



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

November 27, 2000

Mr. Alan Stanfill
Advisory Council on Historic Preservation
12136 West Bayaud Avenue, #330
Lakewood, CO 80226

SUBJECT: SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT FOR THE
PROPOSED PRIVATE FUEL STORAGE PROJECT

Dear Mr. Stanfill:

As you are aware, Private Fuel Storage, L.L.C. (PFS), proposes to construct and operate an independent spent fuel storage installation on the Reservation of the Skull Valley Band of Goshute Indians, a Federally-recognized Indian Tribe. The U.S. Nuclear Regulatory Commission (NRC), the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) have agreed to participate jointly in the consultation process required by Section 106 of the National Historic Preservation Act. By letter dated June 28, 2000, you acknowledged notification and supporting documentation regarding the adverse effect of the project on properties eligible for inclusion on the National Register of Historic Places. Furthermore, you stated that pursuant to 36 CFR 800.6(b)(iv), the cooperating Federal agencies would need to file a final Memorandum of Agreement (Agreement), developed in consultation with the Utah State Historic Preservation Officer (SHPO), and related documentation at the conclusion of the consultation process. This is required in order for the cooperating Federal agencies to fully comply with Section 106 of the National Historic Preservation Act (NHPA).

By letter dated October 6, 2000, the cooperating Federal agencies requested the Utah SHPO's concurrence on the eligibility recommendations and mitigation measures within 30 days (Enclosure 1). During the week of October 23-27, 2000, the cooperating Federal agencies met with consulting parties to discuss the eligibility recommendations contained in the PFS Class III cultural resource inventory report and potential mitigation measures for anticipated adverse impacts to the cultural resources within the area of potential effects (APE). The cooperating Federal agencies scheduled an October 24, 2000, meeting with the previously designated representative of the Utah SHPO's office to discuss the eligibility recommendations and mitigation measures. However, on October 10, 2000, representatives from the SHPO's office canceled the meeting, and on October 13, 2000, Ms. Lynette Lloyd of the SHPO's staff informed Mr. Scott Flanders of the NRC staff that all future consultation activities regarding the PFS project should be conducted with the Utah Governor's office. By letter dated October 19, 2000, the cooperating Federal agencies requested clarification of the SHPO's role in the consultation process (Enclosure 2). On November 20, 2000, I received a letter dated November 1, 2000, from Utah Governor Michael O. Leavitt in which he indicated that, for the PFS project, he was retaining "... the authority of the State Historic Preservation Officer ..." for purposes of consultation under Section 106 of the NHPA (Enclosure 3).

A. Stanfill

-2-

Based on the unique circumstances associated with the State's participation in the consultation project, the cooperating Federal agencies request the participation of the Advisory Council on Historic Preservation in the Section 106 consultation process for the PFS proposal.

If you have any further questions or comments regarding this request, please contact Scott Flanders (NRC) at (301) 415-1172, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson Ball (STB) at (202) 565-1530.

Thank you for your consideration.

Sincerely,



Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosures:

1. 10/06/2000 ltr to UT State Historic Preservation Offc.
2. 10/19/2000 ltr to UT State Historic Preservation Offc.
3. 11/01/2000 ltr fr Governor Michael O. Leavitt

cc: EIS Service List
Natalie Gochnour

A. Stanfill

-2-

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Thank you for your consideration.

Sincerely,

/RA/

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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cc: EIS Service List
Natalie Gochnour

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OFC:	SFPO	E	DWM		SFPO	E	SFPO	E	SFPO			
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A. Stanfill

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cc: EIS Service List
Max Evans, UT SHPO

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OFC:	SFPO	E	DWM	SFPO	E	SFPO	E	SFPO		
NAME:	SFlanders:dd		MWong	VTHarpe		MDelligatti		SShankman		
DATE:	11/24/00		11/24/00	11/24/00		11/24/00		11/24/00		

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4/24

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 6, 2000

Max Evans, Director
Utah State Historic Preservation Office
300 South Rio Grande
Salt Lake City, Utah 84101

**SUBJECT: REQUEST FOR CONCURRENCE ON ELIGIBILITY DETERMINATIONS FOR
THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA
OF POTENTIAL EFFECT FOR THE PROPOSED PRIVATE FUEL STORAGE
FACILITY**

Dear Mr. Evans:

