

From: "Sarah M. Fields" <sarahmfields@earthlink.net>
To: "Stewart W. Brown" <SWB1@nrc.gov>
Date: 6/16/05 2:10PM
Subject: Docket No. 72-22-ISFSI. Private Fuel Storage Independent Spent Fuel Storage Installation (ISFSI)

Dear Mr. Brown,

Attached please find letter and enclosure re Docket No. 72-22-ISFSI.
Private Fuel Storage Independent Spent Fuel Storage Installation (ISFSI).

A copy has been sent to the Secretary for distribution to the Commissioners.

A paper copy will follow in the mail.

Sarah M. Fields

CC: Dianne Nielson <dnielson@utah.gov>, <secy@nrc.gov>

Mail Envelope Properties (42B1C0A6.2E0 : 10 : 45792)

Subject: Docket No. 72-22-ISFSI. Private Fuel Storage Independent Spent Fuel
Storage Installation (ISFSI)
Creation Date: 6/16/05 2:10PM
From: "Sarah M. Fields" <sarahmfields@earthlink.net>
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Files	Size	Date & Time
MESSAGE	294	06/16/05 02:10PM
To Stewart W Brown 6-16-05	67072	
DOE-Fuel Cask 5-4-05	32256	
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Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

June 16, 2005

Mr. Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

RE: Docket No. 72-22-ISFSI. Private Fuel Storage Independent Spent Fuel
Storage
Installation (ISFSI). (ASLBP NO. 97-732-02-ISFSI.)

Dear Mr. Brown:

This letter is to bring to your attention certain statements by the U.S. Department of Energy (DOE) related to the Private Fuel Storage (PFS) Independent Spent Fuel Storage Installation (ISFSI). The statements are contained in a May 4, 2005, *Salt Lake Tribune* article.

The information in the article relates to statements made by Nuclear Regulatory Commission (NRC) staff in the adjudicatory proceeding regarding the issuance of an NRC license for a spent fuel storage facility at Skull Valley, Tooele County, Utah: ASLBP NO. 97-732-02-ISFSI. The article provides new and pertinent information.

One of the questions that has arisen during the licensing process and during the proceeding is whether, in the future, the DOE can or will accept canistered spent fuel from the PFS Skull Valley facility for long-term storage at the proposed spent fuel disposal facility at Yucca Mountain, Nevada. Recently, the Commission entertained arguments related to this issue, and the NRC staff provided their position.

The enclosed article provides further documentation that there are serious questions about the DOE's willingness to accept the type of spent fuel casks that would be stored at the PFS facility. The article contains statements by David Zabransky of the DOE Office of Civilian Radioactive Waste Management. The article states, in part:

Recent statements made by David Zabransky of the Energy Department's Office of Civilian Radioactive Waste Management, speaking in Salt Lake City to representatives of the Western Interstate Energy Board, said federal contract requirements forbid acceptance of spent nuclear fuel welded into any type of canister.

That would include the 44,000 tons of waste that Private

Stewart W. Brown
June 16, 2005

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Fuel Storage proposes to transport to Utah, he said.

Zabransky also said that the conditions aren't new. In fact, DOE rules on accepting waste from nuclear reactors - that it be "bare fuel," that is, packed directly from reactors' cooling pools - have been known since the late 1980s. . . .

Zabransky said it would be technically possible to set up a facility at Yucca where the PFS canisters, or similar canisters from any nuclear utility that stores spent fuel rods in casks once their cooling pools are full, could be cut open and repackaged. But that would be a "burden to the system," he said.

It also would be possible to renegotiate the contract, he said.

But that would mean the utilities might have to make concessions unfavorable to their interests, which he indicated would be unlikely.

Obviously, NRC staff cannot rely on news articles in its decision making. However, the information in the article directly contradicts statements made by the licensee and NRC staff in an adjudicatory proceeding. There is no doubt that previous assumptions about the DOE's position are no longer valid. The NRC staff cannot continue to rely on decade-old DOE communications. NRC staff cannot continue to claim that they have complete and current knowledge of the position of the DOE.

