

September 25, 2001 (11:48AM)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	Docket No. 72-22-ISFSI
PRIVATE FUEL STORAGE, LLC)	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel)	
Storage Installation))	September 18, 2001

**STATE OF UTAH'S TWELFTH SET OF DISCOVERY REQUESTS
DIRECTED TO THE NRC STAFF**

Pursuant to the Board's Orders dated April 22, 1998 (LBP-98-7), June 29, 1998, August 20, 1998, and September 17, 2001 and accompanying revised schedule, and 10 CFR §§ 2.720, 2.740, 2.742, and 2.744, Intervenor State of Utah, hereby requests that the Staff of the Nuclear Regulatory Commission ("Staff") answer the following Requests for Admissions separately, fully, in writing, and under oath within 10 days and Requests for Documents within 15 days after service of this discovery request. All of these Requests for Admissions and Interrogatories are necessary to a proper decision in this proceeding for Contention Utah L, Part B.

As required by 10 CFR § 2.744(a), this discovery request is being served on the NRC Executive Director for Operations.

I. INSTRUCTIONS

A. Scope of Discovery. These interrogatories and requests for admissions are directed to NRC Staff and any of the Staff's contractors or agents (collectively "NRC" or "Staff"). The interrogatories cover all information in the possession, custody and control of

NRC Staff, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by NRC Staff, or anyone else acting on their behalf or otherwise subject to NRC Staff's control.

B. Supplemental Responses. Each of the following requests is a continuing one pursuant to 10 CFR § 2.740(e) and the State hereby demands that, in the event that at any later date NRC Staff obtains or discovers any additional information which is responsive to these interrogatories and request for admissions, NRC Staff shall supplement its responses to this request promptly and sufficiently in advance of the adjudicatory hearing.

Such supplementation shall include, but not be limited to:

1. The identity and location of persons having knowledge of discoverable matters;
2. The identity of each person expected to be called as an expert witness at any hearing, the subject matter on which she/he is expected to testify, and the substance of her/his testimony; and
3. New information which makes any response hereto incorrect.

C. Objections. If you object to or refuse to answer any interrogatory under a claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, privilege, immunity or other reason, the person on whose behalf the objection, privilege, immunity, or other reason is asserted, and describe the factual basis for asserting the objection, privilege, immunity, or other reason in sufficient detail so as to permit the administrative judges in this matter to ascertain the validity of such assertion.

II. DEFINITIONS

Each of the following definitions, unless otherwise indicated, applies to and shall be a part of each interrogatory and request for admission which follows:

A. "NRC," "Staff," "you" and "your" refers to the officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by the Staff of the U.S. Nuclear Regulatory Commission, or anyone else acting on its behalf or otherwise subject to the Staff's control.

B. "PFS," or "Applicant," refers to Private Fuel Storage, LLC and the PFS members and their officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on their behalf or otherwise subject to their control.

C. The term "documents" means the originals as well as copies of all written, printed, typed, recorded, graphic, photographic, and sound reproduction matter however produced or reproduced and wherever located, over which you have custody or control or over which you have the ultimate right to custody or control. By way of illustration, but not limited thereto, said term includes: records, correspondence, diaries, notes, interoffice and intraoffice communications, minutes of meetings, instructions, reports, demands, memoranda, data, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, charts, spreadsheets, working papers, computer tapes, computer printout sheets, information stored in computers or other data storage or processing equipment, electronic mail, microfilm, microfiche, corporate minutes, blueprints, drawings, contracts and any other agreements, rough drafts, and all

other writings and papers similar to any of the foregoing, however designated by you. If the document has been prepared and several copies or additional copies have been made that are not identical (or are no longer identical by reason of the subsequent addition of notations or other modifications), each non-identical copy is to be construed as a separate document.

D. "All documents referring or relating to" means all documents that in whole or in part constitute, contain, embody, reflect, identify, state, interpret, discuss, describe, explain, apply to, deal with, evidence, or are in any way pertinent to a given subject.

E. The words "describe" or "identify" shall have the following meanings:

1. In connection with a person, the words "describe" or "identify" mean to state the name, last known home and business address, last known home and business telephone number, and last known place of employment and job title;
2. In connection with a document, the words "describe" or "identify" mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the date, title, caption, or other style by which the document is headed, the name of each person and entity which is a signatory to the document, the date on which the document was prepared, signed, and/or executed, any relevant bates numbers on the document, the person or persons having possession and/or copies thereof, the person or persons to whom the document was sent, all persons who reviewed the document, the substance and nature of the document, the present custodian of the document, and any other information necessary to adequately identify the document;

3. In connection with an entity other than a natural person (e.g., corporation, partnership, limited partnership, association, institution, etc.), the words “describe” or “identify” mean to state the full name, address and telephone number of the principal place of business of such entity.

