



RAS 9694

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 25, 2005

DOCKETED
USNRC

SECRETARY

April 5, 2005 (8:20am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SERVED April 5, 2005

The Honorable Robert F. Bennett
United States Senate
Washington, D.C. 20510

Docket No. 72-22-ISFSI

Dear Senator Bennett:

I am responding to your letter of March 17, 2005, sent to Chairman Nils J. Diaz, in which you register your strong opposition to granting the pending Private Fuel Storage, LLC (PFS) license application.

Under NRC regulations, the Commission has an adjudicatory role in the PFS proceeding. Due to the nature of the Commission's role, I trust you will understand that all members of the Commission must remain impartial during the pendency of this case. It would be inappropriate at this time for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be served on the participants in the Private Fuel Storage, LLC proceeding.

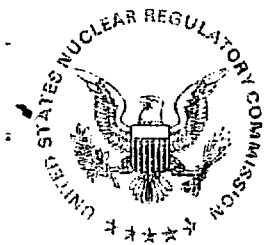
Sincerely,

J. Samuel Walker
Acting Secretary of the Commission

cc: PFS Service List

Template = SECY-040

SECY-02



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 25, 2005

SECRETARY

The Honorable Rob Bishop
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Bishop:

I am responding to your letter of March 17, 2005, sent to Chairman Nils J. Diaz, in which you register your strong opposition to granting the pending Private Fuel Storage, LLC (PFS) license application.

Under NRC regulations, the Commission has an adjudicatory role in the PFS proceeding. Due to the nature of the Commission's role, I trust you will understand that all members of the Commission must remain impartial during the pendency of this case. It would be inappropriate at this time for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be served on the participants in the Private Fuel Storage, LLC proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Samuel Walker", is written above the typed name.

J. Samuel Walker
Acting Secretary of the Commission

cc: PFS Service List

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 25, 2005

SECRETARY

The Honorable Jim Matheson
United States House of Representatives
Washington, D.C. 20515

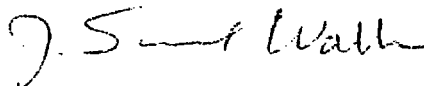
Dear Congressman Matheson:

I am responding to your letter of March 17, 2005, sent to Chairman Nils J. Diaz, in which you register your strong opposition to granting the pending Private Fuel Storage, LLC (PFS) license application.

Under NRC regulations, the Commission has an adjudicatory role in the PFS proceeding. Due to the nature of the Commission's role, I trust you will understand that all members of the Commission must remain impartial during the pendency of this case. It would be inappropriate at this time for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be served on the participants in the Private Fuel Storage, LLC proceeding.

Sincerely,



J. Samuel Walker
Acting Secretary of the Commission

cc: PFS Service List



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

March 25, 2005

SECRETARY

The Honorable Orrin G. Hatch
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

I am responding to your letter of March 17, 2005, sent to Chairman Nils J. Diaz, in which you register your strong opposition to granting the pending Private Fuel Storage, LLC (PFS) license application.

Under NRC regulations, the Commission has an adjudicatory role in the PFS proceeding. Due to the nature of the Commission's role, I trust you will understand that all members of the Commission must remain impartial during the pendency of this case. It would be inappropriate at this time for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be served on the participants in the Private Fuel Storage, LLC proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Samuel Walker", is written over a horizontal line.

J. Samuel Walker
Acting Secretary of the Commission

cc: PFS Service List



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 25, 2005

SECRETARY

The Honorable Chris Cannon
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Cannon:

I am responding to your letter of March 17, 2005, sent to Chairman Nils J. Diaz, in which you register your strong opposition to granting the pending Private Fuel Storage, LLC (PFS) license application.

Under NRC regulations, the Commission has an adjudicatory role in the PFS proceeding. Due to the nature of the Commission's role, I trust you will understand that all members of the Commission must remain impartial during the pendency of this case. It would be inappropriate at this time for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be served on the participants in the Private Fuel Storage, LLC proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Samuel Walker", is written over the typed name.

J. Samuel Walker
Acting Secretary of the Commission

cc: PFS Service List

Congress of the United States

Washington, DC 20510

March 17, 2005

The Honorable Nils J. Diaz
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Diaz:

We are writing to register our strong opposition to the Nuclear Regulatory Commission's (Commission) granting of a license to Private Fuel Storage, LLC (PFS). Due to the possibility of an accidental or deliberate aircraft crash, concerns over the safety of the waste during transportation and storage, and uncertainty regarding liability, the Utah congressional delegation (Delegation) strongly opposes the granting of this license. The proposed PFS facility creates a unique situation that demands unique consideration by the Commission.

