

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	Docket No. 72-22-ISFSI
)	
PRIVATE FUEL STORAGE, LLC)	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel)	
Storage Installation))	April 29, 1999

**STATE OF UTAH'S AMENDED RESPONSES TO
APPLICANT'S FIRST SET OF FORMAL DISCOVERY REQUESTS**

The State of Utah files an amendment to its April 14, 1999 response to the Applicant's First Set of Formal Discovery Requests ("Applicant's Discovery Requests"), an electronic copy of which was served on the State after the close of business on Friday, April 2, 1999. This response amends General Interrogatory Nos. 1, 3, 4 and 5, and responses to Request for Admissions Nos. 14, 15, 16, 17, 25, and 26 for Board Contention 5 (Utah K/Confederated Tribes B), Inadequate Consideration of Credible Accidents.¹

**I. STATE'S AMENDED RESPONSES TO GENERAL
INTERROGATORIES**

¹ Due to a personal emergency experienced by the State's technical expert, David B. Cole, the State is not able at this time to amend its discovery responses to Utah Contention M, but it will do so after Mr. Cole returns. See Affidavit of Norman E. Stauffer, Jr., supervisor of David B. Cole, attached as Exhibit 2 to State Response to Applicant's Motion to Compel Answers to Interrogatories and Admissions by the State of Utah

GENERAL INTERROGATORY NO. 1. State the name, business address, and job title of each person who was consulted and/or who supplied information for responding to interrogatories, requests for admissions and requests for the production of documents. Specifically note for which interrogatories, requests for admissions and requests for production each such person was consulted and/or supplied information.

If the information or opinions of anyone who was consulted in connection with your response to an interrogatory or request for admission differs from your written answer to the discovery request, please describe in detail the differing information or opinions, and indicate why such differing information or opinions are not your official position as expressed in your written answer to the request.

STATE'S AMENDED RESPONSE TO GENERAL INTERROGATORY NO. 1.

The State hereby incorporates its response to General Interrogatory No. 1 dated April 14, 1999 into this amended response, and supplements it as follows:

pursuant to agreement with PFS, the State herewith files declarations (included hereto as Attachment 1) for each person who assisted in answering specific interrogatories and requests for admissions, specifically David B. Cole, Martin Gray, Bronson W. Hawley, PhD, David Larsen, Brad Maulding, John L. Matthews, Major General USAF (Ret), Marvin Resnikoff, PhD, David C. Schen, and William M. Wallner.

GENERAL INTERROGATORY NO. 3. For each admitted Utah contention, give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person whom the State expects to call as a witness at the hearing. For purposes of answering this interrogatory, the educational and scientific experience of expected witnesses may be provided by a resume of the person attached to the response.

STATE'S AMENDED RESPONSE TO GENERAL INTERROGATORY NO. 3.

As verbally related to PFS on April 21, 1999 and as supplemented herewith, to

date, the State has identified the following persons whom it expects to call as witnesses at the hearing; included herein as Attachment 2 are the witnesses' resumes which provide answers to the questions of profession, employer, area of professional expertise, and educational and scientific experience:

Utah Contentions B, C, F/P & G

Marvin Resnikoff, Ph.D.
Senior Associate
Radioactive Waste Management Associates
526 West 26th Street, Room 517
New York, NY 10001

Utah Contentions M & N

David B. Cole
Senior Engineer
Division of Water Resources
State of Utah, Department of Natural Resources
1595 West North Temple
Salt Lake City, UT 84114-6201

Utah Contention K

John L. Matthews, Major General USAF (Ret)
Military Advisor to Governor of Utah
Defense Consultant
116 State Capitol
Salt Lake City, UT 84114

David Larsen
Environmental Scientist, Geologist
Division of Solid and Hazardous Waste
State of Utah, Department of Environmental Quality
288 North 1480 West
Salt Lake City, UT 84114-6880

Bronson W. Hawley, Ph.D.
Environmental Scientist
Division of Solid and Hazardous Waste

State of Utah, Department of Environmental Quality
280 North 1460 West
P.O. Box 144880
Salt Lake City, UT 84114-4880

Dane Finerfrock²
Section Manager, WIPP Program, Envirocare, and Vitro
Division of Radiation Control
State of Utah, Department of Environmental Quality
168 North 1950 West (bldg. # 2), Room 212
P.O. Box 144850
Salt Lake City, UT 84114-4850

Utah Contentions K & R
David C. Schen
State of Utah, Department of Natural Resources
Division of Fire, Forestry, & Sovereign Lands
1594 West North Temple, Suite 3520
Box 145703
Salt Lake City, UT 84114-5703

GENERAL INTERROGATORY NO. 4. For each admitted Utah contention, identify the qualifications of each expert witness whom the State expects to call at the hearing, including but not limited to a list of all publications authored by the witness within the preceding ten years and a listing of any other cases in which the witness has testified as an expert at a trial, hearing or by deposition within the preceding four years.

STATE'S AMENDED RESPONSE TO GENERAL INTERROGATORY NO. 4.

