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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

October 2, 2001

By Electronic Filing and U.S. Mail

Emile L. Julian
Assistant for Rulemakings and Adjudications
Rulemakings and Adjudications Staff
Office of the Secretary of the Commission
U. S. Nuclear Regulatory Commission
11555 Rockville Pike, One White Flint North
Rockville, MD 20852-2738
Attn: Docketing & Services Branch

Re: Private Fuel Storage – Docket No. 72-22 – ASLBP No. 97-732-02

To the Secretary of the Commission:

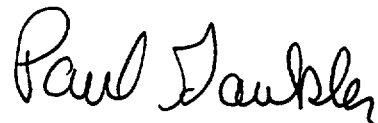
On August 23, 2001, the State of Utah filed "State Of Utah's Second Request To Modify The Bases Of Late-Filed Contention Utah QQ In Response To More Revised Calculations From The Applicant." Attached to the filing were two documents designated by the State as Exhibits 3 and 5. Exhibit 3 is a Recommended Bidders List produced by Stone and Webster Engineering Corporation ("SWEC"), evaluating potential bidders for laboratory testing of soil-cement mixes. Exhibit 5 is a letter, dated November 15, 2000, from SWEC's Assistant Project Manager, to Private Fuel Storage ("PFS") Board Chairman regarding changes in SWEC's scope of work on the PFS project. Pursuant to the existing confidentiality agreement among parties, those exhibits were filed as proprietary by the State, pending a determination by PFS whether the documents were confidential.

Today, PFS is submitting the "Declaration of Jerry Cooper Pursuant to 10 CFR § 2.790," requesting that Exhibit 3 be withheld from public disclosure as confidential information under 10 CFR § 2.790. The copy of Exhibit 5 filed by the State was a redacted copy that had all confidential information removed from the document. Accordingly, PFS is not requesting that Exhibit 5 be withheld from the public. Enclosed is a copy of Exhibit 5, as filed by the State, with the "PFS Confidential Information" insignia removed (copies of which are also being served on the Board and on the parties to the PFS licensing proceeding). The Commission may make the enclosed copy of Exhibit 5 available to the public.

Emile L. Julian
October 2, 2001
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If you have any questions, please contact me at (202) 663-8429.

Sincerely,

A handwritten signature in black ink that reads "Paul Gaukler". The signature is written in a cursive, slightly slanted style.

Paul A. Gaukler

cc: G. Paul Bollwerk III, Esq.
Dr. Jerry R. Kline
Dr. Peter S. Lam
Sherwin Turk, Esq.
Denise Chancellor, Esq.
Office of Appellate Adjudication
Adjudicatory File, Atomic Safety and Licensing Board Panel
Diane Curran, Esq.
David W. Tufts, Esq.
Tim Vollmann, Esq.
Joro Walker, Esq.
Paul EchoHawk, Esq.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
PRIVATE FUEL STORAGE L.L.C.)	Docket No. 72-22
)	
(Private Fuel Storage Facility))	

**DECLARATION OF JERRY L. COOPER
PURSUANT TO 10 C.F.R. § 2.790**

Jerry L. Cooper, being duly sworn, states as follows under penalties of perjury:

1. I am the Assistant Project Manager and Project Engineer with Stone & Webster, Inc. ("Stone & Webster") for the Private Fuel Storage Facility ("PFSF"). Stone and Webster is the Architect-Engineer for the PFSF. In those capacities, I am responsible for review and final approval of subcontracting documents such as Engineering Service Scopes of Work, Specifications, and Recommended Bidders Lists. I am providing this declaration to identify the reasons why certain Stone & Webster confidential information associated with the above captioned proceeding should be maintained as confidential information by the Nuclear Regulatory Commission pursuant to 10 C.F.R. § 2.790.

2. Private Fuel Storage, L.L.C. ("PFS"), has applied for a license from the Nuclear Regulatory Commission permitting it to receive, transfer and possess power reactor spent nuclear fuel for temporary storage at the PFSF. On August 23, 2001 the State of Utah filed in the licensing proceeding for the PFSF its "Second Request to Modify the Bases of Late-Filed Contention QQ in Response to More Revised Calculations from the Applicant" ("Second Request"). The State filed as Exhibit 3 to its Second Request a Stone & Webster document made available to the State in discovery in the licensing proceeding for the PFSF. The document is a "Recommended Bidders List"

generated internally by Stone & Webster for the “Laboratory Testing of Soil-Cement Mixes” to be procured by Stone & Webster for the PFSF project. Included in this document is sensitive proprietary commercial information that could cause harm to Stone and Webster if made publicly available. Accordingly, Stone & Webster requests the NRC to withhold this sensitive information, developed and owned by Stone and Webster, from public disclosure pursuant to 10 CFR 2.790 of its regulations. This declaration supplies the reasons why this information should be withheld from public disclosure as required by the regulation.

3. I am familiar with the sensitive commercial and financial information contained in Exhibit 3. I am authorized to speak to Stone & Webster’s practice of maintaining such information proprietary and the harm that would befall Stone & Webster if it were publicly disclosed.

