

July 7, 2003

RAS 6604

DOCKETED 07/10/03  
SERVED 07/10/03

James R. Soper, Esquire  
Assistant Attorney General  
Utah Attorney General's Office  
160 East 300 South, 5<sup>th</sup> Floor  
P. O. Box 140873  
Salt Lake City, Utah 84114-08743

Re: Private Fuel Storage, L.L.C., (Independent Spent Fuel Storage Installation)  
Docket No. 72-22-ISFSI

Dear Mr. Soper:

By letter of June 12, 2003, you requested the release of an aircraft crash study that was sponsored by the Nuclear Energy Institute (NEI) and submitted by NEI to the Commission. The Commission has directed me to inform you and the NRC staff that the Commission has no threshold objection related to NEI's submission of the requested document directly to the Commission. As you know, however, this document was submitted as "safeguards" material and requires special handling.

The document is now an agency record, the request arises in connection with the proceeding before the Licensing Board, and the Commission may be called upon to review an initial decision of the Board on the matters before the Board. Thus, the Commission is asking the NRC staff to consider the request, within the context of the adjudication, including the Commission's recent directive in CLI-03-05 that the pending PFS adjudication move toward closure expeditiously, with such means as voluntary disclosure in lieu of formal discovery. The Commission has not determined the relevance or the evidentiary value of the NEI-sponsored study.

In responding to the request for release, the staff must determine the appropriate categorization or classification of the document, and related restrictions regarding its release -- in whole or in part -- and handling, as appropriate. In this regard, the Commission has also noted that, on June 26, 2003, the Licensing Board issued a Memorandum and Order, subtitled "Modified Protective Order for Security Plan Contentions and Aircraft Crash Consequences Safeguards Protected Information."

-2-

The other documents mentioned in your June 12 letter cannot be characterized as uniquely within the Commission's possession, and in fact, seem to be publicly available. I would note that you list an incorrect date for the Regulatory Guide that you seek. The most recent issuance of Regulatory Guide 1.145 is dated February 1983.

Sincerely,

*/RA/*

Annette Vietti-Cook

cc: Service List

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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 the foregoing LETTER FROM THE SECRETARY TO JAMES R. SOPER, ASSISTANT ATTORNEY GENERAL OF UTAH have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution with copies by electronic mail or facsimile as indicated.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Michael C. Farrar, Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
email: [mcf@nrc.gov](mailto:mcf@nrc.gov)

Administrative Judge  
Jerry R. Kline  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
email: [jrk2@nrc.gov](mailto:jrk2@nrc.gov)

Administrative Judge  
Peter S. Lam  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
email: [psl@nrc.gov](mailto:psl@nrc.gov)

Sherwin E. Turk, Esquire  
Catherine L. Marco, Esquire  
Office of the General Counsel  
Mail Stop - 0-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
email: [pfscase@nrc.gov](mailto:pfscase@nrc.gov)

Diane Curran, Esquire  
Harmon, Curran, Spielberg  
& Eisenberg, L.L.P.  
1726 M Street, NW, Suite 600  
Washington, DC 20036  
email: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

Docket No. 72-22-ISFSI  
 LETTER FROM THE SECRETARY TO JAMES  
 R. SOPER, ASSISTANT ATTORNEY GENERAL  
 OF UTAH

Joro Walker, Esquire  
 Director, Utah Office  
 Land and Water Fund of the Rockies  
 1473 South 1100 East, Suite F  
 Salt Lake City, UT 84105  
 email: [utah@lawfund.org](mailto:utah@lawfund.org)

Martin S. Kaufman, Esquire  
 Atlantic Legal Foundation  
 205 E. 42<sup>nd</sup> St.  
 New York, NY 10017  
 email: [mkaufman@yahoo.com](mailto:mkaufman@yahoo.com)

Denise Chancellor, Esquire  
 Assistant Attorney General  
 Utah Attorney General's Office  
 160 East 300 South, 5th Floor  
 P.O. Box 140873  
 Salt Lake City, UT 84114  
 email: [dchancellor@utah.gov](mailto:dchancellor@utah.gov);  
[jbraxton@utah.gov](mailto:jbraxton@utah.gov); [attygen@xmission.com](mailto:attygen@xmission.com)

Jay E. Silberg, Esquire  
 D. Sean Barnett, Esquire  
 Shaw Pittman  
 2300 N Street, NW  
 Washington, DC 20037-1128  
 email: [jay.silberg@shawpittman.com](mailto:jay.silberg@shawpittman.com);  
[sean.barnett@shawpittman.com](mailto:sean.barnett@shawpittman.com)

John Paul Kennedy, Sr., Esquire  
 David W. Tufts, Esquire  
 Confederated Tribes of the Goshute  
 Reservation and David Pete  
 Durham Jones & Pinegar  
 111 East Broadway, Suite 900  
 Salt Lake City, UT 84105  
 email: [dtufts@djplaw.com](mailto:dtufts@djplaw.com)

Richard Wilson  
 Department of Physics  
 Harvard University  
 17 Oxford St.  
 Cambridge, MA 02138  
 email: [wilson@huhepl.harvard.edu](mailto:wilson@huhepl.harvard.edu)

Tim Vollmann, Esquire  
 3301-R Coors Road N.W. #302  
 Albuquerque, NM 87120  
 email: [tvollmann@hotmail.com](mailto:tvollmann@hotmail.com)

Paul C. EchoHawk, Esquire  
 ECHOHAWK LAW OFFICES  
 151 North 4th Avenue, Suite A  
 P.O. Box 6119  
 Pocatello, ID 83205-6119  
 email: [larry@echohawk.com](mailto:larry@echohawk.com);  
[paul@echohawk.com](mailto:paul@echohawk.com); [mark@echohawk.com](mailto:mark@echohawk.com)

Docket No. 72-22-ISFSI  
LETTER FROM THE SECRETARY TO JAMES  
R. SOPER, ASSISTANT ATTORNEY GENERAL  
OF UTAH

Marlinda Moon, Chairman  
Sammy Blackbear, Sr., Vice Chairman  
Miranda Wash, Secretary  
Skull Valley Band of Goshute Indians  
P.O. Box 511132  
Salt Lake City, UT 84151-1132  
Fax: 810-963-4155

Stephen L. Simpson, Esquire  
Office of the Solicitor  
Department of the Interior  
Division of Indian Affairs  
1849 C Street, NW, Mailstop 6456-MIB  
Washington, DC 20240  
Fax: 202-208-3490

[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 10<sup>th</sup> day of July 2003