.C.

P.O. Box C4010, La Crosse, WI 54602-4010

Phone 303-741-7009 Fax: 303-741-7806

John L. Donnell, P.E., Project Director

February 11, 1999

Mr. Mark Delligatti  
Spent Fuel Project Office  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

**SUBMITTAL OF RAI PROPRIETARY CALCULATION  
PRIVATE FUEL STORAGE FACILITY  
DOCKET NO. 72-22 / TAC NO. L22462  
PRIVATE FUEL STORAGE L.L.C.**

References: 1) PFSLLC Letter, Parkyn to Director, Office of Material Safety and Safeguards,  
Responses to Request for Additional Information, dated February 10, 1999

Please find enclosed 1 original and 5 copies of the Holtec International proprietary calculation  
HI-992134 that provides supporting details to the response to safety RAI #2, SAR 4-2 (Ref. 1).

If you have any questions regarding this response, please contact me at 303-741-7009.

Sincerely,

John L. Donnell  
Project Director  
Private Fuel Storage L.L.C.

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Mr. Mark Delligatti  
Page 2  
February 11, 1999

Copy to: Mr. Asadul H. Chowdhury - CNWRA  
Mr. Murray C. Wade - Oak Ridge National Laboratory  
Ms. Denise Chancellor, Esq. - State of Utah  
Mr. Jay Silberg, Esq. - Shaw, Pittman, Potts & Trowbridge  
Mr. John Donnell - Private Fuel Storage  
Mr. John Parkyn - Private Fuel Storage  
Mr. Scott Northard - Private Fuel Storage  
Brian Gutherman - Holtec International (w/o attachment)

**AFFIDAVIT PURSUANT TO 10CFR2.790**

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I, Alan I. Soler, being duly sworn, depose and state as follows:

- (1) I am Executive Vice President of Holtec International and have reviewed the information described in paragraph (2) which is sought to be withheld, and am authorized to apply for its withholding.
- (2) The information sought to be withheld is the following document: Holtec International Report HI-992134, "HI-STORM Thermal Analysis for PFS RAI", Revision 0. This document is considered proprietary to Holtec International.
- (3) In making this application for withholding of proprietary information of which it is the owner, Holtec International relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4) and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10CFR Part 9.17(a)(4), 2.790(a)(4), and 2.790(b)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "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 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (4) Some examples of categories of information which fit into the definition of proprietary information are:
  - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by Holtec's competitors without license from Holtec International constitutes a competitive economic advantage over other companies;
  - b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.

AFFIDAVIT PURSUANT TO 10CFR2.790

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- c. Information which reveals cost or price information, production, capacities, budget levels, or commercial strategies of Holtec International, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future Holtec International customer-funded development plans and programs of potential commercial value to Holtec International;
- e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs 4.a, 4.b, 4.d, and 4.e, above.

- (5) The information sought to be withheld is being submitted to the NRC in confidence. The information (including that compiled from many sources) is of a sort customarily held in confidence by Holtec International, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by Holtec International. No public disclosure has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within Holtec International is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function

## AFFIDAVIT PURSUANT TO 10CFR2.790

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(or his designee), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside Holtec International are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.

- (8) The information classified as proprietary was developed and compiled by Holtec International at a significant cost to Holtec International. This information is classified as proprietary because it contains detailed descriptions of analytical approaches and methodologies not available elsewhere. This information would provide other parties, including competitors, with information from Holtec International's technical database and the results of evaluations performed by Holtec International. Release of this information would improve a competitor's position without the competitor having to expend similar resources for the development of the database. A substantial effort has been expended by Holtec International to develop this information.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to Holtec International's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of Holtec International's comprehensive spent fuel storage technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology, and includes development of the expertise to determine and apply the appropriate evaluation process.

The research, development, engineering, and analytical costs comprise a substantial investment of time and money by Holtec International.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

Holtec International's competitive advantage will be lost if its competitors are able to use the results of the Holtec International experience to normalize or verify their own process or if they are able to claim an equivalent understanding

AFFIDAVIT PURSUANT TO 10CFR2.790

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by demonstrating that they can arrive at the same or similar conclusions.

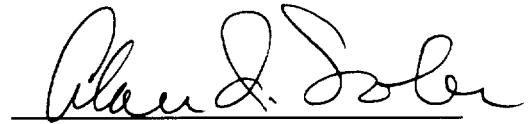
The value of this information to Holtec International would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive Holtec International of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.

STATE OF NEW JERSEY     )  
  )  
  )     ss:  
COUNTY OF BURLINGTON )

Dr. Alan I. Soler, being duly sworn, deposes and says:


That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at Marlton, New Jersey, this 9th day of February, 1999.



Dr. Alan I. Soler  
Holtec International

Subscribed and sworn before me this 9<sup>th</sup> day of February, 1999.



MARIA G. PEPE  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires April 25, 2000