By letter dated May 18, 1999, the Nuclear Regulatory Commission (NRC), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA), initiated consultation as required by Section 106 of the National Historic Preservation Act (NHPA) for the proposed Private Fuel Storage (PFS) facility. In the letter, NRC, BIA, and BLM described the proposed project, the area of potential effect (APE), and each Federal agency's required action. The Federal agencies also requested, pursuant to 36 CFR 800.4(a)(ii), the views of the Utah State Historic Preservation Officer with regard to further actions that could be taken by the Federal agencies to identify historic properties. By letter dated June 24, 1999, you responded and identified several additional actions the Federal agencies could take to identify historic properties. Your letter also noted that you would comment on the identification methods of future cultural resource surveys within the APE. It should be noted that since the May 18, 1999, letter, the Surface Transportation Board (STB) has agreed to cooperate in the preparation of the Environmental Impact Statement (EIS) and required consultation activities such as those required by Section 106 of the NHPA. The STB must approve construction of the proposed rail line from Skunk Ridge, Utah, to the proposed PFS facility.

In May and June of 1999 and in June 2000, a PFS contractor, P-III Associates, performed a Class III cultural resources inventory in Skull Valley, Utah. All portions of the APE were included in the study area. At the request of the BLM, PFS will provide you with a copy of the report documenting the cultural resource inventory. For all sites within the APE, the report includes a recommendation with regard to each site's eligibility for inclusion in the National Register of Historic Places. The Federal agencies have reviewed the report and concur with the eligibility recommendations for all archeological and historic sites within the APE. Enclosed is a list of sites and their eligibility recommendation. The Federal agencies request your concurrence, within 30 days, on the determination of eligibility following the recommendations in the report.

The Federal agencies are meeting with consulting parties to discuss the eligibility recommendations included in the report and potential mitigation measures for anticipated adverse impacts to the cultural resources within the APE. The Federal agencies are scheduled to meet with Mr. Jim Dykmann of your staff on October 24, 2000. After meeting with the

ENCLOSURE 1

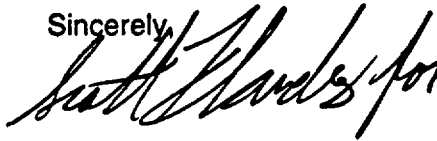
M. Evans

-2-

consulting parties, the Federal agencies will prepare a treatment plan and Memorandum of Agreement (MOA) for your review and the review of other signatories to the MOA.

If you have any questions, please contact Scott Flanders (NRC) at (301) 415-1172, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1539.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Delligatti", written over a horizontal line.

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: List of Sites and Eligibility Recommendations

cc: Service Lists

Eligibility Recommendations for sites within the APE for the proposed PFS Facility

<u>Site Number</u>	<u>Site Name</u>	<u>NRHP Status</u>
42TO709	Emigrant Trail/Hastings Cutoff	Eligible
42TO1187	Rock alignment and cairns	Unevaluated
42TO1343	Buried AT&T telephone line	Not Eligible
42TO1409	U.S. Route 40	Eligible
42TO1410	"New" Victory Highway	Eligible
42TO1411	"Old" Victory Highway	Eligible
42TO1412	Western Union telegraph line	Eligible
42TO1413	Western Pacific Railroad	Eligible
42TO1414	Historic habitation/gas station	Not Eligible
42TO1415	Gas Station	Not Eligible
42TO1416	Road to Deep Creek	Eligible
42TO1417	Road to Sulphur Spring or Eight-Mile Spring	Eligible

Enclosure

Private Fuel Storage

cc:

**Mr. John D. Parkyn
Chairman of the Board
Private Fuel Storage, L.L.C.
P. O. Box C4010
La Crosse, WI 54602-4010**

**Mr. Scott Northard, Project Manager
Private Fuel Storage, L.L.C.
c/o Northern States Power
414 Nicollet Mall, Ren Square 7
Minneapolis, MN 55401**

**The Honorable Michael O. Leavitt
Governor of Utah
Salt Lake City, UT 84114-0601**

**The Honorable Leon D. Bear, Chairman
Skull Valley Band of Goshute Indians
2480 South Main, No. 110
Salt Lake City, UT 84115**

**Mr. Jack Gerard
McClure, Gerard and Neunschwander
201 Maryland Avenue, NE
Washington, DC 20002**

**Dr. Dianne R. Nielson, Executive Director
Department of Environmental Quality
State of Utah
168 North 1950 West
P. O. Box 144810
Salt Lake City, UT 84114-4810**

**Ms. Sally Wisely, State Director
Bureau of Land Management
United States Department of the Interior
Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155**

