

July 7, 2005

Re: Private Fuel Storage, LLC application for commercial irradiated nuclear fuel "interim" storage site at the Skull Valley Goshutes Indian Reservation in Utah

Dear Commissioners Diaz, Jaczko, Lyons, McGaffigan and Merrifield,

On behalf of the millions of members our 437 organizations represent (31 Native American, 26 national, 366 regional/state/local, and 15 international organizations), we urge you not to approve the license application by Private Fuel Storage, LLC (PFS) to open an "interim storage site" for commercial irradiated nuclear fuel at the Skull Valley Goshute Indian Reservation in Utah.

The need for PFS is far from clear, given approvals for on-site dry cask storage at a growing number of reactors, and the fact that true consolidation of waste is not possible as long as nuclear utilities continue to produce it. The proposal is also plagued by many problems, and its location poses unacceptable risks. The facility has no contingency plan for faulty containers, the storage/transport containers are of questionable structural integrity, and there is an increasing risk that PFS could well become de facto permanent storage. The plan also raises serious transportation safety concerns, and is beset with environmental justice violations.

In short, the proposal is neither safe, sound, nor just.

Skull Valley is not an appropriate site for storing irradiated nuclear fuel. The adjacent complex of Hill Air Force Base and the Utah Test and Training Range (UTTR) represents one of the biggest and busiest bombing ranges in the country, with thousands of over-flights annually posing the risk of accidental crashes into PFS. The stray missile which struck the scientific research station on the reservation in the 1990's, and the Genesis satellite crash into the UTTR last September, for instance, show the potential dangers of storing 44,000 tons of highly radioactive waste next to such active military facilities.

PFS also plans no pool or hot cell on-site, and thus would lack any waste repacking capability in the event of an emergency. If storage casks fail for any reason - human error during shipping or handling, natural disaster, accident, act of sabotage, faulty casks, or gradual corrosion - it would be difficult to adequately address the problem and prevent radioactivity from leaking into the soil, water, and air.

Oscar Shirani, former Commonwealth Edison/Exelon lead quality assurance inspector and nuclear safety whistleblower, has questioned the structural integrity of the Holtec casks proposed for PFS. He cites numerous major quality assurance violations in the manufacture of the storage/transport containers. Cask defects would not only raise the risk of irradiated fuel degradation and increased container vulnerability during storage at Skull Valley, but also of a potentially catastrophic radioactivity release during transport due to a severe accident or terrorist attack.

As it is, PFS's transportation plan, or lack thereof, is very disconcerting. PFS would dramatically increase unnecessary transportation and handling of high-level waste. Despite PFS's assurances that it is only "interim" storage, its lack of waste repackaging contingencies and DOE's reluctance to accept PFS wastes at Yucca Mountain, as discussed below, all combine to raise the specter of irradiated nuclear fuel eventually being sent back thousands of miles to the reactors from which it originated. This would multiply the distances high-level waste is shipped, and escalate the risks of public and worker exposure, severe accidents, and terrorist attacks. It would also increase further stress and damage to the irradiated nuclear fuel, making future handling, transport, and long term isolation from the environment much more troublesome.

It is ironic that NRC would consider granting PFS an operating license, and thus permission to begin shipments, even before its Package Performance Study (PPS) is completed, a point raised by a number of our organizations during the public comment period on the PPS. Rushing the process, and using casks with only minimal testing and planning, is of concern to many communities along the transportation routes.

John Parkyn, PFS chairman and CEO, has publicly stated that PFS would train emergency responders along the routes to Skull Valley, however, PFS has not yet demonstrated the financial or technical capability to deliver on that promise. On February 7, at the U.S. Department of Energy's Fiscal Year 2006 budget unveiling, Office of Civilian Radioactive Waste Management director Margaret Chu stated that Nuclear Waste Policy Act section 180(c) funding to states for emergency response preparation would not even begin until five years before high-level radioactive waste shipments to Yucca Mountain. If the U.S. federal government requires such a long advance time, how could PFS privately provide such training before shipments would begin as early as 2007? Given the withdrawal from the PFS consortium by member companies such as American Electric Power/Indiana-Michigan Power, and the reduced investment by Southern California Edison, it is unlikely PFS could meet its basic commitments, let alone pay for emergency responder training and equipment all across the U.S.

The "interim" nature of the project is also questionable. Assurances have been given by PFS (and NRC staff in the proposal's Environmental Impact Statement) that irradiated fuel would remain at Skull Valley for no more than 40 years before transfer to Nevada for permanent burial. Last October, however, U.S. Energy Department Yucca Mountain Project transport director Gary Lanthum told the Salt Lake Tribune that the Yucca Mountain Project would simply not accept irradiated nuclear fuel from PFS, as that would violate the terms of DOE's Standard Contract for Disposal of Spent Nuclear Fuel, which requires DOE to only accept uncanistered fuel directly from nuclear utilities at reactor sites. Since PFS would not meet these requirements, it could very well lead to de facto permanent "disposal" of 4,000 casks of high-level radioactive waste above ground in Skull Valley.

For NRC to approve PFS at this time by assuming that Yucca Mountain would take the wastes after 40 years contradicts Gary Lanthum's statement, and also suggests

that NRC is predisposed to approve DOE's Yucca Mountain license application even before the proceedings have begun.

This is very troubling and ignores ongoing, serious uncertainties surrounding the Yucca Mountain Project's future. In addition, even if the Yucca Mountain repository does open, it is technically and legally limited to 63,000 metric tons of commercial irradiated nuclear fuel. DOE projects that the total amount of commercial irradiated nuclear fuel generated in the U.S. will double to over 105,000 metric tons in the decades to come. This means that even if Yucca Mountain opens, PFS could very well turn into the de facto permanent overflow zone for excess waste.

Finally, on its face, the storage or disposal of highly radioactive waste on a tiny, poverty-stricken Native American community that did not even benefit from the nuclear generated electricity also raises significant environmental justice concerns. The existing leadership crisis at Skull Valley only exacerbates such concerns. There is a long-running dispute over the legitimacy of the tribal leadership that supports PFS. The disputed Tribal Chairman, Leon Bear -- the primary proponent for PFS -- has been indicted on federal charges of embezzlement of tribal funds as well as tax evasion. Tribal members who oppose PFS claim they have been severely intimidated and harassed, and allege that irregularities such as bribery and extortion have been used to secure support for PFS within the tribe.

These are very shaky foundations upon which to build dry cask storage for 44,000 tons of commercial irradiated nuclear fuel, nearly 80% of what currently exists in the U.S. The Skull Valley Goshute Indian community seems to have suffered significantly from the PFS proposal long before the first shipment of irradiated nuclear fuel has even arrived.

We urge you to deny the PFS license request. Storing irradiated nuclear fuel at the Skull Valley Goshute Reservation is not a safe, sound, nor just solution to our country's high-level radioactive waste problem.

Sincerely,

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