

RELATED CORRESPONDENCE

DOCKETED
USNRC

September 25, 2001 (11:32AM)

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 21, 2001

STATE OF UTAH'S ELEVENTH SET OF DISCOVERY REQUESTS
DIRECTED TO THE APPLICANT

Pursuant 10 CFR §§ 2.740, 2.741, and 2.742 and applicable orders of the Licensing Board, State of Utah, hereby requests that Private Fuel Storage, LLC ("PFS") answer the following Interrogatories and Requests for Admissions separately, fully, in writing, and under oath within 10 days¹ after service of this discovery request and produce documents requested below within 15 days after service of this request. The numbering of interrogatories, specific to a contention, begins after the highest numbered interrogatory propounded for that contention in the State's previous discovery to the Applicant.

I. INSTRUCTIONS

1. Scope of Discovery. These interrogatories and requests for admissions and production of documents are directed to Private Fuel Storage, LLC and any of the utility companies that own or comprise the members of PFS (collectively "PFS" or "Applicant"). The interrogatories cover all information in the possession, custody and control of PFS

¹ Counsel for the State and PFS have agreed that the party responding to Interrogatories and Requests for Admissions during the formal discovery period may timely file a response within eight (8) working days after receipt of the Discovery Request.

and/or its owner members, including information in the possession of 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.

2. Supplemental Responses. Each of the following requests is a continuing one pursuant to 10 C.F.R. § 2.740(e) and the State hereby demands that, in the event that at any later date PFS obtains or discovers any additional information which is responsive to these interrogatories and request for admissions and production of documents, PFS 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:

- a. the identity and location of persons having knowledge of discoverable matters;
- b. 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
- c. new information which makes any response hereto incorrect.

3. 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.

If you withhold any document covered by this request under a claim of privilege, immunity, or for any other reason, please furnish a list identifying each document for which the privilege, immunity, or other reason is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and the job title and affiliation of any such persons, the subject matter of the documents, the basis for asserting the privilege, immunity, or other reason, and the name of the person on whose behalf the privilege, immunity, or other reason is asserted.

4. Estimates. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

II. DEFINITIONS

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

1. "PFS," "Applicant," "you," and "your" 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.
2. 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, telegrams, telexes, wiring instructions, 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, working papers, computer tapes, computer printout sheets, information stored in computers or other data storage or processing equipment, 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.

3. "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.
4. The words "describe" or "identify" shall have the following meanings:
 - (a) 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;

- (b) 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;
- (c) 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.
- (d) 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.

5. "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.
6. "ISFSI" or "PFS facility" shall mean the PFS proposed Independent Spent Fuel Storage Installation located in the northwest corner of the Skull Valley Goshute Indian Reservation, Utah.
7. The word "discussion" shall mean communication of any kind, including but not limited to, any spoken, written, or signed form of communication.
8. The word "person" shall include any individual, association, corporation, partnership, joint venture, or any other business or legal entity.
9. Words herein of any gender include all other genders, and the singular form of words encompasses the plural.
10. The words "and" and "or" include the conjunctive "and" as well as the disjunctive "or" and the words "and/or."
11. The discovery sought by this request encompasses material contained in, or which might be derived or ascertained from, the personal files of PFS employees, representatives, investigators, and agents.

III. GENERAL DISCOVERY

To the extent that the Applicant has not already answered the general interrogatories and general document requests in the State's previous discovery requests, please answer the following:

A. GENERAL INTERROGATORIES

Pursuant to agreement between the State and PFS, these general interrogatories apply to all Utah admitted contentions, are in addition to the ten interrogatories per contention allowed by the Board's Order dated April 22, 1998 (LBP-98-7), and are continuing in accordance with 10 CFR § 2.740(e).

GENERAL INTERROGATORY NO. 1. State the name, business address, and job title of each person who was consulted and/or who supplied information for responding to interrogatories, requests for admissions and requests for the production of documents. Specifically note for which interrogatories, requests for admissions and requests for production each such person was consulted and/or supplied information.

If the information or opinions of anyone who was consulted in connection with your response to an interrogatory or request for admission differs from your written answer to the discovery request, please describe in detail the differing information or opinions, and indicate why such differing information or opinions are not your official position as expressed in your written answer to the request.

