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RELATED CORRESPONDENCE

~~Attachment A May Contain Proprietary Information~~

DOCKETED
USNRC
2/23/2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'00 FEB 25 P3:38

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF THE
ADJUDICATING OFFICER

In the Matter of:

)
) Docket No. 72-22-ISFSI
)

PRIVATE FUEL STORAGE, LLC
(Independent Spent Fuel
Storage Installation)

) ASLBP No. 97-732-02-ISFSI
)
) December 29, 1999

STATE OF UTAH'S EIGHTH SET OF DISCOVERY REQUESTS
DIRECTED TO THE APPLICANT (UTAH CONTENTIONS E & S)

Pursuant to the Pursuant to the Board's Orders dated April 22, 1998 (LBP-98-7), and Orders dated June 29, 1998, August 20, 1998, September 20, 1999, and 10 CFR §§ 2.740, 2.741, and 2.742, Intervenor, State of Utah, hereby requests that Private Fuel Storage, LLC ("PFS") answer the following Interrogatories and Requests for Admissions separately, fully, in writing, and under oath within 10 days¹ after service of this discovery request and produce documents requested below within 15 days after service of this request.

I. INSTRUCTIONS AND DEFINITIONS

The State refers the Applicant to the instructions and definitions contained in

¹ Counsel for the State and PFS have agreed that the party responding to Interrogatories and Requests for Admissions during the formal discovery period may timely file a response within eight (8) working days after receipt of the Discovery Request.

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the State's previous discovery requests directed to the Applicant. *See e.g.*, State's First Set of Discovery Requests Directed to the Applicant, dated April 9, 1999. Those instructions and definitions are incorporated herein by reference.

II. DISCOVERY REQUESTS

UTAH CONTENTION E

Requests for Admissions Nos. 1 and 2 and Interrogatory No. 1 relate to ¶ 6 of the Parkyn Affidavit filed pursuant to 10 CFR § 2.790 regarding Applicant's Proprietary Responses to State of Utah's Third and Fourth Set of Discovery Requests, dated December 6, 1999, wherein Mr. Parkyn states: "If the information contained in the PFS documents attached to this affidavit became available to PFS' competitors or customers (both current or potential), those parties would learn of sensitive commercial, cost and financial information which could be used against PFS in the competition for customers or negotiation of contracts for service." This same language appears in ¶ 6 of the Parkyn Affidavit filed pursuant to 10 CFR § 2.790 regarding the Applicant's Motion for Partial Summary Disposition of Utah Contention E/Confederated Tribes F, dated December 3, 1999.

A. REQUESTS FOR ADMISSIONS - Utah E

REQUEST FOR ADMISSION NO. 1: Do you admit that the PFS Service Agreements will be individually negotiated for each customer.

REQUEST FOR ADMISSION NO. 2: Do you admit that price terms offered

to non-PFS members in the PFS Service Agreements may vary among non-members.

REQUEST FOR ADMISSION NO. 3: Do you admit that PFS's customers will be responsible for damages in excess of any liability carried by PFS for the off-site consequences from on-site accidents or natural occurrence.

REQUEST FOR ADMISSION NO. 4: Do you admit that PFS will not commence construction of the PFS facility by September 2000. *See* LA, Rev. 1 at 1-8.

REQUEST FOR ADMISSION NO. 5: Do you admit that, to date, PFS has not raised sufficient capital, such as from contributions, donations, or debt financing, to commence construction of the PFS facility in September 2000.

REQUEST FOR ADMISSION NO. 6: Do you admit that PFS will not complete construction of the PFS facility by December 31, 2001. *See* LA, Rev. 1 at 1-8.

REQUEST FOR ADMISSION NO. 7: Do you admit that when PFS refers to "construction of the PFSF", PFS does not include in that term construction of the Low rail spur or construction of the intermodal transfer facility. *See, e.g.,* LA, Rev. 1 at 1-8.

B. INTERROGATORIES - Utah E

INTERROGATORY NO. 5.² Please describe the name and type of facility or operation of each and every competitor (current and future) referred to the ¶ 6 of the above-referred Parkyn affidavit, and the name, title and affiliation with PFS of the individual responsible for determining who are PFS's competitors.

² Numbering for these interrogatories is continued from the last interrogatory previously submitted to the Applicant.