4. In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identify of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identity of any document recording or documenting such activity, occurrence, or communication.

F. “Date” shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

G. “ISFSI” shall mean the PFS proposed Independent Spent Fuel Storage Installation located in the northwest corner of the Skull Valley Goshute Indian reservation, Utah.

H. The word “discussion” shall mean communication of any kind, including but not limited to, any spoken, written, or signed form of communication.

I. The word “person” shall include any individual, association, corporation, partnership, joint venture, or any other business or legal entity.

J. Words herein of any gender include all other genders, and the singular form of words encompasses the plural.

K. The words “and” and “or” include the conjunctive “and” as well as the disjunctive “or” and the words “and/or.”

L. The discovery sought by this request encompasses material contained in, or which might be derived or ascertained from, the personal files of NRC Staff employees, representatives, investigators, and agents.

III. DISCOVERY REQUESTS

CONTENTION UTAH L, PART B - Geotechnical

A. Requests for Admissions - Contention Utah L, Part B.

REQUEST FOR ADMISSION NO. 1. Do you admit that NRC is conducting a case study of the exemption to the design earthquake requirements in 10 CFR § 72.102(f)(1) for the Three Mile Island Unit 2 Independent Spent Fuel Storage Installation (ISFSI) at INEEL (“INEEL exemption case study”)?

REQUEST FOR ADMISSION NO. 2. Do you admit that the INEEL exemption case study commenced in 2001?

REQUEST FOR ADMISSION NO. 3. Do you admit that NRC held a public meeting, in Rockville, Maryland, relating to the INEEL exemption case study on or about July 31, 2001?

REQUEST FOR ADMISSION NO. 4. Do you admit that NRC granted the ISFSI at INEEL an exemption from 10 CFR § 72.102(f)(1), in part, because without the exemption, the INEEL ISFSI would have had to meet a higher design basis standard than the one used for an existing higher-risk nuclear facility at the ISFSI host site?

REQUEST FOR ADMISSION NO. 5. Do you admit that the Staff is

continuing to pursue rulemaking on the Rulemaking Plan: Geological and Seismological Characteristics for Siting and Design of Dry Cask Independent Spent Fuel Storage Installations, SECY-98-126?

REQUEST FOR ADMISSION NO. 6. Do you admit that the Staff is not continuing to pursue rulemaking on the Rulemaking Plan: Geological and Seismological Characteristics for Siting and Design of Dry Cask Independent Spent Fuel Storage Installations?

REQUEST FOR ADMISSION NO. 7. Do you admit that the Staff is now proposing to amend any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs in a way that would differ substantively from SECY-98-126?

REQUEST FOR ADMISSION NO. 8. Do you admit that the Staff has produced in draft form during 2001 or 2000 new geological and/or seismological standards for the siting and/or design of dry cask ISFSIs?

REQUEST FOR ADMISSION NO. 9. Do you admit that the Staff intends to revise any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs in order to allow use of a probabilistic seismic hazard analysis (PSHA) and a 10,000 year return period for design-basis ground motions?

REQUEST FOR ADMISSION NO. 10. Do you admit that the Staff intends to revise any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs in order to allow use of a PSHA and a 2,000 year return period for design-basis ground motions?

REQUEST FOR ADMISSION NO. 11. Do you admit that the Staff intends to revise any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs located west of the Rocky Mountain Front (west of approximately 104° west longitude) in order to allow use of a PSHA and a 10,000 year return period for design-basis ground motions?

REQUEST FOR ADMISSION NO. 12. Do you admit that the Staff intends to revise any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs located west of the Rocky Mountain Front (west of approximately 104° west longitude) in order allow use of a PSHA and a 2,000 year return period for design-basis ground motions?

REQUEST FOR ADMISSION NO. 13. Do you admit that NRC is expediting rulemaking to amend any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs?

REQUEST FOR ADMISSION NO. 14. Do you admit that the Advisory Committee on Nuclear Waste will provide technical assistance to the Staff in revising any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs?

REQUEST FOR ADMISSION NO. 15. Do you admit that the Staff has sent to experts in the field for their review, during 2001 or 2000, a copy of new draft standards relating to geological and seismological characteristics for siting and design of dry cask ISFSIs?

