



Private Fuel Storage, L.L.C.

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U.S. Nuclear Regulatory Commission
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**PFS ENVIRONMENTAL REPORT – CHAPTER 9 (Rev 13) CLARIFICATION
DOCKET NO. 72-22/TAC NO. L22462
PRIVATE FUEL STORAGE FACILITY
PRIVATE FUEL STORAGE L.L.C.**

The purpose of this letter is to provide the NRC with clarifying information regarding environmental permits necessary for the construction and operation of the Private Fuel Storage Facility. The NRC requested information in a teleconference between personnel from the NRC, Oak Ridge National Laboratory, and Private Fuel Storage that took place on July 11, 2001.

Specifically, during the above referenced telephone call the NRC requested clarification information regarding the Oil Spill Control and Countermeasures Plan (SPCC), Stormwater Pollution Prevention Plan (SWPPP), NPDES permit and UPDES permit. Clarification was also requested regarding RCRA permitting requirements. For clarity, the relevant portions of the Environmental Report (ER) containing the previous licensing position (Revision 12) are quoted along with the PFS clarifying response as it relates to the more recent Revision 13 of the ER.

NRC REQUEST FOR CLARIFICATION

1. The PFS Environmental Report Chapter 9, Section 9.1.3 previously stated the following:

“In order to protect jurisdictional waters from pollutants that could be conveyed in construction-related storm water runoff, EPA enabling regulations require construction projects disturbing 5 or more acres of soil to secure coverage under a National Pollutant

Discharge Elimination System (NPDES) permit authorizing the construction-related storm water discharges.....

Coverage under this particular EPA Storm Water General Permit will be secured by filing an application form with EPA Region VIII (i.e., Notice of Intent (NOI)), at least 48 hours prior to initiating construction activity....

Once the storm water permit application NOI is filed with EPA Region VIII, coverage under the General Permit is received by default 48 hours after filing. However, several activities must be conducted prior to filing an NOI. These activities include ..., the preparation of a Stormwater Management Pollution Prevention Plan (SWPPP),”

The PFS Environmental Report Revision 13 no longer mentions the NPDES permitting requirement or the SWPPP. Please explain the change in permitting requirements.

PFS Response

The purpose of the NPDES requirement is to protect waters of the United States from various sources of pollution.

PFS conducted an extensive wetland and stream survey in the Fall of 2000 to determine if any jurisdictional waters of the United States, particularly wetlands or perennial, intermittent, or ephemeral streams, are present. This assessment was made to determine PFS permitting obligations under Section 404 of the Clean Water Act (Federal Water Pollution Control Act, 33 U.S.C. 1344). The survey concluded that there are no jurisdictional wetlands or other kinds of waters along the proposed railroad alignment or at the storage facility itself. The ephemeral drainage's in the region possess no characteristic ecosystems and end without reaching any jurisdictional water of the United States. The U.S. Army Corps of Engineers concurs with these findings.

The finding that there are no waters of the United States that will be affected by the project changes the permitting strategy for PFS for all programs that are designed to protect waters of the United States. These programs include:

- the Oil Spill Control and Countermeasures Plan (SPCC) which is intended to prevent spills of oil to waters of the United States,
- the Stormwater Pollution Prevention Plan (SWPPP),
- the NPDES permit,
- and the UPDES permit.

Since there is no connection to waters of the United States, none of these permits or plans are required. However, PFS will implement an Erosion Control Plan that will rely on best management and common engineering practices to minimize any potential for

precipitation-related erosion and will incorporate appropriate controls that would normally be included in an SWPPP.

2. The PFS Environmental Report Chapter 9, Section 9.2.1 previously stated the following:

“A Spill Prevention, Control and Countermeasures (SPCC) Plan may need to be developed prior to facility operation since all diesel fuel storage tanks at the PFSF will be placed above the ground. This fuel tank orientation and the quantity of diesel fuel stored will likely lead to exceeding the 40 CFR 112 threshold that will require the development of a SPCC Plan.”

The PFS Environmental Report Revision 13 adds that “However, because there are no jurisdictional waters in the vicinity of the facility, any such plan that would be developed would be in accordance with facility management practices rather than pursuant to a CWA requirement.” Please explain.

PFS Response

The explanation is the same as for Item 1: no waters of the United States will be affected by the project, therefore an Oil SPCC Plan, which purpose would be to protect the waters of the United States, is not required. However, PFS will implement a Best Management Practice (BMP) Plan that will rely on best management and common engineering practices to minimize any potential for oil release and will incorporate appropriate controls that would normally be included in an SPCC plan.

3. The PFS Environmental Report Chapter 9, Section 9.2.1 previously stated the following:

“In order to protect surface water from construction-related storm water runoff on BLM lands, the UDEQ regulates the proper disposition of storm water through a Utah Pollutant Discharge Elimination System (UPDES) General Permit (i.e., UAC R317-8-3.8). The UPDES General Permit criteria follow very closely to the criteria within the scope of the USEPA Region VIII NPDES General Permit available for construction activity on Indian lands in Utah....

In order to secure coverage under the UDEQ General Permit for storm water discharges associated with construction activity, an NOI will be filed with UDEQ at least 48 hours prior to the initiation of construction activities. This NOI is similar to the one that will be filed with EPA Region VIII for the PFSF construction, and default coverage should be granted 48 hours after the NOI submittal. Before filing the NOI with the UDEQ, a SWPPP will also be prepared. The requirements of Utah DEQ SWPPP are also very similar to EPA Region VIII SWPPP, and all other applicable pre-permit application requirements outlined in the UDEQ General Permit will also be met.”

Please explain the change in permitting requirements.

PFS Response

The explanation is the same as for Item 1: no waters of the United States will be affected by the project, therefore neither a NPDES / UPDES permit or a SWPPP are required. However, PFS will implement an Erosion Control Plan that will rely on best management and common engineering practices to minimize any potential for precipitation-related erosion and will incorporate appropriate controls that would normally be included in an SWPPP.

4. The PFS Environmental Report Chapter 9, Section 9.1.3 previously stated the following:
- “Since UDEQ has jurisdiction over issuing RCRA hazardous waste ID numbers on Tribal lands, a “Notification of Regulated Waste Activity” will be filed with that agency.”

Please explain the deletion of this commitment.

PFS Response

A more refined search of the requirements shows that Utah does not have primacy for RCRA on Indian lands. Moreover, a “Notification of Regulated Waste Activity” is not required for a Conditionally Exempt Small Quantity Generator. However PFS will pursue obtaining a RCRA identification number from the USEPA – Region 8 for use in the unlikely event that future circumstances would require tracking of small quantities of hazardous waste.

If you have any questions regarding this submittal, please contact me at 303-741-7009.

Sincerely,



John L. Donnell
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Private Fuel Storage L.L.C.