GENERAL INTERROGATORY NO. 2. To the extent that PFS has not previously produced documents relevant to any Utah admitted contention, including without limitation Part B of Contention Utah L (Geotechnical), as that contention was amended by the Board in its Memorandum and Order (Requesting Joint Scheduling Report and Delineating Contention Utah L) dated June 15, 2001 ("Memorandum and Order") (hereinafter "Part B of Utah L"), identify all such documents not previously produced. PFS may respond to this request by notifying the State that PFS has updated its repository of

documents relevant to admitted contentions at Parsons, Behle and Latimer.

GENERAL INTERROGATORY NO. 3. For each admitted Utah contention, including without limitation Part B of Utah L, give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person whom PFS expects to call as a witness at the hearing. For purposes of answering this interrogatory, the educational and scientific experience of expected witnesses may be provided by a resume of the person attached to the response.

GENERAL INTERROGATORY NO. 4. For each admitted Utah contention, including without limitation Part B of Utah L, identify the qualifications of each expert witness whom PFS expects to call at the hearing, including but not limited to a list of all publications authored by the witness within the preceding ten years and a listing of any other cases in which the witness has testified as an expert at a trial, hearing or by deposition within the preceding four years.

GENERAL INTERROGATORY NO. 5. For each admitted Utah contention, including without limitation Part B of Utah L, describe the subject matter on which each of the witnesses is expected to testify at the hearing, describe the facts and opinions to which each witness is expected to testify, including a summary of the grounds for each opinion, and identify the documents (including all pertinent pages or parts thereof), data or other information which each witness has reviewed and considered, or is expected to consider or to rely on for his or her testimony.

B. GENERAL DOCUMENT REQUESTS

The State requests the Applicant to produce the following documents directly or

indirectly within its possession, custody or control to the extent not previously produced by the Applicant during discovery:

REQUEST NO 1. All documents in your possession, custody or control identified, referred to, relied on, or used in any way in (a) responding to the interrogatories and requests for admissions set forth in the State's previous sets of Formal Discovery Requests to Applicant, PFS, (b) responding to the following interrogatories and requests for admissions in this document, or (c) responding to any subsequent interrogatories and requests for admissions filed with respect to the State's Contentions as admitted by the Board.

REQUEST NO. 2. All documents (including experts' opinions, workpapers, affidavits, and other materials used to render such opinion) supporting or otherwise relating to testimony or evidence that you intend to use at the hearings on each Utah admitted contention, including without limitation Part B of Utah L

III. DISCOVERY REQUESTS: CONTENTION UTAH L, PART B

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

REQUEST FOR ADMISSION NO. 1. Do you admit that, in support of the PFS Exemption Request, the Applicant believes it submitted to the Staff adequate justification supporting the grant of an exemption from the requirements of 10 CFR § 72.102(f) based on a probabilistic methodology with a 2,000 year return earthquake?

REQUEST FOR ADMISSION NO. 2. Do you admit that the vibratory ground motions, estimated under the 1999 deterministic seismic hazard analysis ("DSHA") (i.e., 0.72g in the horizontal direction; 0.80g in the vertical direction) at the PFS site exceed the proposed design values in the PFS Safety Analysis Report?

REQUEST FOR ADMISSION NO. 3. Do you admit that the vibratory ground motions, estimated under the latest (March 2001) probabilistic seismic hazard analysis ("PSHA") with a return period of 2,000 years (*i.e.*, 0.711g in the horizontal direction; 0.695g in the vertical direction) exceed the proposed design values in the PFS Safety Analysis Report?

REQUEST FOR ADMISSION NO. 4. Do you admit that vibratory ground motions estimated under a PSHA with a return period of 10,000 years would exceed the proposed design values in the PFS Safety Analysis Report?

REQUEST FOR ADMISSION NO. 5. Do you admit that in the event of an earthquake affecting the PFS site, PFS will not be able to ascertain whether structures, systems and components have been subject to ground motions exceeding their design values?

REQUEST FOR ADMISSION NO. 6. Do you admit that PFS does not intend to install strong ground motion recorders at the PFS site?

REQUEST FOR ADMISSION NO. 7. Do you admit that any PFS-named expert for Utah L has received or reviewed a copy of a 2001 or 2000 draft set of new geological and/or seismological standards for the siting and/or design of dry cask ISFSIs produced by or for NRC?