The proposed site for the PFS facility is located directly under the flight path of combat aircraft, many carrying live ordnance, entering the Utah Test and Training Range. The Delegation is deeply concerned by the possibility of an aircraft accident at the proposed storage site. However, we are even more disturbed by the poor data and selective scientific approach used by PFS in claiming that such an accident would not pose a significant risk to the site. Judge Peter S. Lam's dissent to the Atomic Safety and Licensing Board decision regarding F-16 Aircraft Accident Consequences highlights the dangers associated with the proposed location of the PFS facility and the inadequacy the data used by PFS in its license application:

...the proposed PFS facility does not currently have a demonstrated adequate safety margin against accidental aircraft crashes. . . This lack of adequate safety margin is a direct manifestation of the fundamentally difficult situation of the proposed PFS site: 4,000 spent fuel storage casks sitting in the flight corridor of some 7,000 F-16 flights a year. The Applicant's current analyses, which are fundamentally undermined by large inherent uncertainties and narrow safety margins, should not be relied upon to demonstrate the safety of the proposed site (D-6).

Despite the astuteness of Judge Law's opinion, he does not mention the new threats facing our nation. With new forms of terrorism threatening our national security, we find it inconceivable that a government entity would consider giving its endorsement of the PFS plan without thoroughly taking into account this added terrorist threat. We believe the Commission should require that the Environmental Impact Statement be reopened to address the heightened security risk associated with these new threats. The Commission's consideration for such a license should reflect the threats to a consolidated nuclear waste storage facility in a post-September 11th security environment.

Moreover, security for transportation and storage of nuclear waste to the PFS facility will not be handled by the federal government. Rather, private entities will be responsible for this task. Should an accident occur during shipping or storage, clearly the government would be held responsible for its endorsement of the site and Congressional oversight would ensue. Accordingly, the Delegation requests to be informed in writing as to which government entity will certify that private security for the transportation and storage of nuclear waste sent to the proposed PFS site will meet the stringent requirements of a nation fighting the War on Terrorism.

Furthermore, the consolidation of nearly all of the nation's private spent nuclear fuel rods in one above ground location creates an enormous financial liability in the event of an accident during transportation or storage. It is our understanding that, once the waste has arrived at the proposed facility, PFS will not be protected from financial liability under the auspices of the Price-Anderson Act in the event of an accident or deliberate attack. Consequently, the Delegation requests a written acknowledgement of liability from the federal entity that will take on this burden in the event of an accident.

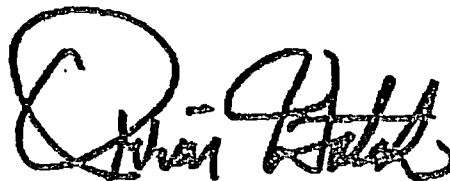
In addition, a very relevant aspect of the PFS proposal is the policy of the U.S. Department of Energy (DOE) not to accept storage containers at the PFS site for ultimate repose. To our knowledge, the Commission has not received a written commitment from DOE creating an obligation to arrange for the shipment of spent fuel from the PFS site to any permanent repository.

Therefore, we expect the Commission to review the administrative record diligently prior to making a final decision on issuing a license to PFS and accordingly reject it. As PFS has made a number of assurances regarding the design and composition of the casks that would be used at the proposed storage facility, the Commission should require that PFS's assurances are met before any further consideration of this license.

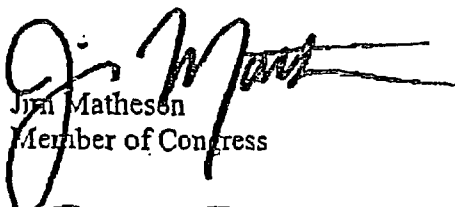
Sincerely,



Robert F. Bennett
United States Senator



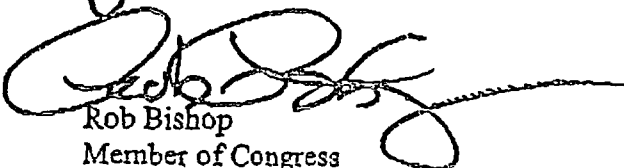
Orrin G. Hatch
United States Senator



Jim Matheson
Member of Congress



Chris Cannon
Member of Congress



Rob Bishop
Member of Congress

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

PRIVATE FUEL STORAGE, L.L.C.)

(Independent Spent Fuel Storage
Installation))

Docket No. 72-22-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM SECY TO MEMBERS OF CONGRESS RE PRIVATE FUEL STORAGE, LLC LICENSE APPLICATION have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board Panel
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Administrative Judge
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Salt Lake City, UT 84105

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Atlantic Legal Foundation
205 E. 42nd St.
New York, NY 10017

Docket No. 72-22-ISFSI
LETTER FROM SECY TO MEMBERS OF CONGRESS
RE PRIVATE FUEL STORAGE, LLC LICENSE APPLICATION

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Department of the Interior
Division of Indian Affairs
1849 C Street, NW, Mailstop 6456-MIB
Washington, DC 20240


Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 5th day of April 2005