Dr. Marvin Resnikoff has authored publications, a list of which is included

² Mr. Finerfrock's resume is not presently available but will be provided at a later date.

herewith as Attachment 3. David Schen's publications are listed in his resume. Dr. Resnikoff's list of other cases in which he has testified as an expert at trial are also included in Attachment 3. The other witnesses do not have relevant publications, nor have they testified as expert witnesses in other cases; however, this interrogatory will be supplemented as appropriate.

GENERAL INTERROGATORY NO. 5. For each admitted Utah Contention, describe the subject matter on which each of the witnesses is expected to testify at the hearing, describe the facts and opinions to which each witness is expected to testify, including a summary of the grounds for each opinion, and identify the documents (including all pertinent pages or parts thereof), data or other information which each witness has reviewed and considered, or is expected to consider or to rely on for his or her testimony.

STATE'S AMENDED RESPONSE TO GENERAL INTERROGATORY NO. 5.

Dr. Marvin Resnikoff will testify on issues relating to Utah Contentions B (the Intermodal Transfer Point), C (dose limits), F/P (training and radiation protection training) and G (quality assurance).

David B. Cole will testify regarding probable maximum flood and the potential for flooding and swamping by wind stacked water and waves of the new ITP site 1.8 miles west of Rowley Junction, as these issues relate to Utah Contentions M and N.

John L. Matthews, Major General USAF (Ret) will testify as to activities relating to Dugway, Utah Test and Training Range, and Hill Air Force Base, as well as other military and aviation activities, as these issues relate to Utah Contention K (inadequate consideration of credible accidents).

David Larsen will testify about hazardous waste activities at Dugway as they relate to Utah Contention K.

Bronson W. Hawley, Ph.D. will testify as to hazardous waste and military training issues at Utah Test and Training Range, as these issues relate to Utah Contention K.

Dane Finerfrock will testify as to activities occurring at Envirocare as well as materials at or emanating from the Envirocare facility, as these issues relate to Utah Contention K.

David C. Schen will testify as to wildland fires as they relate to Utah Contentions K and R.

In general, the documents the above witnesses have reviewed and/or relied upon are applicable portions of the PFS License Application (including the SAR), as amended, and applicable supporting calculations, as well as relevant PFS's responses to Requests for Additional Information with supporting calculations, and other relevant documents produced by PFS and the State; in addition, they may review any new information that the State obtains.

II. STATE'S AMENDED RESPONSES TO REQUESTS FOR ADMISSIONS FOR BOARD CONTENTION 5 (UTAH K/CONFEDERATED TRIBES B) - INADEQUATE CONSIDERATION OF CREDIBLE ACCIDENTS

In its April 14 response, the State qualified its responses to Contention K. Response at 19-20. The State also filed a general objection to the Applicant's requests

for Admissions. Response at 20-21. The State hereby incorporates the qualifications and general objection into this amended response. Notwithstanding the qualifications and general objection, the State hereby amends its April 14, 1999 response as follows:

REQUEST FOR ADMISSION NO. 14 - UTAH K: Do you admit that – as set forth at page 4-100 of the FEIS for the X-33 space plane – the planned flight paths for the X-33 do not cross over Skull Valley?

STATE'S AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 14 - UTAH K:

The State of Utah admits that page 4-100 of the FEIS for the X-33 space plane, shows the planned flight paths for the X-33 do not cross over Skull Valley.

REQUEST FOR ADMISSION NO. 15 - UTAH K: Do you admit that – as set forth at page 4-87 of the FEIS for the X-33 space plane – the X-33 will make no more than approximately seven landings at Michael Army Airfield over the course of the program?

STATE'S AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 15 - UTAH K:

The State of Utah objects to this request for admission on the basis that the phrase "no more than approximately" is contradictory and thus, vague. Notwithstanding this objection, the State of Utah admits that page 4-87 of the FEIS for the X-33 space plane, states that the X-33 will make approximately seven landings at Michael Army Airfield over the course of the program.

REQUEST FOR ADMISSION NO. 16 - UTAH K: Do you admit that – as set forth at page 4-101 of the FEIS for the X-33 space plane – the seven flights for the X-33 to Michael Army Airfield are scheduled to be completed by mid-1999.

**STATE'S AMENDED RESPONSE TO REQUEST FOR ADMISSION
NO. 16 - UTAH K:**

The State of Utah admits that page 4-101 of the FEIS for the X-33 space plane, states that seven flights for the X-33 to Michael Army Airfield would occur in mid-1999.

REQUEST FOR ADMISSION NO. 17 - UTAH K: Do you admit that the operations of the X-33 aircraft would pose no significant hazard to the PFS ISFSI or the ITP?

**STATE'S AMENDED RESPONSE TO REQUEST FOR ADMISSION NO.
17 - UTAH K:**

To the extent all X-33 space plane flights are in fact completed by mid-1999, the State of Utah admits Request for Admission No. 17. However, it should be noted for the record that it is now the end of April 1999 and no X-33 space plane flights have occurred to date, thus, completion of all planned X-33 flights to Michael Army Airfield, as contemplated in the FEIS, may not in fact be completed by mid-1999.

