

VINCENT --

EXHIBIT 2



Private Fuel Storage, L.L.C.

P.O. Box 64710, Las Vegas, NV 89164-2410

John D. Parkyn, Chairman of the Board

February 10, 1999

Director, Office of Nuclear Material Safety and Safeguards
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

**RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION
PRIVATE FUEL STORAGE FACILITY
PRIVATE FUEL STORAGE, L.L.C.
DOCKET NO. 72-22/TAC NO. L22462**

- Reference:
- 1) NRC Letter, Delligatti to Parkyn, Request for Additional Information, dated December 10, 1998
 - 2) NRC Letter, Delligatti to Parkyn, Request for Additional Information on License Application, dated April 1, 1998
 - 3) PFS Letter, Parkyn to Director, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, dated January 21, 1999

Enclosed are the responses of Private Fuel Storage, L.L.C. to the Requests for Additional Information (RAI) set forth in Reference #1. Also enclosed are the remaining responses to the first RAI transmitted by Reference #2. The timing for submittal of these latter responses was governed by the Staff's statement in Reference #1 that it would review the remaining first round RAI responses at the same time it reviews the responses to the second round RAI responses. As explained in our letter of January 21, 1999 (Reference #3), we have taken that statement to mean that we should submit the remaining first round RAI responses when the second round RAI responses were submitted. The enclosed submittal reflects that understanding.

RAI reference material that includes proprietary data, safeguards information, or extensive calculations/reports will be submitted under separate covers. If you have any questions regarding this response, please contact me at (608) 787-1236 or our Project Director, John Donnell, at (303) 741-7009.

Sincerely,

John D. Parkyn, Chairman
Private Fuel Storage

JDP:cls
Enclosures

INTERMODAL TRANSFER POINT

ITP-1 Provide a detailed discussion of how shipments of spent fuel would be completed from the time they arrive at the intermodal transfer point (ITP) until they are received at ISFSI site. The discussion should include both the proposed options for rail and highway shipments, and address the following items:

- a) PFS's role in completing the shipments once they've arrived at the ITP (e.g., common or contract carrier, freight forwarder, broker, etc.)
 - Include a description of the specific activities conducted by PFS personnel at the ITP, and in-transit between the ITP and ISFSI site.
- b) The actions PFS needs to undertake to comply with Department of Transportation regulations for motor and/or rail carrier if PFS is acting as a contract or common carrier.
 - This includes both regulations for qualifying as a carrier, and for complying with carrier safety requirements for rail and/or highway.
- c) The responsibilities of PFS's shippers (utility customers) and carriers for providing physical protection under 10 C.F.R. Part 73.
 - The discussion, at a minimum, needs to address the following areas: shipment notifications, cask surveillance (escorts), communications (including two hour call-ins), and response arrangements with local law enforcement personnel.
 - The discussion should also focus on how physical protection requirements in these areas are implemented while spent fuel casks are in storage "incident to transit" at the ITP, as well as in transit between the ITP and ISFSI site.
- d) Responsibilities of PFS (if any), its shippers and carriers for preparing casks for shipment (e.g., marking and labeling of casks, placarding, shipping papers and declarations).
 - The discussion should focus on PFS's activities at the ITP, and in transit between the ITP and ISFSI site.

- (e) Ownership of ITP facilities and equipment, and agreements concerning the use of such facilities and equipment.
- (f) The role of PFS, shippers and others in providing emergency response at the ITP, and in-transit between the ITP and ISFSI site.
- (g) Since the applicant will not take licensed possession of the spent fuel at the ITP, PFS should clarify whether it intends to act as either a common or contract carrier, broker, or freight forwarder in transporting spent fuel to the ISFSI site. Further, PFS should clarify whether it believes it could transport spent fuel as a private carrier from the ITP to the PFS site under the general license provisions to 10 C.F.R. 71.12, even though it does not take possession of the spent fuel until receipt at the ISFSI site. The information provided in response to this RAI is needed to assess PFS's role in the actual transport of spent fuel from the ITP to the ISFSI site. The results of this assessment would be used to determine if the ITP needs to be included in a license issued under Part 72, or whether activities at the ITP are covered under the Department of Transportation regulations for shipping hazardous materials.

RESPONSE

- a) Of the two transportation alternatives discussed in the PFS application, heavy-haul is the only option that contemplates use of an intermodal transfer point (ITP). The heavy-haul option would require in-transit transfer of the shipping cask while in its transport cradle from the rail car to a heavy-haul vehicle for transport from the main rail line to the ISFSI. The cask shipments using the rail option would not go through the ITP; rather the cask shipments would remain on the same rail car and move directly from the main rail line to the rail short line for delivery to the PFS.

