

# EXHIBIT 2

SHAW PITTMAN  
POTTS & TROWBRIDGE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2300 N Street, N.W.  
Washington, D.C. 20037-1128  
202.663.8000  
Facsimile 202.663.8007

PAUL A. GAUKLER  
202.663.8304  
paul\_gaukler@shawpittman.com

New York  
Virginia

January 11, 1999

By E-mail and U.S. Mail

Joro Walker, Esq.  
Land and Water Fund of the Rockies  
165 South Main, Suite 1  
Salt Lake City, UT 84111

**Re: Private Fuel Storage, L.L.C., No. 72-22**

Dear Joro:

Enclosed for your review is a draft confidentiality agreement between OGD and PFS which would enable OGD to review and use in connection with the licensing proceeding PFS confidential information related to OGD's claims. The agreement is substantially the same as that which the State has signed and which we have proposed to Confederated Tribes.

Please let me know whether you have any questions or comments on the enclosed draft. If not, we will send out a final draft for OGD's execution.

Sincerely,



Paul Gaukler

Enclosure

cc: Richard E. Condit, Esq.

Draft  
01/11/99

## CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement (this "Agreement") is entered into this \_\_\_\_\_ day of January, 1999, by and between Private Fuel Storage L.L.C., a limited liability company organized and existing under the laws of the State of Delaware ("PFS") and Ohngo Gaudadeh Devia ("OGD"). PFS and OGD are collectively referred to herein as the "Parties."

WHEREAS, PFS intends to develop, construct, finance, own and operate an independent spent fuel storage installation for the temporary storage of spent nuclear fuel on land leased from the Skull Valley Band of Goshute Indians on the Skull Valley Indian Reservation in the State of Utah (the "Facility");

WHEREAS, PFS has applied to the United States Nuclear Regulatory Commission ("NRC") for a license permitting it to receive, transfer and possess power reactor spent nuclear fuel for temporary storage at the Facility;

WHEREAS, OGD has intervened in PFS's license application proceeding, NRC Docket No. 72-22 ISFSI (the "NRC Proceeding");

WHEREAS, in connection with the NRC Proceeding, PFS may directly or indirectly furnish OGD with certain information that is confidential, sensitive, proprietary or that is not otherwise available to the public; and

WHEREAS, PFS is willing to provide such information only on the condition that such information is protected from unauthorized use or disclosure as provided in this Agreement.

NOW, THEREFORE, in consideration of these premises, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Except as provided in paragraph 5 below, all information furnished by PFS to OGD in connection with the NRC Proceeding, including, without limitation, commercial and financial information related to PFS's business, which is designated by PFS in writing as confidential or proprietary, will be referred to herein as "PFS Confidential Information" and shall be deemed to be "PFS Confidential Information" for all purposes of this Agreement. All information or proprietary information provided by PFS to any other party to the NRC Proceeding under a Confidentiality and Non-Disclosure Agreement which is provided by such party to OGD shall be

deemed to be "PFS Confidential Information" for all purposes of this Agreement, provided that such information is identified by such other party as PFS Confidential Information or that such information is marked or otherwise identified as PFS Confidential Information.

2. OGD agrees to accept, receive and hold all PFS Confidential Information delivered or disclosed to it, either orally or in writing, in confidence and trust and to limit its use and disclosure as set forth in this Agreement. OGD shall not make any copy or in any way reproduce or excerpt any such information except in connection with the express terms hereof.

3. OGD shall limit the possession and use of all PFS Confidential Information to members or individuals employed or retained by it in connection with the NRC Proceeding ("OGD Employees"), and then only on a "need-to-know" basis. The Parties agree that when such disclosure must be made, it will be made only to the minimum extent necessary for the effective performance by the person receiving the disclosure of his or her duties in connection with the resolution of issues related to the NRC Proceeding. Neither OGD nor any of the OGD Employees having access to the PFS Confidential Information shall use in any manner such Confidential Information for any purpose other than the resolution of issues related to the NRC Proceeding.

