

December 18, 2002

Ms. Denise Chancellor  
Assistant Attorney General  
State of Utah  
Office of the Attorney General  
160 East 300 South, 5<sup>th</sup> Floor  
P.O. Box 140873  
Salt Lake City, UT 84114-0873

**SUBJECT: RESPONSE TO REQUEST FOR PRODUCTION OF SAFEGUARDS  
INFORMATION RELATING TO INTERIM SECURITY MEASURES FOR  
PROTECTION OF SPENT FUEL STORED IN AN ISFSI**

Dear Ms. Chancellor:

Your letter to Dr. William D. Travers, dated November 20, 2002, has been referred to me for response. In your letter, you request production of Attachment 2 to the U.S. Nuclear Regulatory Commission's (NRC) Order of October 23, 2002, relating to interim security measures for protection of spent fuel stored in an independent spent fuel storage installation (ISFSI). Attachment 2 to the Commission's Order contains Safeguards Information and was not released to the public.

As the basis for your request, you provided a copy of the State of Utah's motion (dated November 7, 2002) before the Atomic Safety and Licensing Board (ASLB) on this matter. The ASLB has not yet ruled on your motion and neither the motion nor the ASLB's disposition of the motion is addressed in this letter.

Your request of November 20, 2002, is related to NRC's ongoing review of the application by Private Fuel Storage, LLC (PFS) for a license to construct and operate an ISFSI on the Reservation of the Skull Valley Band of Goshute Indians, a Federally-recognized Indian Tribe. However, the Commission's Order of October 23, 2002, was not served by the Commission on PFS, and that Order has not been made applicable to the PFS Facility. Nor is the PFS Facility considered to be a facility that will store spent fuel in the near term. As a result, your interest in the Order and the relationship of that Order to the PFS Facility have not been established. Further, you have not provided any other information which would constitute an adequate basis, as required by 10 CFR 73.21(c), to establish your "need to know" this Safeguards Information. Accordingly, your request to receive that information is denied.

D. Chancellor

-2- December 18, 2002

If you wish to discuss this matter further, please contact Mr. Mark S. Delligatti, of my staff, at (301) 415-8518, or Mr. Sherwin Turk of the NRC's Office of General Counsel, at (301) 415-1575.

Sincerely,

/RA/  
E. William Brach, Director  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 72-22

cc: PFS Service Lists

D. Chancellor

-2- December 18, 2002

If you wish to discuss this matter further, please contact Mr. Mark S. Delligatti, of my staff, at (301) 415-8518, or Mr. Sherwin Turk of the NRC's Office of General Counsel, at (301) 415-1575.

Sincerely,

/RA/  
E. William Brach, Director  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 72-22

cc: PFS Service Lists

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\*see previous concurrence Pkg  
ML023470020

<b>OFC:</b>	SFPO		OGC		OSTP		NSIR		SFPO	
<b>NAME:</b>	MDelligatti*		STurk*		PLohaus*		GTracy*		CMiller*	
<b>DATE:</b>	12/12 /02		12/13/02		12/16/02		12/17/02		12/18/02	
<b>OFC:</b>	SFPO									
<b>NAME:</b>	EWBrach									
<b>DATE:</b>	12/18 /02									

**C = COVER      E = COVER & ENCLOSURE      N = NO COPY  
OFFICIAL RECORD COPY**

cc: Private Fuel Storage

Mr. John D. Parkyn  
Chairman of the Board  
Private Fuel Storage, L.L.C.  
P. O. Box C4010  
La Crosse, WI 54602-4010

Mr. Scott Northard, Project Manager  
Private Fuel Storage, L.L.C.  
c/o Northern States Power  
414 Nicollet Mall, Ren Square 7  
Minneapolis, MN 55401

The Honorable Michael O. Leavitt  
Governor of Utah  
Salt Lake City, UT 84114-0601

The Honorable Leon D. Bear, Chairman  
Skull Valley Band of Goshute Indians  
2480 South Main, No. 110  
Salt Lake City, UT 84115

Mr. Jack Gerard  
McClure, Gerard and Neunschwander  
201 Maryland Avenue, NE  
Washington, DC 20002

Dr. Dianne R. Nielson, Executive Director  
Department of Environmental Quality  
State of Utah  
168 North 1950 West  
P. O. Box 144810  
Salt Lake City, UT 84114-4810

Ms. Sally Wisely, State Director  
Bureau of Land Management  
United States Department of the Interior  
Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155

Mr. Chester Mills, Superintendent  
Bureau of Indian Affairs  
Uintah and Ouray Agency  
P.O. Box 130  
Fort Duchesne, UT 84026

Joro Walker, Esq.  
Southern Utah Wilderness Alliance  
1473 South 1100 East, Suite F  
Salt Lake City, UT 84105

Ms. Diane Curran  
Harmon, Curran, Spielberg & Eisenberg  
1726 M Street, Suite 600  
Washington, D.C. 20036

Margene Bullcreek  
Ohngo Gaudadeh Devia  
PO Box 155  
Tooele, UT 84074

Paul C. Echohawk, Esq.  
Echohawk Law Offices  
Attorney for Ohngo Gaudadeh Devia  
151 North 4th Ave, Suite A  
P. O. Box 6119  
Pocatello, ID 83205-6119

cc: PFS EIS

Glenn Carpenter, Supervisor  
U.S. Bureau of Land Management  
Salt Lake District Office  
2370 south 2300 West  
Salt Lake City, UT 84119

