

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



JAN GRAHAM
ATTORNEY GENERAL

JAMES R. SOPER
Solicitor General

REED RICHARDS
Chief Deputy Attorney General

February 18, 2000

Sherwin Turk, Esq.
U.S. Nuclear Regulatory Commission
Office of General Counsel
Mail Stop-0-15 B18
Washington, DC 20555

via email (set@nrc.gov) and First Class Mail

re: Staff's Response to State of Utah's Fifth Set of Discovery to the Staff, Contention E
Private Fuel Storage ISFSI, Docket No. 72-22

Dear Mr. Turk:

This letter relates to the Staff's response to discovery on Contention E and is additional to the February 17 e-mail I sent you describing the inadequacies in the Staff's responses to discovery for Contention L and Diane Curran's e-mail on the same date about inadequate responses for Contention H.

While the State is concerned that the Staff refused to produce documents responsive to seven of the ten document requests, the State will only pursue the Staff's refusal to provide documents responsive to Document Requests Nos. 9 and 10 - Utah E. The State does not accept your objections and, unless we can reach agreement on these two requests, on Tuesday, the State will file a motion to compel production.

Document Request No. 9 requests documents relating to the two original license conditions that appeared in the Staff's December 15, 1999 Safety Evaluation Report (SER). Document Request No. 10 similarly requests documents relating to the two license conditions that appear in the recalled and reissued SER. Collectively, these documents are directly relevant to Utah Contention E in that they may show how the Staff reached the determination that the two reissued license conditions demonstrate PFS's financial qualification under Part 72. Moreover, documents relating to the original license conditions are also relevant with respect to why the Staff determined that additional standards in the original license conditions were no longer required for the Applicant to meet the requirements of 10 CFR § 72.22(e). Because the Staff itself issued the SER containing the original and reissued license conditions, only the Staff would

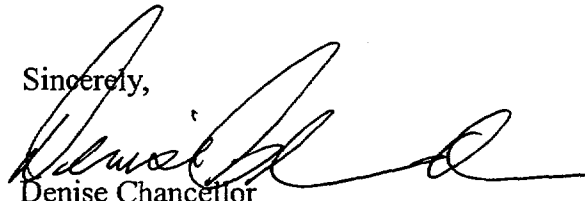
Sherwin Turk, Esq.

Page 2

have documents that "relate in any way to the two license conditions ... in the SER, including how the conditions were developed." See Document Requests No. 9 and No. 10. Thus, to the extent documents exist that are not privileged, the State believes those documents should be produced.

If you think we can reach agreement on any of the issues outlined above, please phone me at (801) 366-0286. If not, I intend to file a Motion to Compel by the end of the day on February 22, 2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise Chancellor", written over a horizontal line.

Denise Chancellor
Assistant Attorney General

cc: Paul Gaukler, Esq. Shaw Pittman (email only)
(paul_gaukler@shawpittman.com)