

July 7, 2003

RAS 6604

**DOCKETED 07/10/03
SERVED 07/10/03**

James R. Soper, Esquire
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P. O. Box 140873
Salt Lake City, Utah 84114-08743

Re: Private Fuel Storage, L.L.C., (Independent Spent Fuel Storage Installation)
Docket No. 72-22-ISFSI

Dear Mr. Soper:

By letter of June 12, 2003, you requested the release of an aircraft crash study that was sponsored by the Nuclear Energy Institute (NEI) and submitted by NEI to the Commission. The Commission has directed me to inform you and the NRC staff that the Commission has no threshold objection related to NEI's submission of the requested document directly to the Commission. As you know, however, this document was submitted as "safeguards" material and requires special handling.

The document is now an agency record, the request arises in connection with the proceeding before the Licensing Board, and the Commission may be called upon to review an initial decision of the Board on the matters before the Board. Thus, the Commission is asking the NRC staff to consider the request, within the context of the adjudication, including the Commission's recent directive in CLI-03-05 that the pending PFS adjudication move toward closure expeditiously, with such means as voluntary disclosure in lieu of formal discovery. The Commission has not determined the relevance or the evidentiary value of the NEI-sponsored study.

In responding to the request for release, the staff must determine the appropriate categorization or classification of the document, and related restrictions regarding its release -- in whole or in part -- and handling, as appropriate. In this regard, the Commission has also noted that, on June 26, 2003, the Licensing Board issued a Memorandum and Order, subtitled "Modified Protective Order for Security Plan Contentions and Aircraft Crash Consequences Safeguards Protected Information."

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The other documents mentioned in your June 12 letter cannot be characterized as uniquely within the Commission's possession, and in fact, seem to be publicly available. I would note that you list an incorrect date for the Regulatory Guide that you seek. The most recent issuance of Regulatory Guide 1.145 is dated February 1983.

Sincerely,

/RA/

Annette Vietti-Cook

cc: Service List

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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| In the Matter of |) | |
| |) | |
| PRIVATE FUEL STORAGE L.L.C. |) | Docket No. 72-22-ISFSI |
| |) | |
| (Independent Spent Fuel Storage |) | |
| Installation) |) | |

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM THE SECRETARY TO JAMES R. SOPER, ASSISTANT ATTORNEY GENERAL OF UTAH have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution with copies by electronic mail or facsimile as indicated.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 10th day of July 2003