While any properly qualified party can perform the intermodal transfer operations,¹ it is presently anticipated that PFS would perform such operations as a common/contract carrier under a transportation services agreement with the utility customers or PFS may arrange for a third party to perform such services for the utility customers. PFS or the third party would position the rail car under the site crane, and lift and attach the cask/transport cradle onto the heavy-haul vehicle at the ITP. Once road ready, the shipment would then be transported, without undue delay, along Skull Valley Road to the ISFSI where the receipt inspection process

¹ The training requirements for such qualification are included in 49 C.F.R. Part 172 Subpart H, 174, and 177.

for storage would occur. Should a third party perform some or all of these services, PFS personnel would be available to provide any necessary support.

In the event that PFS does not act as a carrier, it may act as a broker, which arranges for transportation of cargo belonging to others without assuming responsibility or accepting possession of such cargo. Should PFS decide to act as a broker, it would be required to comply with the applicable requirements in 49 U.S.C. §§ 13901, 904, 906(b) (registration and insurance requirements) and 49 U.S.C. §§ 14122 and 14123 (records and financial reporting).

- b) The transportation of casks from the main rail line to the ISFSI would be accomplished either by rail line or heavy-haul motor vehicle. PFS may contract directly with the utility customers for PFS to perform some or all of such transportation services or PFS may arrange for a third party to perform such services for the utility customers. To the extent that PFS acts as a carrier, PFS would comply with the applicable Department of Transportation (DOT) statutes and regulations pertaining to rail carriers or to motor carriers, as appropriate, and the related hazardous material transportation requirements. In any event, PFS will assist its utility customers with, and assure for its own part, compliance with these requirements for shipping hazardous materials.

If the rail option is chosen and PFS acts as a rail carrier for the utility customers, PFS would operate as a rail carrier that transports by either contract or common carriage (tariff). As such, PFS would meet the applicable requirements of a rail carrier, which include, without limitation, the applicable requirements set forth in: 45 U.S.C. Chapters 2, 8, 9, and 11 (railway labor issues such as liability for injuries, retirement, and unemployment); 49 U.S.C. Subtitle IV (Part A) (rail requirements including rates,² licensing, operations, records, and finance); Subtitle V (railroad programs including safety requirements and reporting); Subtitle X (bills of lading); and associated implementing regulations contained in 49 C.F.R. Parts 200, 1000 through 1300.

If the heavy-haul option is chosen and PFS acts as a carrier for the utility customers, PFS would meet the requirements for motor carriers which apply to both motor and common contract carriers, including, without limitation, the applicable requirements set forth in: 49 U.S.C. Subtitle IV Part B (motor carrier issues such as rate standards, tariffs, registration, service and operations, routing, and financial requirements); Subtitle VI

² The provisions of 49 U.S.C. § 10709 (permits carriage by contract) would specifically apply to contract carriage, but would not apply to common carriage under a tariff.

(motor vehicle and driver requirements); Subtitle X (bills of lading) and associated implementing regulations contained in 49 C.F.R. Parts 300, 1000, 1090-1099, 1200, and 1300. As of January 1, 1996, the DOT regulations and statutes no longer distinguish between motor contract and motor common carriers. The Federal Highway Administration, however, continues to register applicants as either motor common or motor contract carriers. The distinction is that most motor common carriers must provide proof of cargo insurance while motor contract carriers are not required to do so.

Under either of the alternatives set forth above, PFS, if acting as a carrier, must comply with applicable DOT hazardous materials transportation requirements. These requirements are in addition to the NRC requirements for transporting spent nuclear fuel and include, without limitation, the following: 49 C.F.R. Part 107 (filing fees and registration); Part 171 (reports of accidents/incidents); Part 172 (hazard warning label, placarding, marking, shipping papers, and emergency response information); Part 173 (compatibility, segregation, loading, and shipment handling requirements); and Parts 172 Subpart H, 174, and 177 (employee training including general awareness, familiarization training, function-specific training, safety training, and modal specific training).