INTERROGATORY NO. 6. Please describe in detail the fiscal resources PFS plans to have available to cover the costs and liability for a release of radioactivity off-site from a major on-site accident or natural occurrence, the name title and affiliation with PFS of the individual responsible for planning whether such costs and liability will be covered, and the name, title and affiliation with PFS of the individual responsible for determining the amount of liability coverage.

INTERROGATORY NO. 7. In response to State's document request for copies of reports or studies by utilities or others in PFS's possession or control dealing with the economics of the SNF *storage* market, PFS responded that it has already produced "all such reports or studies relevant to the costs of spent nuclear fuel storage that it has." See Applicant's December 6, 1999 Objections and Responses to State of Utah's Fourth Set of Discovery Requests (hereinafter "PFS Response Fourth Set") at 13, Response to Document Request No. 7. Please describe in detail (e.g., date, title, author, bates number, etc.) each and every such responsive report or study that PFS has already produced to the State.

INTERROGATORY NO. 8. In response to State's document request for documents describing or analyzing the cost of operating proposed or existing ISFSIs at locations other than PFS, PFS responded that it has already produced any such documents "relating to the costs of operating ISFSIs (including those at locations different from that of the PFSF." See PFS Response Fourth Set at 19, Applicant's

Response to State's Document Request No. 20. Please describe in detail (e.g., date, title, author, bates number, etc.) each and every such responsive document that PFS has already produced to the State.

INTERROGATORY NO. 9. Please provide the name, title and affiliation with PFS of the individual(s) responsible for developing the PFS Business Plans; approving the PFS Business Plans; preparing the PFS budget(s); developing a PFS marketing plan or strategy; implementing a PFS marketing plan or strategy; and developing and deciding upon the PFS facility construction schedule.

C. DOCUMENT REQUESTS - Utah E

DOCUMENT REQUEST NO. 1. Please provide a complete unredacted copy of PFS's lease with the Skull Valley Band of Goshute Indians.

DOCUMENT REQUEST NO. 2. Please provide an unredacted copy of PFS current business plan. If PFS claims that any of the material in the business plan is privileged, please clearly show on the document the privilege claimed for any redactions.

DOCUMENT REQUEST NO. 3. Refer to your response to Interrogatory No. 3 (Utah E), PFS Response Fourth Set at 10. Please provide all documentary support for your assertion that "nuclear energy liability insurance coverage in the amount of \$200 million . . . would be sufficient to cover off-site losses to the public in the event of an accident at the PFSF site." *See also* NRC Staff's Statement of Its Position Concerning Group I-II Contentions, dated Dec. 15, 1999, at 6.

DOCUMENT REQUEST NO. 4. Please provide all cost studies, or other

documents showing or discussing the cost of constructing NSP's dry cask storage facilities.

DOCUMENT REQUEST NO. 5. Please provide all documents demonstrating that nuclear liability insurance will be available to PFS.

DOCUMENT REQUEST NO. 6. Please provide a copy of the form of policy from insurance providers PFS has consulted for the nuclear liability insurance PFS is planning to procure.

DOCUMENT REQUEST NO. 7. Please provide correspondence, contracts or other documents from insurance providers showing the cost of the nuclear liability insurance PFS is planning to procure.

DOCUMENT REQUEST NO. 8. Please provide any documents relied upon by PFS that record or discuss any unplanned or unexpected costs incurred during the construction, modification, or operation of any nuclear fuel storage facility in the United States during the last 30 years.

DOCUMENT REQUEST NO. 9. Please refer to your supplemental response to Document Request No. 8 (Utah S), Applicant's December 6, 1999 Objections and Responses to State of Utah's Fourth Set of Discovery Requests and Supplemental Responses to State of Utah's Third Set of Discovery Requests (hereinafter "PFS Supplemental Response Third Set (Utah S)"), at 40. Please provide the documents you rely on for your assertion that, "'serious' accidents are not credible . . ."

DOCUMENT REQUEST NO. 10: Please provide any additional documents responsive to Interrogatory No. 7 (reports or studies dealing with the economics of the

SNF storage market) that have not already been produced and identified in your response to Interrogatory No. 7.

DOCUMENT REQUEST NO. 11: Please provide any additional documents responsive to Interrogatory No. 8 (describing or analyzing the cost of operating proposed or existing ISFSIs at locations other than PFS) that have not already been produced and identified in your response to Interrogatory No. 8.

Document Request Nos. 12 through 15, which may contain proprietary information, are set out in full in Attachment A. The State may claim, however, as to the proprietary nature of these requests.