It is imperative that the NRC staff seeks a clear and unambiguous written opinions from officials within the DOE regarding their *current* position with respect the acceptance of PFS's spent nuclear fuel that has been welded into canisters. The licensing process demands timely and fully substantiated documentation. The NRC staff is obligated by law to seek new and reliable information from the DOE about this issue and keep the Commission currently and fully informed regarding the results of its inquiries.

Therefore, I request that the NRC initiate appropriate formal discussion with all responsible DOE offices and staff regarding these matters in order to clearly and firmly establish the DOE's legal position with respect the acceptability of welded canisters of spent fuel from the proposed Skull Valley storage facility.

Thank you for your prompt attention to this letter. I request a written reply. If you have any questions, please feel free to contact me via e-mail.

Sincerely,

Stewart W. Brown
June 16, 2005

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Sarah M. Fields
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Enclosure: As stated
cc: (e-mail)
The Commission
Dianne Nielson, UT DEQ

<http://www.sltrib.com/>

Article Last Updated: 5/04/2005 07:40 AM

Yucca won't take waste from Utah

Rules prohibit it: The Nevada site won't take nuclear fuel in canisters like those for the proposed PFS site

By Patty Henetz
The Salt Lake Tribune

Salt Lake Tribune

A top Energy Department official on Tuesday said that any waste shipped to a high-level nuclear-waste facility planned for the Skull Valley Goshute reservation would not be accepted at the Yucca Mountain, Nev., federal waste repository.

David Zabransky of the Energy Department's Office of Civilian Radioactive Waste Management, speaking in Salt Lake City to representatives of the Western Interstate Energy Board, said federal contract requirements forbid acceptance of spent nuclear fuel welded into any type of canister.

That would include the 44,000 tons of waste that Private Fuel Storage proposes to transport to Utah, he said.

Zabransky also said that the conditions aren't new. In fact, DOE rules on accepting waste from nuclear reactors - that it be "bare fuel," that is, packed directly from reactors' cooling pools - have been known since the late 1980s.

Dianne Nielson, executive director of the Utah Department of Environmental Quality, said after Zabransky's presentation that the Energy Department and the NRC, by not dealing with what has turned out to be a long-standing interpretation of what is known as the Standard Contract, have abdicated responsibility for PFS and whether it would indeed be a temporary facility.

"It isn't that they didn't plan for it," she said. "They've chosen to ignore it."

In October, when DOE waste transportation planner Gary Lanthrum said the PFS fuel might not be acceptable at the federal repository 90 miles north of Las Vegas, the interpretation seemed novel.

Surprised Utah officials made the revelation the centerpiece of an appeal to the Nuclear Regulatory Commission's licensing board. They said it seemed to contradict PFS assertions that their \$3.1 billion facility 45 miles southwest of Salt Lake City would only be a Yucca Mountain way station.

But the board has refused to consider the argument, and is expected to rule any day on whether to give its final approval to PFS's license application, Nielson said.

The DOE's position on the welded casks - such treatment means they cannot be inspected - gives weight to Utah's fears that PFS will become a substitute for Yucca Mountain, which has been beset by delays, lawsuits and recent disclosures that a

Yucca won't take waste from Utah/SLT
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government scientist falsified data to support the project. Yucca Mountain was supposed to open in 1998, then in 2010, but now probably won't open until 2015, if ever.

"It's difficult under any scenario to understand how the NRC can license PFS as a temporary facility," Nielson said. "I don't mean to sound doomsday. To me this means this stays on the list [of what] has to be addressed."

Zabransky said it would be technically possible to set up a facility at Yucca where the PFS canisters, or similar canisters from any nuclear utility that stores spent fuel rods in casks once their cooling pools are full, could be cut open and repackaged. But that would be a "burden to the system," he said.

It also would be possible to renegotiate the contract, he said.

But that would mean the utilities might have to make concessions unfavorable to their interests, which he indicated would be unlikely.

phenetz@sltrib.com