REQUEST FOR ADMISSION NO. 25 - UTAH K: Do you admit that activities at or emanating from Salt Lake City International Airport, other than aircraft flying to or from the airport, would pose no significant hazard to the PFS ISFSI or the ITP?

**STATE'S AMENDED RESPONSE TO REQUEST FOR ADMISSION
NO. 25 - UTAH K:**

The State of Utah admits that activities at or emanating from Salt Lake City International Airport, other than aircraft flying to or from the airport, would pose no significant hazard to the PFS ISFSI or the ITP.


REQUEST FOR ADMISSION NO. 26 - UTAH K: Do you admit that the PFS ISFSI site is more than five miles from the edge of the nearest federal airway, which runs north to south on the east side of the Stansbury Mountains?

**STATE'S AMENDED RESPONSE TO REQUEST FOR ADMISSION
NO. 26 - UTAH K:**

The State of Utah objects to this request for admission on the basis that the term "federal airway" is not defined and is vague and over broad. Notwithstanding the previous objection, the State of Utah admits that the federally designated commercial air corridor 110 is more than five miles from the PFS ISFSI.

DATED this 29th day of April, 1999.

Respectfully submitted,
STATE OF UTAH



Denise Chancellor, Assistant Attorney General
Fred G Nelson, Assistant Attorney General
Diane Curran, Special Assistant Attorney General
Connie Nakahara, Special Assistant Attorney General
Daniel G. Moquin, Assistant Attorney General
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Salt Lake City, UT 84114-0873
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CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S AMENDED
RESPONSES TO APPLICANT'S FIRST SET OF FORMAL DISCOVERY
REQUESTS was served on the persons listed below by electronic mail (unless
otherwise noted) with conforming copies by United States mail first class, this 29th day
of April, 1999:

Rulemaking & Adjudication Staff
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U. S. Nuclear Regulatory Commission
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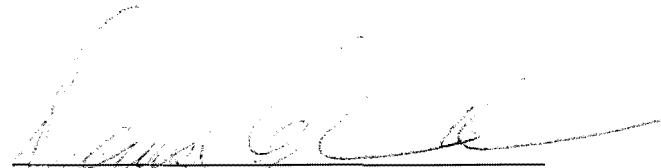
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Denise Chancellor
Assistant Attorney General
State of Utah

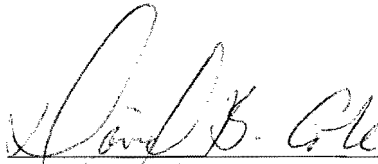
EXHIBIT 1

DECLARATION

I, David B. Cole, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the statements contained in State of Utah's April 14, 1999, Responses and Objections to Applicant's First Set of Formal Discovery Requests, with respect to Utah Contention M (Probable Maximum Flood) and Utah Contention N (Flooding) are true and correct to the best of my knowledge, information and belief.

Dated this 22nd day of April, 1999.

By:

A handwritten signature in cursive script, appearing to read "David B. Cole", is written over a horizontal line.

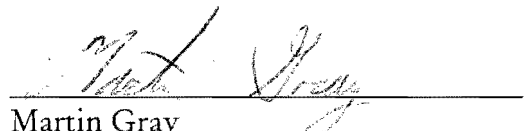
David B. Cole
Senior Engineer
Division of Water Resources
Utah Department of Natural Resources

DECLARATION

I, Martin Gray, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the statements contained in State of Utah's April 14, 1999, Responses and Objections to Applicant's First Set of Formal Discovery Requests, with respect to Utah Contention K (Inadequate Consideration of Credible Accidents, specifically Dugway Proving Ground, and Hazardous Waste Facilities) are true and correct to the best of my knowledge, information and belief.

Dated this 22nd day of April, 1999.

By:



Martin Gray
Environmental Manager
Division of Solid and Hazardous Waste
Utah Department of Environmental Quality

DECLARATION

I, Bronson W. Hawley, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the statements contained in State of Utah's April 14, 1999, Responses and Objections to Applicant's First Set of Formal Discovery Requests, with respect to Utah Contention K (Inadequate Consideration of Credible Accidents, specifically Utah Test and Training Range, and Hill Air Force Base) are true and correct to the best of my knowledge, information and belief.

Dated this 22nd day of April, 1999.

By: _____

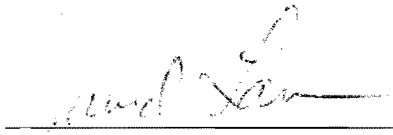
Bronson W. Hawley, Ph.D.
Environmental Scientist
Division of Solid and Hazardous Waste
Utah Department of Environmental Quality

DECLARATION

I, David Larsen, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the statements contained in State of Utah's April 14, 1999, Responses and Objections to Applicant's First Set of Formal Discovery Requests, with respect to Utah Contention K (Inadequate Consideration of Credible Accidents, specifically Dugway Proving Ground) are true and correct to the best of my knowledge, information and belief.

Dated this 22nd day of April, 1999.

By:



David Larsen
Environmental Scientist, Geologist
Division of Solid and Hazardous Waste
Utah Department of Environmental Quality