**Mr. David L. Allison, Superintendent
Bureau of Indian Affairs
Uintah and Ouray Agency
P.O. Box 130
Fort Duchesne, UT 84026**

**Joro Walker, Esq.
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
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**Ms. Diane Curran
Harmon, Curran, Spielberg & Eisenberg
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cc's for PFS EIS:

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David Allison, Superintendent
U.S. Bureau of Indian Affairs
Unitah and Ouray Agency
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Phyllis Johnson-Bell, Project Manager
Surface Transportation Board
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Washington, DC 20423

Joro Walker
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
Salt Lake City, UT 84109



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

October 19, 2000

Max Evans, Director
Utah State Historic Preservation Office
300 South Rio Grande
Salt Lake City, Utah 84101

SUBJECT: CONSULTATION UNDER SECTION 106 NATIONAL HISTORIC PRESERVATION ACT
OF 1966

Dear Mr. Evans:

By letter dated October 6, 2000, the Nuclear Regulatory Commission (NRC) staff, the Bureau of Land Management (BLM), the Bureau of Indian Affairs (BIA), and the Surface Transportation Board (STB) requested your concurrence on the eligibility determinations under the National Historic Preservation Act (NHPA) in the P-III Associates report for the proposed Private Fuel Storage facility. As stated in the letter, representatives of the NRC staff, BLM, BIA, and STB were scheduled to meet with Mr. Jim Dykmann of your staff on October 24, 2000, to discuss the eligibility recommendations and potential mitigation measures for anticipated adverse impacts to cultural resources within the area of potential effect. On October 10, 2000, Mr. Dykmann canceled the meeting, and on October 13, 2000, Ms. Lynette Lloyd, of your staff, informed Mr. Scott Flanders, of the NRC staff, that all future consultation activity regarding the proposed Private Fuel Storage facility should be conducted with the Utah Governor's office.

Pursuant to 36 C.F.R. Part 800, Federal agencies should consult with the State Historic Preservation Officer (SHPO), and shall follow the procedures for initiating and performing such consultation. The term SHPO as defined in 36 C.F.R. § 800.16 is "the official appointed or designated pursuant to section 101(b)(1) of the [NHPA] to administer the State historic preservation program or a representative designated to act for the State Historic Preservation Officer." In light of your cancellation of the meeting scheduled for October 24, 2000, and your instruction to us to communicate with the Governor's office regarding this matter, it appears to us that you are withdrawing from the Section 106 consultation process. Please confirm, in writing, within 15 days of the date of this letter, whether you are withdrawing from the consultation process or are continuing to consult. If you are continuing to consult, please identify in your confirmation letter the identity of the SHPO or the representative designated to act for the SHPO, with whom we should communicate regarding this matter, and that person's address and telephone number. If we do not hear from you within 15 days, we will assume that you have withdrawn from the Section 106 consultation process for the Private Fuel Storage proposal.

Sincerely,

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

ENCLOSURE 2



STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114-0601

MICHAEL O. LEAVITT
GOVERNOR

OLENE S. WALKER
LIEUTENANT GOVERNOR

November 1, 2000

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards
United State Nuclear Regulatory Commission
Washington DC 20555-0001

RE: Request for Consultation under Section 106, National Historic Preservation Act, 1966,
Docket No. 72-22

In Reply Please Refer to Section 106 Case No. 97-0013

Dear Mr. Delligatti:

For the purpose of consultation regarding the Private Fuel Storage Project in Skull Valley, Tooele County, Utah, I retain the authority of the State Historic Preservation Officer, and have assigned Natalie Gochmour, State Planning Coordinator, Room 116, State Capitol, Salt Lake City, Utah 84114, (801) 538-1027, to be the contact on this project. This retention of authority is applicable to this project only.

Sincerely,

Michael O. Leavitt
Governor

c: Scott Flanders, Spent Fuel Licensing Section, Licensing and Inspection Directorate, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, United State Nuclear Regulatory Commission, Washington DC 20555-0001

c: Max J. Evans, Utah State Historic Preservation Officer

Note: Postmarked 11/15/00
Recvd by VLT 11/20/00

ENCLOSURE 3

cc's for PFS EIS:

Glenn Carpenter, Supervisor
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Salt Lake District Office
2370 south 2300 West
Salt Lake City, UT 84119

David Allison, Superintendent
U.S. Bureau of Indian Affairs
Unitah and Ouray Agency
P. O. Box 130
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Amy Heuslein, Environmental Specialist
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Phoenix, AZ 85001

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