

November 3, 1998

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Mail Station P1-137  
Washington, D. C. 20555

ULNRC-03914  
TAC NO. MA1113



Gentlemen:

**DOCKET NUMBER 50-483  
CALLAWAY PLANT**

**RESPONSE TO NRC DISCUSSION ITEMS (October 1998 MEETINGS)  
CALLAWAY SPENT FUEL POOL RERACK**

- Reference:
1. ULNRC-3742, dated February 24, 1998
  2. ULNRC-3837, dated May 27, 1998
  3. ULNRC-3850, dated June 25, 1998
  4. ULNRC-3887, dated August 25, 1998
  5. ULNRC-3893, dated September 3, 1998
  6. NRC Meeting Announcement Letter, dated September 29, 1998, from K. M. Thomas

Reference 1 provided the original submittal of an amendment request to revise the Callaway technical specifications to support modification to increase the spent fuel storage capacity at the Callaway Plant. References 2 through 5 provided additional information. Reference 6 transmitted a meeting announcement for meetings held on October 14 and 15, 1998, between the NRC, Wolf Creek, AmerenUE, and Holtec, to cover 38 discussion items concerning the spent fuel pool rerack amendment requests.

Verbal responses were provided for all topics discussed. NRC acknowledged that sufficient information was provided for 32 of the 38 items, however, additional written information is required to be submitted to the NRC in response to six of the 38 items. These include discussion items 9, 13, 26, 27, 29, and 30. Subsequent to the meeting, Callaway has documented that the verbal response to each of the topic items was accurate for Callaway Plant. This letter provides the notification that the information has been confirmed to be accurate.

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Change: NRC PDR

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APPD1

The responses to the remaining six items are being provided as the Enclosure to this letter. These responses include material that is considered proprietary pursuant to 10CFR2.790. In this regard AmerenUE requests that the Enclosure be withheld from public viewing.

As an additional result of the above referenced meeting and discussions with the NRC, AmerenUE will incorporate into the proposed spent fuel pool rereack amendment request, the specific response to the NRC request for additional information (Question 1) as responded to the NRC in Reference 5. Current Technical Specification, Section 5.3.1, includes the words "or by vacancies" that could allow fuel assemblies with vacancies to be loaded or re-loaded into the reactor core. After further consideration, there are no situations identifiable where this would be required, and these specific words will be removed from Specification 5.3.1. This additional change does not affect or change the conclusions of the no significant hazards consideration provided in Reference 1. This change has been reviewed and approved by the Callaway Onsite Review Committee. By deleting these words, the CTS and the ITS submittal are now consistent with the Westinghouse Standard Technical Specifications and NRC Generic Letter 90-02, Supplement 1.

If there are questions on the Enclosure or Attachments, or if additional information is required, please contact us.

Very truly yours,



Alan C. Passwater  
Manager, Corporate Nuclear Services

DJW/

- Enclosures: 1) Affidavit  
2) Additional Information Requested for the Topics Discussed  
During the October 14 and 15, 1998 Meeting
- Attachments: 1) Marked-up Current Technical Specification 5.3.1  
2) Marked-up Improved Technical Specification 4.2.1

STATE OF MISSOURI )  
                                  )  
CALLAWAY COUNTY)

SS

Alan C. Passwater, of lawful age, being first duly sworn upon oath says that he is Manager, Corporate Nuclear Services for Union Electric Company; that he has read the foregoing document and knows the content thereof; that he has executed the same for and on behalf of said company with full power and authority to do so; and that the facts therein stated are true and correct to the best of his knowledge, information and belief.

By *Alan C. Passwater*  
Alan C. Passwater  
Manager, Corporate Nuclear Services

SUBSCRIBED and sworn to before me this 3rd day  
of November, 1998.

*Audrey A. Ternes*

AUDREY A. TERNES  
NOTARY PUBLIC  
STATE OF MISSOURI-CALLAWAY COUNTY  
NOTARY SEAL  
MY COMMISSION EXPIRES OCTOBER 22, 2000

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E210.01

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A140.01.02 (1196)

**AFFIDAVIT PURSUANT TO 10CFR2.790**

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I, Scott H. Pellet, being duly sworn, depose and state as follows:

- (1) I am the Project Manager for Holtec International and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in the document entitled "ADDITIONAL INFORMATION REQUESTED FOR THE TOPICS DISCUSSED DURING THE OCTOBER 14 AND 15 MEETING." The proprietary material in this document is delineated by proprietary designation on specific pages or by shaded text identified as being proprietary.
- (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;

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- 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.
- 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.

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- (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 (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 historical data and analytical results 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 using codes developed 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.



AFFIDAVIT PURSUANT TO 10CFR2.790

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

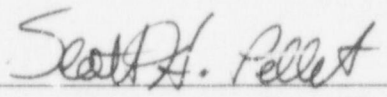
The value of this information to Holtec International would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, 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    )

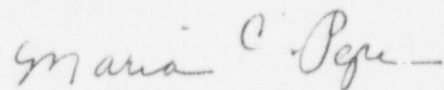
Scott H. Pellet, being duly sworn, deposes and says:

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 30th day of October 1998.

  
\_\_\_\_\_  
Scott H. Pellet  
Holtec International

Subscribed and sworn before me this 30 day of October, 1998.



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