REQUEST FOR ADMISSION NO. 16. Do you admit that the Staff has sent

to any PFS-named expert for Contention Utah L, during 2001 or 2000, a copy of new draft standards relating to geological and seismological characteristics for siting and design of dry cask ISFSIs?

REQUEST FOR ADMISSION NO. 17. Do you admit that the Staff has received, during 2001 or 2000, review comments from experts about new draft standards relating to geological and seismological characteristics for siting and design of dry cask ISFSIs?

REQUEST FOR ADMISSION NO. 18. Do you admit that the Staff intends to recommend on or before the end of 2001 that the Commission approve revisions to 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs?

REQUEST FOR ADMISSION NO. 19. Do you admit that the Waste Handling Facility at the surface at Yucca Mountain will be designed to withstand return-period ground motions of 10,000 years?

REQUEST FOR ADMISSION NO. 20. Do you admit that the Waste Handling Facility at the surface at Yucca Mountain will have an expected life of 100 years?

REQUEST FOR ADMISSION NO. 21. Do you admit that PFS is applying for a license for a term of 20 years?

REQUEST FOR ADMISSION NO. 22. Do you admit that the planned life of the PFS facility is 40 years?

REQUEST FOR ADMISSION NO. 23. Do you admit that PFS does not plan to have any strong-motion recorders at the proposed ISFSI site?

REQUEST FOR ADMISSION NO. 24. Do you admit that in the event of strong ground shaking PFS will be unable to determine whether design basis ground motions have been exceeded at the proposed ISFSI site?

REQUEST FOR ADMISSION NO. 25. Do you admit that the current NRC guidance governing probabilistic determination of design ground motions for nuclear power plants is, in part, contained in NRC Regulatory Guide 1.165?

REQUEST FOR ADMISSION NO. 26. If a nuclear power plant were to be built at the proposed PFS site, and if the design ground motions for this plant were to be determined probabilistically, do you admit that NRC Regulatory Guide 1.165 would require the design ground motions to be based on an equal hazard response spectrum with a MEDIAN annual probability of exceedance of $1.0E-5$ or to an alternative reference probability developed from risk considerations?

REQUEST FOR ADMISSION NO. 27. If a nuclear power plant were to be built at the proposed PFS site, and if the design ground motions for this plant were to be determined probabilistically, do you admit that NRC Regulatory Guide 1.165 would require the design ground motions to be based on an equal hazard response spectrum with a MEAN annual probability of exceedance of $1.0E-5$ or to an alternative reference probability developed from risk considerations?

REQUEST FOR ADMISSION NO. 28. Do you admit that PFS has not submitted to NRC an analysis of whether PFS can meet the radiological requirement of 10 CFR § 72.104(a) under a PSHA using a 2,000 year return period?

REQUEST FOR ADMISSION NO. 29. Do you admit that NRC has not

conducted an independent study of whether PFS can meet the radiological requirement of 10 CFR § 72.104(a) under a PSHA using a 2,000 year return period?

B. Document Requests - Contention Utah L, Part B.

DOCUMENT REQUEST NO. 1: Please provide all documents relating to Requests for Admission 1-29.

DOCUMENT REQUEST NO. 2: Please provide all documents used to respond to Requests for Admission 1-29.

DOCUMENT REQUEST NO. 3: Please provide all documents relating to the INEEL exemption case study. See Request for Admission No. 1.

DOCUMENT REQUEST NO. 4: Please provide all documents, including meeting reports, meeting write-ups, transcripts, or the like, for the NRC meeting relating to the INEEL exemption case study held on or about July 31, 2001.

DOCUMENT REQUEST NO. 5: Please provide all documents relating to the development of the Rulemaking Plan SECY 98-126.

DOCUMENT REQUEST NO. 6: Please provide all documents relating to the development of revisions to the Rulemaking Plan SECY 98-126.

DOCUMENT REQUEST NO. 7: Please provide all documents relating to proposed revisions to 10 CFR Part 72, other than the revisions proposed in SECY 98-126, relating to geological and seismological characteristics for siting and design of dry cask ISFSIs.

DOCUMENT REQUEST NO. 8: Please provide a copy of any document the Staff has produced during 2001 or 2000, either itself or under its direction in draft form, that

proposes new geological and/or seismological standards for the siting and/or design of dry cask ISFSIs.

