

**RAS 3530**

**RELATED CORRESPONDENCE**

October 25, 2001  
**DOCKETED 10/30/01**

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-ISFSI
	)	
(Independent Spent Fuel Storage	)	
Installation)	)	

NRC STAFF'S FIRST SET OF FORMAL DISCOVERY  
REQUESTS TO THE STATE OF UTAH

Pursuant to 10 C.F.R. §§ 2.740b, 2.741, and 2.742 of the Commission's regulations, the NRC staff (Staff) hereby requests that the State of Utah (State) respond to the following requests for admissions and interrogatories and produce, for inspection and copying, the documents requested below.

Each interrogatory shall be answered separately and fully, in writing, and under oath or affirmation and shall include all pertinent information available to the State, its officers, employees, directors, advisors, associates, representatives, consultants, spokespersons or counsel, based upon their personal knowledge, unless it is objected to, in which event the reasons for objection shall be stated in full. The answers shall be signed by the person making them, and the objections by the attorney making them. The production of documents requested herein shall take place at the Office of the General Counsel, 11555 Rockville Pike, Rockville, MD, unless other arrangements are made, by agreement, in this regard. Documents produced may be copies, or may be originals sent to Staff Counsel for copying and return.

GENERAL INSTRUCTIONS

1. To the extent that the State does not have specific, complete, and accurate information with which to answer any interrogatory, the State should so state, and the interrogatory

should be answered to the extent information is available, identifying each person who is believed to have accurate information with respect thereto.

2. Each interrogatory shall be deemed to be continuing, and the State is required seasonably to supplement answers with additional facts, documents, information, and names of witnesses which become known, in accordance with 10 C.F.R. § 2.740(e)(1) and (2).

3. The words "and" and "or" shall be construed either conjunctively or disjunctively so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

4. Wherever appropriate, the singular form of a word shall be interpreted in the plural, and vice versa, so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

5. Please produce a copy of each document requested in the form and condition in which it exists on the date of service of this request, including all comments, notes, remarks, and other material that may have been added to the document after its initial preparation.

6. If the State objects to or claims a privilege (*e.g.*, attorney-client, work product, or other) with respect to any interrogatory or document request, in whole or in part, or seeks to withhold documents or information because of the alleged proprietary or other nature of the data, please set forth all reasons and the underlying factual basis for the objection or claim of privilege in sufficient detail to permit the Atomic Safety and Licensing Board to determine the validity of the objection or claim of privilege. This description by the State should include, with respect to any document:

- a. author, addressor, addressee, and recipients of indicated and "blind" copies together with their job titles;
- b. date of preparation;
- c. subject matter;
- d. purpose for which the document was prepared;
- e. all persons to whom distributed, shown, or explained;
- f. present custodian;
- g. all persons believed to have a copy of the document;
- h. the nature of the privilege or objection asserted.

7. For any document or part of a document that was at one time, but is no longer, in the State's possession, custody or control, or which is no longer in existence, or which cannot be located or produced, identify the document, state where and how it passed out of existence or why it can no longer be located or produced and the reasons therefore, and identify each person having knowledge concerning such disposition or loss and the contents of the document, and identify each document evidencing its prior existence and/or any fact concerning its nonexistence or loss.

**DEFINITIONS AND GUIDELINES TO BE USED  
IN RESPONDING TO THESE DISCOVERY REQUESTS**

A. "Computer file" means all computer files, disks and diskettes of whatever type without regard to the manner in which the file is stored.

B. "Consultant" means any person who provides professional, scientific, or technical input, advice and/or opinion to the State, whether that person is employed specifically for this case or is a regular State employee or official.

C. "Document" or "writing" as used herein shall mean any written matter, whether produced, reproduced or stored on paper, cards, tapes, disks, belts, charts, film, computer file, computer storage devices or any other medium and shall include, without limitation, matter in the

form of books, reports, studies, statements, speeches, notebooks, agreements, appointment calendars, working papers, manuals, memoranda, notes, procedures, orders, instructions, directions, training materials, records, correspondence, electronic mail, diaries, plans, diagrams, drawings, periodicals, lists, telephone logs, minutes, photographs, and any published materials and shall also include, without limitation, originals, copies (with or without notes or changes thereon) and drafts.

D. "Identify" when used in reference to a natural person means to set forth the following:

1. his/her name;
2. his/her last known residential address;
3. his/her last known business address;
4. his/her last employer;
5. his/her title or position;
6. his/her area of responsibility;
7. his/her business, professional, or other relationship with the State; and
8. If any of the information is changed subsequent to the time period referenced in a particular interrogatory, set forth in the answer, and label appropriately, current information as well as the information applicable to the time period referenced in the interrogatory.

E. "Identify" when used in reference to a document shall mean to set forth the following:

1. its title;
2. its subject matter;
3. its date;
4. its author;

5. its addressee;
6. its file designation or other identifying designation, and
7. its present location and present custodian.

F. "ISFSI" means independent spent fuel storage installation, as defined in 10 C.F.R. § 72.3.

G. "PFS," or "Applicant" refers to Private Fuel Storage, L.L.C. and its members and officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by PFS, or anyone else acting on its behalf or otherwise subject to its control.