4. OGD shall treat and maintain the PFS Confidential Information as confidential and proprietary and shall not for any purpose or in any manner disclose such information to any person without PFS's prior written consent, except (a) to the NRC in connection with the NRC Proceeding, (b) to parties to the NRC Proceeding (other than PFS, OGD and the NRC) which have executed and delivered Confidentiality and Non-Disclosure Agreements with PFS in form and substance substantially similar to this Agreement; and (c) as may be required by law or a court or government agency (other than the State of Utah). OGD shall take all reasonable steps to prevent and contest the disclosure by OGD Employees of the PFS Confidential Information except as set forth in the preceding sentence and shall seek protective orders to the extent available to protect the general dissemination of the PFS Confidential Information. Such steps to prevent disclosure shall include informing those persons to whom OGD provides PFS Confidential Information of this Agreement and the requirements thereof, and specifically identifying to those persons the PFS Confidential Information which is provided to them.

5. Nothing herein shall apply to PFS Confidential Information which:

(a) at the time of receipt was already rightfully possessed by OGD or was already in the public domain;

(b) after being provided by PFS entered the public domain without any wrongful action or omission of OGD; or

(c) is obtained from any person or entity other than PFS and, to the best of OGD's knowledge, after due inquiry, said person or entity had the right to disclose such information.

6. The PFS Confidential Information shall remain the property of PFS and shall, at PFS's request, be returned forthwith, together with all copies made by OGD, unless OGD

submits a written statement certifying that all PFS Confidential Information not so returned has been destroyed.

7. OGD will not, without PFS's prior written consent, disclose to any person (except to the persons described in clauses (a), (b) and (c) of Paragraph 4 above) conclusions or judgments solely developed from the PFS Confidential Information that has been made available to OGD or that OGD has inspected.

8. If OGD chooses to use any part of the PFS Confidential Information in connection with the NRC Proceeding, it will disclose the PFS Confidential Information only to the NRC, to PFS and to other parties in the NRC Proceeding which have executed and delivered Confidentiality and Non-Disclosure Agreements with PFS in form and substance substantially the same as this Agreement. If OGD is required to disclose any part of the PFS Confidential Information as part of any legal or regulatory proceeding other than the NRC Proceeding, it will, prior to disclosure, advise PFS so that PFS can consent to the disclosure or obtain a protective order from the appropriate governmental authority. In either case, OGD will cooperate and use all reasonable and available efforts to obtain confidential treatment for any PFS Confidential Information so disclosed, including, with respect to the NRC Proceeding, request that PFS Confidential Information be withheld from public disclosure pursuant to 10 C.F.R. 2.790.

9. Each Party hereby agrees and confirms that the subject matter of this Agreement is unique, and that it may be impossible to measure the damages which would result to PFS and from the violation by OGD of this Agreement. In addition to any other remedies which PFS may have at law or in equity, it shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance and to prevent a breach or threatened breach of the provisions of the Agreement.

10. No interest in the PFS Confidential Information shall be deemed to have been granted to OGD or to any other party or person to whom such information was provided.

11. The failure or delay in exercising any right, power or privilege hereunder shall not constitute a waiver thereof, nor shall any single or partial exercise preclude any other or further exercise or the exercise of any other right, power or privilege hereunder.

12. This Agreement shall be governed and construed in accordance with the laws of the State of Utah (except for the provisions of such law with respect to conflicts of laws).

13. If any provision of this Agreement is determined to be unenforceable or invalid by a court of competent jurisdiction, it shall be given effect to the extent it is enforceable or valid, and such unenforceability or invalidity shall not effect the enforceability or validity of any other provision of this Agreement.

14. This Agreement shall inure to the benefit of PFS and its respective successors and assigns and shall be binding on OGD, its officers, directors, memers and employees and their respective successors and assigns.

15. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which shall constitute the same agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Confidentiality and Nondisclosure Agreement, or have caused this Confidentiality and Nondisclosure Agreement to be duly executed on their behalf, as of the date set forth below.

PRIVATE FUEL STORAGE L.L.C.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

OHNGO GAUDADEH DEVIA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: January \_\_\_\_, 1999

693869