Chester Mills, Superintendent  
U.S. Bureau of Indian Affairs  
Unitah and Ouray Agency  
P. O. Box 130  
Fort Duschesne, UT 84026

Amy Heuslein, Environmental Specialist  
U.S. Bureau of Indian Affairs  
Phoenix Area Office  
P.O. Box 10  
Phoenix, AZ 85001

Alice Stephenson, Environmental Specialist  
U.S. Bureau of Land Management  
Salt Lake District Office  
2370 South 2300 West  
Salt Lake City, UT 84119

Greg Zimmerman, Project Manager  
P.O. Box 2008, 4500 N, MS 6200  
Oak Ridge National Laboratory  
Oak Ridge, TN 37831-6200

Michael J. Scott, Staff Scientist  
Pacific Northwest National Laboratory  
P.O. Box 99  
MSIN: K8-17  
Richland, WA 99352

Paul R. Nickens, Senior Research Scientist  
5168 N. Windriver Place  
Tucson, AZ 85750

Diane Curran, Esq.  
Harmon, Curran, Spielberg & Eisenberg  
1726 M Street, Suite 600  
Washington, DC 20036

Phyllis Johnson-Bell, Project Manager  
Surface Transportation Board  
Section of Environmental Analysis  
1925 K Street NW, 5<sup>th</sup> Floor  
Washington, DC 20423

Joro Walker, Esq.  
Southern Utah Wilderness Alliance  
1473 South 1100 East, Suite F  
Salt Lake City, UT 84105

Jay E. Silberg, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, NW  
Washington, DC 20037-8007

Michael M. Later, Esq.  
Parr, Waddoups, Brown, Gee & Loveless  
185 S. State St., Suite 1300  
P.O. Box 11019  
Salt Lake City, UT 84147-0019

John Paul Kennedy, Sr., Esq.  
1385 Yale Ave.  
Salt Lake City, UT 84105

Tim Vollmann  
3301-R Coors Road N.W. # 302  
Albuquerque, NM 87120

Denise Chancellor, Esq.  
Fred G. Nelson, Esq.  
160 East 300 South, 5th Floor  
P.O. Box 140873  
Salt Lake City, UT 84114-0873

Connie Nakahara, Esq.  
Utah Attorney General's Office  
160 East 300 South, 5<sup>th</sup> floor  
P.O. Box 140873  
Salt Lake City, UT 84114-0873

Mr. John Donnell  
Stone and Webster Engineering  
7677 East Berry Avenue  
Englewood, CO 80111

Paul C. Echohawk, Esq.  
Echohawk Law Offices  
Attorney for Ohngo Gaudadeh Devia  
151 North 4th Ave, Suite A  
P. O. Box 6119  
Pocatello, ID 83205-6119

OGC LIST OF THIRD PARTIES FOR CERTIFICATE OF SERVICE

Jay E. Silberg, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, NW  
Washington, DC 20037-8007

Diane Curran, Esq.  
Harmon, Curran, Spielberg & Eisenberg  
1726 M Street, Suite 600  
Washington, DC 20036

Joro Walker, Esq.  
Southern Utah Wilderness Alliance  
1473 South 1100 East, Suite F  
Salt Lake City, UT 84105

Professor Richard Wilson  
Department of Physics  
Harvard University  
Cambridge, MA 02138

Michael M. Later, Esq.  
Parr, Waddoups, Brown, Gee & Loveless  
185 S. State St., Suite 1300  
P.O. Box 11019  
Salt Lake City, UT 84147-0019

Martin Kaufman, Esq.  
Atlantic Legal Foundation  
205 E. 42nd Street, 9th Floor  
New York, NY 10017

John Paul Kennedy, Sr., Esq.  
1385 Yale Ave.  
Salt Lake City, UT 84105

Paul C. Echohawk, Esq.  
Echohawk Law Offices  
Attorney for Ohngo Gaudadeh Devia  
151 North 4th Ave, Suite A  
P. O. Box 6119  
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Tim Vollmann  
3301-R Coors Road N.W. # 302  
Albuquerque, NM 87120

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Connie Nakahara, Esq.  
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P.O. Box 140873  
Salt Lake City, UT 84114-0873

ROUTING AND TRANSMITTAL SLIP

Date: December 18, 2002

NAME	INITIALS	DATE
MDelligatti		
STurk		
PLohaus		
GTracy		
CMiller		
EWBrach		

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ACTION:   X   APPROVAL:        FOR YOUR INFO:         
 NOTE & RETURN:        PREPARE REPLY:        COORDINATION:       

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EDO/NMSS TICKET NO(s): G20020683 - ML023470020  
 DUE TO DIVISION: 12/18/02  
 DUE TO NMSS: 12/18/02  
 DUE TO EDO: 12/18/02

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FROM: E. William Brach, Director, NMSS/SFPO

SUBJECT: Response to Constituent

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REMARKS: Parallel packages to: OGC, NSIR, OSTP

**“PLEASE CONCUR OR PROVIDE COMMENTS TO MDELLIGATTI,SFPO BY NOON ON MONDAY DECEMBER 16”**

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ORIGINATOR: M. Delligatti                      PHONE: 301-415-8518  
 SECRETARY: S. Metzger                         PHONE: 301-415-8503

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