REQUEST FOR ADMISSION NO. 8. Do you admit that any person associated with PFS (*see* definition No. 1 above) has received or reviewed a copy of a 2001 or 2000 draft set of new geological and/or seismological standards for the siting and/or design of dry cask ISFSIs produced by or for NRC?

REQUEST FOR ADMISSION NO. 9. Do you admits that, in addition to PFS's plan to obtain a 20 year ISFSI license, PFS also plans, prior to the expiration of the initial license, to apply for a 20 year renewal license?

REQUEST FOR ADMISSION NO. 10. Do you admit that PFS plans to operate the ISFSI for approximately forty (40) years?

REQUEST FOR ADMISSION NO. 11. Do you admit that PFS will be unable to remove all spent nuclear fuel ("SNF") from its facility by the end of forty years?

REQUEST FOR ADMISSION NO. 12. Do you admit that the current capacity of the Yucca Mountain permanent repository, by law, is 70,000 MTU of spent nuclear fuel?

REQUEST FOR ADMISSION NO. 13. Do you admit that 50 years from now the projected total inventory of commercial SNF will be greater than the existing legal capacity currently authorized for disposal at the Yucca Mountain permanent repository?

REQUEST FOR ADMISSION NO. 14. Do you admit that PFS has no alternative place to send SNF at the end of PFS's operational life other than to the permanent repository at Yucca Mountain?

REQUEST FOR ADMISSION NO. 15. Do you admit that at the end of PFS's operational life, PFS cannot ship SNF back to nuclear power plants that have been decommissioned?

REQUEST FOR ADMISSION NO. 16. Do you admit that PFS is unable to meet the physical limitations of designing a facility to meet the vibratory ground motions estimated under a DSHA or a PSHA with a return period of 10,000 years?

REQUEST FOR ADMISSION NO. 17. Do you admit that PFS is unwilling to meet the financial costs of designing a facility to meet the vibratory ground motions estimated under a DSHA or a PSHA with a return period of 10,000 years?

REQUEST FOR ADMISSION NO. 18. Do you admit that if PFS is not granted an exemption from 10 CFR § 72.102(f) it will be unable to construct an ISFSI at the Skull Valley site?

B. INTERROGATORIES - Contention Utah L, Part B.

INTERROGATORY NO. 14. Identify and fully explain each respect, including fiscal and physical impediments, in which the PFS site cannot or will not meet either 10 CFR § 72.102(f), requiring a deterministic seismic hazard analysis, or an exemption from 10 CFR § 72.012(f) allowing the use of a probabilistic methodology with a 10,000 year return earthquake, and the bases therefor.

INTERROGATORY NO. 15. Identify and fully explain each respect in which the PFS exemption from the requirements of 10 CFR § 72.102(f) to allow a probabilistic methodology with a 2,000 year return earthquake is in the public interest and does not defeat the conservatism in the existing rule, and the bases therefor.

INTERROGATORY NO. 16. To the extent that the PFS admits Request for Admission No. 1, identify and fully explain each respect in which PFS contends that PFS's justification is adequate to support the grant of an exemption from the requirements of 10 CFR § 72.102(f) based on a probabilistic methodology with a 2,000 year return earthquake, and the bases therefor.

C. DOCUMENT REQUESTS - Contention Utah L, Part B.

The State of Utah requests that the Applicant produce the following documents directly or indirectly within its possession, custody or control to the extent not previously produced by the Applicant:

DOCUMENT REQUEST NO. 1. All documents, data or other information generated, reviewed, considered or relied upon by any expert or consultant with respect to Part B of Utah Contention L.

DOCUMENT REQUEST NO. 2. All documents, data or other information generated, reviewed, considered or relied upon by the Applicant for its request to be exempted from 10 CFR § 72.102(f).

DOCUMENT REQUEST NO. 3. All documents referring or relating to whether structures, systems and components at the proposed PFS facility will be subject to ground motions exceeding their design basis values, including without limitation ground motions determined under a DSHA or a PSHA.

DOCUMENT REQUEST NO. 4. All documents related to the PFS's refutation of the claims raised by the State in Part B of Utah Contention L, as admitted by the Board in its June 15, 2001 Memorandum and Order.

