

December 18, 2002

Ms. Denise Chancellor
Assistant Attorney General
State of Utah
Office of the Attorney General
160 East 300 South, 5th 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,

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

Docket No.: 72-22

cc: PFS Service Lists

DISTRIBUTION: G20030683

MVirgilio	MFederline	JMonninger	CPoslusny	MWaters
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MShah	JGuttman	EEaston	MTokar	MWaters
PShea EDO	CPoland NMSS	BFleming	CJensen SFPO	

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*see previous concurrence Pkg
ML023470020

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

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

cc: Private Fuel Storage

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

The Honorable Leon D. Bear, Chairman
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cc: PFS EIS

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ROUTING AND TRANSMITTAL SLIP

Date: December 18, 2002

NAME	INITIALS	DATE
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STurk		
PLohaus		
GTracy		
CMiller		
EWBrach		

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

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

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

SUBJECT: Response to Constituent

REMARKS: Parallel packages to: OGC, NSIR, OSTP

"PLEASE CONCUR OR PROVIDE COMMENTS TO MDELLIGATTI,SFPO BY NOON ON MONDAY DECEMBER 16"

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