4. Exhibit 3 is a recommended bidders list. Stone & Webster holds such lists as “Company Confidential” information and they are not to be made available to anyone other than the client and Stone & Webster personnel having a legitimate need for such information. A recommended bidders list reflects Stone & Webster’s identification of potential bidders for a particular job as well as its review of a potential bidder’s technical and commercial capabilities. For example, a bidder’s quality assurance program may be evaluated by Stone & Webster’s Quality Assurance Department based on previous experience, audits or other available information. Likewise, project procurement, construction management, and other specialists at Stone & Webster may evaluate the technical and commercial qualifications of potential bidders, which would be reflected on the recommended bidders list.

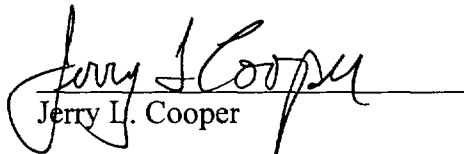
5. Exhibit 3 contains such sensitive proprietary information, such as the identification of potential bidders and information regarding past Quality Assurance audits of potential bidders. This is information of the type customarily held in confidence by Stone & Webster, and this information is so held. Stone & Webster does not disclose this type of information to the public and it is not available from public sources.

6. The reason for not disclosing this type of information is that the information is commercially sensitive to the conduct of Stone & Webster's business and its disclosure could cause Stone & Webster competitive harm. Recommended bidder lists represent Stone & Webster's identification and evaluation of potential bidders based on previous experience or audits or other relevant information assembled and evaluated by Stone & Webster. If recommended bidder lists became available to Stone & Webster competitors, those parties would learn sensitive commercial information regarding Stone & Webster's identification and evaluation of, and experience with, various bidders. This information could be used to Stone & Webster's competitive disadvantage by competitors in identifying and selecting contractors based on Stone & Webster's prior identification and evaluation of those contractors. Further, the information may be commercially damaging to the relationships between Stone & Webster and listed bidders. For example, public release of Stone & Webster's commercial, technical and quality assurance evaluations of potential bidders may result in commercial disadvantage to Stone & Webster in current and future commercial negotiations with listed bidders.

7. Accordingly, Exhibit 3 to the State's Second Request should be held in confidence by the Commission under the provisions of 10 C.F.R. § 2.790 and withheld from public disclosure.

I declare under penalties of perjury that the foregoing is true and correct.

Executed on September 18, 2001.


Jerry I. Cooper

Mr. John Parkyn
Board Chairman
Private Fuel Storage L. L. C.
P. O. Box C4010
La Crosse, WI 54602-4010

November 15, 2000

SWEC J.O. No. 05996.02
Letter No. S-M-125
File No. M2.2

Change Order #96: Step 4 Base Scope Additions – Revision 1
Private Fuel Storage Facility
Private Fuel Storage L.L.C.

Reference: Stone and Webster letter. Cooper to Parkyn, "Change Order #96: Step 4 Base Scope Additions." dated September 26, 2000

The purpose of this letter is to provide additional clarification for the step 4 base scope additions requested in the above referenced letter. The requested scope additions have been divided into three categories corresponding to the reason for the design change. The three categories are:

1. NRC directed
2. PFS directed
3. Vendor design information

The step 4 base scope additions that were precipitated by categories 1, 2, and 3 are listed below along with a more detailed explanation for the requested change. Other base scope additions originally contained in the above referenced letter which were necessary to expedite the NRC review process will be submitted in a separate change order for approval.

A summary of the changes required to the base scope of work for each engineering discipline is provided below along with the reason for each:

CIVIL

NRC Directed: The NRC would not permit the use of cohesion between the underlying soil and the bottoms of the cask storage pads to resist the sliding forces due to the design ground motion, unless PFS modified the pad design to incorporate structural keys at the bottoms of the pads. The addition of such keys to the bottoms of the pads was precluded, because they would adversely impact the target hardness of the pad foundation in Holtec's cask tipover analyses.

PFS-46254

Stone & Webster, Inc.
7677 East Berry Avenue
Englewood, Colorado 80111-2137
Phone: 303.741.7700
Fax: 303.741.7670 or 303.741.7671

Mr. John Parkyn

November 15, 2000

Any changes in the Holtec analyses may have resulted in lengthy licensing delays. In order to compensate for the lack of cohesion and to demonstrate an adequate safety margin to prevent sliding, soil cement was added to the design. Soil cement was not contemplated nor included in the preliminary facility design. General site civil and foundation drawings need to be revised/updated and a new drawing generated to show the soil-cement layer. Cut & fill calculations need to be reworked. Soil samples need to be obtained from the site, laboratory testing requirements for soil cement developed, laboratory test results reviewed and the soil cement mix designed. Specifications for the construction contractor for placement and testing of the soil cement need to be prepared.

THE REMAINDER OF PAGE 2 AND PAGES

3 AND 4 ARE NOT INCLUDED.

Mr. John Parkyn

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November 15, 2000

If you have any questions or comments, or would like to discuss this proposal further, please call me at 303-741-7139.



Jerry L. Cooper
Asst. Project Manager