

November 5, 2001

Private Fuel Storage, LLC
ATTN: Mr. John D. Parkyn, Chairman
P.O. Box C4010
La Crosse, WI 54602-4010

Dear Mr. Parkyn:

I am responding to your June 6, 2001, letter requesting a full or partial exemption from the 10 CFR Part 170 fees for the licensing review of the Private Fuel Storage (PFS) facility. Your letter states that such an exemption would recognize that a significant share of the licensing efforts will benefit future independent spent fuel storage installation facility (ISFSI) applicants and the NRC's licensing programs generally. As explained below, your request is denied.

In support of your request, your letter states that: 1) the application for the PFS facility is the first of its kind, and the expertise gained by the NRC staff in the licensing process should assist the NRC in future applications, such as the proposed Owl Creek project, interim storage at DOE's permanent repository or the license for DOE's permanent repository itself; 2) through the NRC's use of the Center for Radioactive Waste Analysis (the Center for Nuclear Waste Regulatory Analyses) and the Oak Ridge National Laboratory to assist in parts of the review, those organizations have gained experience that will make their participation in future reviews significantly more efficient and predictable; and 3) use of Public Affairs management (PAM) to catalog and prepare responses to questions on the Draft Environment Statement prepared both PAM and the NRC staff for the volume of public input expected for a permanent repository license application.

Your argument essentially is that PFS should be exempted from Part 170 fees because the NRC has gained experience from the review of the PFS application. Although the NRC may have gained experience from the review of your application, this is not a bases for exempting you from the fees to recover the costs of NRC's review. The NRC gains experience from nearly every application review, and thus the fact of that gain does not by itself distinguish those cases that warrant a fee exemption from those that do not. The NRC policy, under 100 percent budget recovery, is to assess fees to the applicant for the review and approval of applications. That is, the applicant is properly considered to be the beneficiary of the NRC services. While the NRC has granted very limited exemptions to this policy under rare circumstances involving reviews and approvals that are closely interrelated with NRC regulatory development or improvement (e.g., policy rules and regulatory guides), your exemption request does not meet this criteria.

Clearly, the NRC's review of the PFS application provides an identifiable service to PFS, and PFS is the primary beneficiary of that review. As authorized by the Independent Offices Appropriation Act of 1952, Part 170 fees are intended to recover the NRC's costs of providing individually identifiable services to applicants for and holders of NRC licenses. Therefore, the costs of that service should be borne by PFS. Thus, your request for a full or partial exemption from the 10 CFR Part 170 review fees is denied.

If you have any questions, please contact Glenda Jackson of my staff at 301-415-6057.

Sincerely,

R/A
Jesse L. Funches
Chief Financial Officer

John D. Parkyn

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Clearly, the NRC's review of the PFS application provides an identifiable service to PFS, and PFS is the primary beneficiary of that review. As authorized by the Independent Offices Appropriation Act of 1952, Part 170 fees are intended to recover the NRC's costs of providing individually identifiable services to applicants for and holders of NRC licenses. Therefore, the costs of that service should be borne by PFS. Thus, your request for a full or partial exemption from the 10 CFR Part 170 review fees is denied.

If you have any questions, please contact Glenda Jackson of my staff at 301-415-6057.

Sincerely,

Jesse L. Funches
Chief Financial Officer

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