DOCUMENT REQUEST NO. 9: Please provide all documents relating to expediting rulemaking to revise any section of 10 CFR Part 72 relating to geological and seismological characteristics for siting and design of dry cask ISFSIs.

DOCUMENT REQUEST NO. 10: Please provide a list of the name and affiliation of all recipients who were sent, during 2001 or 2000, NRC's new draft seismic standards for dry cask ISFSIs.

DOCUMENT REQUEST NO. 11: Please provide a mailing list of all persons to whom NRC distributed during 2001 or 2000 its new draft seismic standards for dry cask ISFSIs.

DOCUMENT REQUEST NO. 12: Please provide a copy of all correspondence between the NRC Staff and the Advisory Committee on Nuclear Waste relating to proposed changes to the seismic requirements of Part 72, other than the revisions proposed in SECY 98-126.

DOCUMENT REQUEST NO. 13: Please provide all documents relating to comments received during 2001 or 2000 on NRC's new draft seismic standards for dry cask ISFSIs.

DOCUMENT REQUEST NO. 14: Please provide all documents relating to NRC's approval of PFS's use of a PSHA with a return period of 2,000 years.

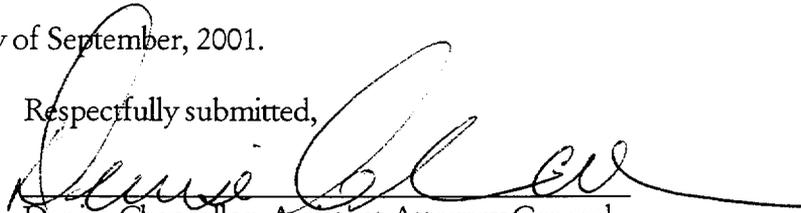
DOCUMENT REQUEST NO. 15: Please provide all documents relating to any analysis of whether PFS can meet the radiological standards in 10 CFR § 72.104(a) under a

PSHA using a 2,000 year return period.

DOCUMENT REQUEST NO. 16: Please provide all Staff documents relating to the issue of strong-motion recorders at the PFS site.

DATED this 18th day of September, 2001.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denise Chancellor", written over a horizontal line.

Denise Chancellor, Assistant Attorney General
Fred G Nelson, Assistant Attorney General
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CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S TWELFTH SET OF DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 18th day of September, 2001:

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(original and two copies)

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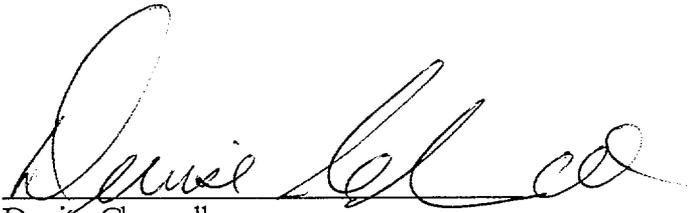
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A handwritten signature in cursive script, appearing to read "Denise Chancellor", written over a horizontal line.

Denise Chancellor
Assistant Attorney General
State of Utah

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAY HINTZE
Chief Deputy - Civil

RYAN MECHAM
Chief of Staff

KIRK TORGENSEN
Chief Deputy - Criminal

September 18, 2001

William D. Travers
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

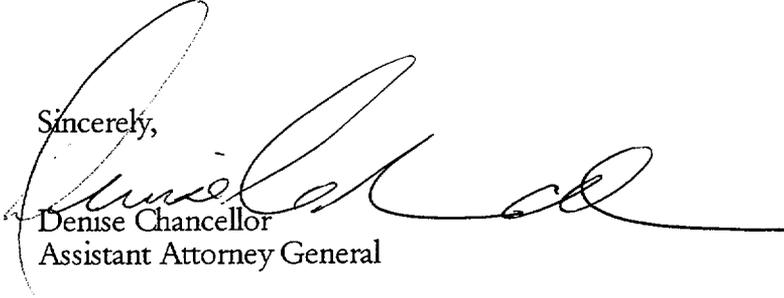
Re: In the Matter of Private Fuel Storage, LLC, Docket 72-22

Dear Mr. Travers;

Pursuant to 10 CFR § 2.744(a), enclosed is the State of Utah's Twelfth Set of Discovery Requests Directed to the NRC Staff, dated September 18, 2001.

Please contact me with any questions at (801) 366-0286. Thank you.

Sincerely,


Denise Chancellor
Assistant Attorney General

Enclosure: as stated
cc: PFS Docket 72-22-ISFSI Service List