H. The "State of Utah" means any branch, department, agency, division or other organized entity, of the State of Utah, as well as any of its officials, directors, employees, agents, servants, representatives, attorneys, consultants or other person directly or indirectly employed or retained by the state, or anyone else acting on its behalf or otherwise subject to its control.

I. Documents produced in compliance with this request are to be accompanied with a specific indication as to the particular paragraph(s) of the Staff's discovery request under which the particular document(s) are being produced.

### GENERAL INTERROGATORIES

#### GENERAL INTERROGATORY NO. 1:

Identify each person who was consulted and/or who supplied information in responding to requests for admission, interrogatories, and requests for the production of documents. Indicate for which specific requests for admission, interrogatories, and requests for production each person was consulted and/or supplied information.

#### GENERAL INTERROGATORY NO. 2:

Identify any person the State presently intends to call as a witness in this proceeding to testify regarding each admitted Utah contention, including without limitation Part B of Utah L. If the state expects to call any such person as an expert witness, state the

details of each witness's education, employment history, and asserted area of expertise; state 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 all documents, data, or other information which each witness has reviewed and considered or is expected to rely on for his or her testimony.

GENERAL DOCUMENT REQUESTS

The Staff requests the State to produce the following documents directly or indirectly within its possession, custody or control to the extent not previously produced during informal discovery:

GENERAL DOCUMENT REQUEST NO. 1:

All documents in your possession, custody or control identified, referred to, related to, relied on, or used in any way in responding to the following requests for admission and interrogatories in this document.

REQUESTS FOR ADMISSION AND INTERROGATORIES  
PART B OF CONTENTION UTAH L

A. Requests for Admission - Part B of Utah L - Geotechnical

REQUEST FOR ADMISSION NO. 1:

Do you admit that, if the license application filed by PFS is granted by the NRC, the proposed PFS ISFSI will be licensed for a period of 20 years pursuant to 10 C.F.R. § 72.42(a)?

REQUEST FOR ADMISSION NO. 2:

Do you admit that 10 C.F.R. § 72.104(a) applies only to "normal operations and anticipated occurrences?"

REQUEST FOR ADMISSION NO. 3:

Do you admit that 10 C.F.R. § 72.104(a) does not apply to design earthquake events?

REQUEST FOR ADMISSION NO. 4:

Do you admit that NRC regulations do not require the use of strong-motion sensors at ISFSI sites?

REQUEST FOR ADMISSION NO. 5:

Do you admit that the types of waste/spent fuel handling activities that would be conducted in the Waste Handling Building at the proposed repository for high-level nuclear waste at Yucca Mountain would be different from the types of waste/spent fuel handling activities that would be conducted at the proposed PFS ISFSI facility?

REQUEST FOR ADMISSION NO. 6:

Do you admit that the Waste Handling Building at the proposed repository for high-level nuclear waste at Yucca Mountain, if constructed and operated as proposed, may handle exposed spent fuel rods (or assemblies thereof) outside of any canister during the repackaging of such spent fuel rods for disposal?

REQUEST FOR ADMISSION NO. 7:

Do you admit that the proposed PFS ISFSI facility, if constructed and operated as proposed, would not handle exposed spent fuel rods outside of any canister?

B. Interrogatories - Part B of Utah L - Geotechnical

INTERROGATORY NO. 1:

The State asserts that a 2,000-year return period for the PFS facility does not ensure an adequate level of conservatism. Identify and fully explain what metric or quantitative measure, if any, the State used in determining what constitutes "an adequate level of conservatism."

INTERROGATORY NO. 2:

The State asserts that additional support for the use of a 10,000-year return period comes from the precedent of establishing this return period for the seismic design of the Waste Handling Building at the surface of the planned high-level nuclear waste repository at Yucca Mountain, Nevada. Identify and fully explain all bases for this assertion.

INTERROGATORY NO. 3:

The State asserts that PFS has failed to show that its facility design will provide adequate protection against exceeding the section 72.104(a) dose limits. Identify and fully explain all bases for this assertion.

INTERROGATORY NO. 4:

The State asserts that in the case of the INEEL ISFSI exemption, there were extenuating circumstances that led DOE to press for the exemption. Identify and fully explain all "extenuating circumstances" referred to by the State.

INTERROGATORY NO. 5:

The State, citing Regulatory Guide 1.165, asserts that if a commercial nuclear power plant were to be licensed at the PFS Skull Valley site, under current NRC regulations, the design ground motion would have to correspond to a median annual probability of exceedance of  $10^{-5}$  or to an alternative reference probability developed from risk considerations. Identify and fully explain all bases for this assertion.

Respectfully submitted,

**/RA/**

Martin J. O'Neill  
Sherwin E. Turk  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 25<sup>th</sup> day of October, 2001



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-ISFSI  
)  
(Independent Spent )  
Fuel Storage Installation) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S FIRST SET OF FORMAL DISCOVERY REQUESTS TO THE STATE OF UTAH" in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the United States Postal Service, as indicated by double asterisk, with copies by electronic mail this 25<sup>th</sup> day of October, 2001:

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Atomic Safety and Licensing Board  
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**/RA/**

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