DOCUMENT REQUEST NO. 12: See Attachment A.

DOCUMENT REQUEST NO. 13: See Attachment A.

DOCUMENT REQUEST NO. 14: See Attachment A.

DOCUMENT REQUEST NO. 15: See Attachment A.

UTAH CONTENTION S

A. INTERROGATORIES - Utah S³

INTERROGATORY NO. 5: In response to State's request for documents discussing the methodologies, plans or procedures for decontaminating and/or decommissioning an ISFSI within the U.S., PFS responded that it has already produced "all such documents." See PFS Response Fourth Set at 38, Response to Document Request No. 13. Please describe in detail (e.g., date, title, author, bates number, etc.)

³ Numbering for these interrogatories is continued from the last interrogatory previously submitted to the Applicant.

each and every such responsive document that PFS has already produced to the State.

INTERROGATORY NO. 6: In response to State's request for documents which formed the basis for the individual work task man hour estimates and the costs per man hour figures that were used to develop the PFS facility decommissioning cost estimate, PFS responded that it has already produced "all such documents." See PFS Response Fourth Set at 38, Response to Document Request No. 14. Please describe in detail (e.g., date, title, author, bates number, etc.) each and every such responsive document that PFS has already produced to the State.

INTERROGATORY NO. 7: In response to State's request for documents which formed the basis for the waste disposal and transportation costs of the PFS facility decommissioning cost estimate, PFS responded that it has already produced "all such documents." See PFS Response Fourth Set at 38, Response to Document Request No. 15. Please describe in detail (e.g., date, title, author, bates number, etc.) each and every such responsive document that PFS has already produced to the State.

B. DOCUMENT REQUESTS - Utah S

DOCUMENT REQUEST NO. 1. Please refer to your response to Admission Request No. 1 (Utah S), PFS Response Fourth Set at 23. Please provide the document or documents that formed the basis for your interpretation of NRC's definition of "credible accident."

DOCUMENT REQUEST NO. 2. Please refer to your response to Admission Request No. 3 (Utah S), PFS Response Fourth Set at 25. Please provide the document or documents that support your statement that "even in the event of a large accident,

the amount set aside for decommissioning the facility would be sufficient.”

DOCUMENT REQUEST NO. 3. Please provide any and all documents upon which the “less than \$17,000” costs estimated to decommission a storage cask is predicated. See LA, App. B, Rev. 4, at 4-4.

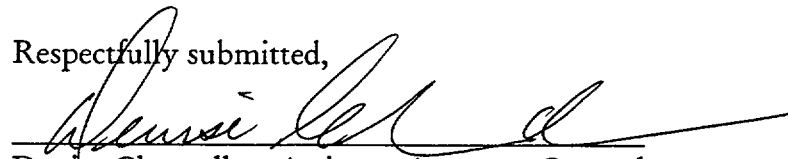
DOCUMENT REQUEST NO. 4. Please provide any additional documents responsive to Interrogatory No. 5 (discussing the methodologies, plans or procedures for decontaminating and/or decommissioning an ISFSI within the U.S.) that have not already been produced and identified in your response to Interrogatory No. 5.

DOCUMENT REQUEST NO. 5. Please provide any additional documents responsive to Interrogatory No. 6 (which formed the basis for the individual work task man hour estimates and the costs per man hour figures that were used to develop the PFS facility decommissioning cost estimate) that have not already been produced and identified in your response to Interrogatory No. 6.

DOCUMENT REQUEST NO. 6. Please provide any additional documents responsive to Interrogatory No. 7 (which formed the basis for the waste disposal and transportation costs of the PFS facility decommissioning cost estimate) that have not already been produced and identified in your response to Interrogatory No. 7.

DATED this 29th day of December, 1999.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Denise Chancellor", is written over a horizontal line.

Denise Chancellor, Assistant Attorney General

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CERTIFICATE OF SERVICE

DOCKETED
USNRC

I hereby certify that a copy of STATE OF UTAH'S EIGHTH SET OF
DISCOVERY REQUESTS DIRECTED TO THE APPLICANT (UTAH
CONTENTIONS E & S)⁴ was served on the persons listed below by electronic mail
with conforming copies by United States mail first class, this 29th day of December,
1999; Attachment A, which may contain proprietary information, was served by
facsimile with conforming copies by United States mail first class:

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⁴ Those parties, marked with an asterisk (*) not privy to information claimed
by PFS as proprietary are not being served Attachment A.

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