- c) According to 49 C.F.R. § 173.22(c), the shipper is responsible for physical protection in compliance with 10 C.F.R. Part 73. The utility customers, as shippers, would remain responsible for physical protection until the cask shipments are delivered to the ISFSI. It is presently anticipated that the utility customers would contract with PFS to perform these services. The activities which are required to be performed under 10 C.F.R. Part 73 include the following:

- provide shipment pre-notification to NRC
- seek NRC approval of road and/or rail routes
- prepare contingency plans and procedures for coping with emergencies
- staff a communication center to continuously monitor shipment progress
- provide on-board continuous surveillance and communication activities while in transit or while stopped, including the 2 hour call-ins, adjusting as necessary for transit through heavily populated areas
- maintain a written log of shipment events
- coordinate with local law enforcement agencies
- minimize time in transit including avoiding maintenance stops
- protect safeguards information

- maintain appropriate records
- ensure personnel (security, escorts, and drivers) are properly trained
- provide armed escort equipment for shipments
- provide immobilization devices on trucks
- notify appropriate state officials, including State Governors, prior to transport

Specifically, consistent with the foregoing, as part of the transportation services agreement, it is anticipated that PFS would provide continuous security and escort services, notifications, communications, and coordination with local law enforcement as required by 10 C.F.R. § 73.37. PFS would establish and man an around-the-clock communication center to receive the two hours call-ins and otherwise coordinate and monitor the progress of utility customer spent fuel shipments to the PFS facility. PFS would provide the required escorts and security personnel during all phases of the transport. PFS would utilize a modified railroad passenger car at the end of the train to accommodate the security personnel, other escorts, communications equipment, and emergency response equipment. This car would have an unobstructed view of the cask cars at all time during transport. Under the heavy-haul option, PFS would provide the necessary escorts and escort vehicles for the transport from the ITP to the PFS facility.

Alternatively, PFS may arrange for a third party to perform some or all of these activities on behalf of the utility customers. Regardless of the party actually performing the service, such protection would be continuously provided for the entire transportation route including at the ITP and between the ITP and the ISFSI. In such case, PFS would assist its utility customer and assure for its own part the compliance with these requirements

- d) The shipper (utility customer) is responsible for the placarding, preparing the shipping papers and declarations of shipment content, and verifying the marking and labeling of the cask shipment at the reactor site prior to its delivery the carrier. Should PFS contract with the utility customers to perform transportation services as a carrier, PFS would verify that the rail cars or heavy-haul vehicle is appropriately placarded, the shipping papers are in order, and would review the marking and labeling of the cask shipment.
- e) It is anticipated that the ITP facilities and equipment would be owned by PFS regardless of the person that actually operates the ITP facilities and equipment. As discussed in the Response to ITP-1(a), PFS may perform

the intermodal transfer operations or PFS may engage a third party to perform the intermodal transfer operations. In the latter case, the third party may lease the ITP facilities and equipment from PFS. Agreements for such services would specify the rights, responsibilities (including regulatory compliance), and liability associated with the use of PFS transportation-related facilities and equipment.

- f) Overall responsibility for emergency response for the entire transportation route from the utility customer's site to the PFS site remains with the shipper (utility customer) as the person offering the material for shipment. If the heavy-haul option is used, the operations at the ITP are included in the regular course of transportation. As discussed above, the utility may contract with PFS for these services and PFS may choose to engage a third party to provide some or all of those services. Should PFS perform these services, PFS would comply with applicable rules and regulations, including, without limitation, the rules and regulations requiring that the following activities be performed: assurance that shipping papers provide the required emergency response information including appropriate descriptive information about the shipment, identify any immediate precautions, and immediate accessibility to the information; providing and staffing a 24-hour emergency response telephone number; and reporting of accidents/incidents to appropriate authorities.

As stated in the NRC general policy statement on response to transportation accidents, the government of the State in which an incident occurs is responsible for assuming control of the accident scene from the initial on-site responders (who are usually local officials). PFS personnel would be available to provide any necessary consultation support to the State.

- g) Transportation of the spent fuel from the ITP to the ISFSI may be accomplished by either PFS or a third party under contract with the utility customers. Should PFS contract to provide all or a portion of such transportation services, such services would be performed under a contract with the utility customers that is separate from the contract addressing storage of the spent nuclear fuel. Under such contract, PFS would act as a rail or motor carrier. In the event that PFS would not act as a carrier, but arrange for transportation services to be performed for the utility customers, PFS would possibly be classified as a broker. PFS would comply with the NRC and DOT regulations applicable to its status.

In any event, PFS would not transport spent fuel as a private carrier from the ITP to the PFS ISFSI site because PFS will never take title to, or own, the spent nuclear fuel.