DOCUMENT REQUEST NO. 5. A copy of a 2001 or 2000 draft set of new geological and/or seismological standards for the siting and/or design of dry cask ISFSIs produced by or for NRC that is in the custody or control of PFS (*see* definition No. 1 above).

DOCUMENT REQUEST NO. 6. All documents referring or relating to any analysis to ascertain whether under PFS's requested exemption from 10 CFR § 72.102(f) the

PFS facility will or will not exceed dose limits, including without limitation the requirements of 10 CFR §§ 72.104(a) and 72.106(b).

DOCUMENT REQUEST NO. 7. All documents referring or relating to PFS's use or non-use of strong ground motion sensors.

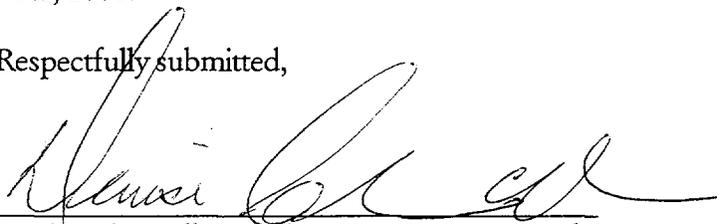
DOCUMENT REQUEST NO. 8. All documents referring or relating to the operational life of the proposed PFS facility.

DOCUMENT REQUEST NO. 9. All documents referring or relating to plans for removal of SNF from the proposed PFS facility at the end of the operational life of the PFS facility.

DOCUMENT REQUEST NO. 10. All documents referring or relating to alternate plans for the removal of SNF from the PFS site, other than to the Yucca Mountain repository.

DATED this 21st day of September, 2001.

Respectfully submitted,



Denise Chancellor, Assistant Attorney General
Fred G Nelson, Assistant Attorney General
Connie Nakahara, Special Assistant Attorney General
Diane Curran, Special Assistant Attorney General
Laura Lockhart, Assistant Attorney General
Attorneys for State of Utah
Utah Attorney General's Office
160 East 300 South, 5th Floor, P.O. Box 140873
Salt Lake City, UT 84114-0873
Telephone: (801) 366-0286, Fax: (801) 366-0292

CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S ELEVENTH SET OF DISCOVERY REQUESTS DIRECTED TO THE APPLICANT was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 21st day of September, 2001:

Rulemaking & Adjudication Staff
Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington D.C. 20555
E-mail: hearingdocket@nrc.gov
(original and two copies)

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: gpb@nrc.gov

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: jrk2@nrc.gov
E-Mail: kjerry@erols.com

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: psl@nrc.gov

Sherwin E. Turk, Esq.
Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: set@nrc.gov
E-Mail: clm@nrc.gov
E-Mail: pfscase@nrc.gov

Jay E. Silberg, Esq.
Ernest L. Blake, Jr., Esq.
Paul A. Gaukler, Esq.
Shaw Pittman, LLP
2300 N Street, N. W.
Washington, DC 20037-8007
E-Mail: Jay_Silberg@shawpittman.com
E-Mail: ernest_blake@shawpittman.com
E-Mail: paul_gaukler@shawpittman.com

John Paul Kennedy, Sr., Esq.
David W. Tufts
Durham Jones & Pinegar
111 East Broadway, Suite 900
Salt Lake City, Utah 84111
E-Mail: dtufts@djplaw.com

Joro Walker, Esq.
Land and Water Fund of the Rockies
1473 South 1100 East, Suite F
Salt Lake City, Utah 84105
E-Mail: utah@lawfund.org

Larry EchoHawk
Paul C. EchoHawk
Mark A. EchoHawk
EchoHawk PLLC
140 North 4th Street, Suite 1
P.O. Box 6119
Pocatello, Idaho 83205-6119
E-mail: paul@echohawk.com

Tim Vollmann
3301-R Coors Road N.W. # 302
Albuquerque, NM 87120
E-mail: tvollmann@hotmail.com

James M. Cutchin
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-Mail: jmc3@nrc.gov
(*electronic copy only*)

Office of the Commission Appellate
Adjudication
Mail Stop: O14-G-15
U. S. Nuclear Regulatory Commission
Washington, DC 20555

A handwritten signature in cursive script, appearing to read "Denise Chancellor", written in black ink on a white background.

Denise Chancellor
Assistant Attorney General
State of Utah