

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

July 1, 1999

The basis for the Board admitting Utah Security-A, Security-B and part of Security-C was whether "the purported failure of Tooele County to approve properly a June 1997 cooperative agreement that provides the Tooele County Sheriff's office with law enforcement authority on the Skull Valley Band reservation precludes the

county sheriff's office from fulfilling its designated role as the LLEA [local law enforcement agency] for the PFS facility." Memorandum and Order (Granting Motion for reconsideration) dated August 5, 1998 at 14.

The Board also admitted Security-C on the following basis: "PFS has not adequately described the estimated response times for the Tooele County sheriff's office as the principal LLEA relied upon for security assistance at the PFS facility." Id. at 14. This portion of Security-C is not subject to the Applicant's June 11 Motion for Partial Summary Disposition.

It is important to note what is not contained in the Applicant's Motion. The fact that the Tooele County Commission may have approved entry into an CLEA agreement does not determine whether the Tooele County Sheriff has any obligation to respond to incidents at the proposed PFS Skull Valley storage facility. Nor does the resolution determine the scope, applicability or response capability of the Tooele County Sheriff as it relates to the proposed PFS facility. There is nothing in the record to support reliance by PFS on law enforcement assistance from the Tooele County Sheriff. To the contrary, a letter from the Tooele County Attorney, Douglas J. Ahlstrom, to Dianne R. Nielson, dated December 2, 1998, opined that "at the time the CLEA was signed there was no discussion or contemplation that Private Fuel Storage would be part of the agreement. Moreover, the county has not yet entered into any agreement that has any bearing on locating the PFS storage facility on the reservation."

See Exhibit 2 to State of Utah's Motion to Amend Security Contentions dated December 17, 1998. The State is unaware of any agreement between Tooele County and PFS that obligates the County to provide law enforcement assistance to the PFS facility, which is located on an Indian reservation.

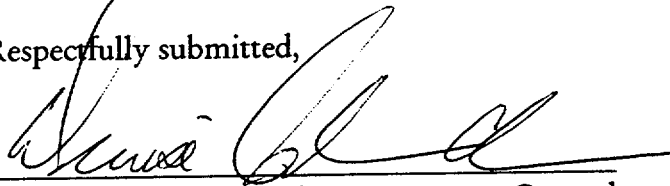
The State notes that the Staff has refused to recognize the very real potential that the Tooele County Sheriff will not provide law enforcement assistance to the proposed PFS facility. The State is dismayed that NRC would place form over substance and pronounce from its confines in Washington D.C. that the citizens of the State of Utah will be protected because of the Staff's interpretation of a contract, which interpretation is diametrically opposed to that of one of the contracting parties, *i.e.* the Tooele County Attorney. If PFS had chosen to locate on non-Indian reservation lands, the issue of law enforcement coverage would not be in dispute. While, PFS's choice of location may have some benefits to it in terms of zoning, lack of local regulation, and the like, it also has some drawbacks; and one of those drawbacks is that the State and local government are not obligated to provide law enforcement on an Indian reservation. The Staff can easily rectify the concerns raised by the State by insisting on a written agreement or understanding between Tooele County and PFS, that proves that PFS has "documented liaison with a LLEA" as required by 10 CFR § 73.51(d).

The State submits that to the extent that the Board grants the Applicant's

Motion for Summary Disposition on Security-A, Security-B, and part of Security-C, it has no bearing on the response times for the Tooele County Sheriff's office to provide security assistance at the PFS facility. Nor will action by the Board on this Motion mean that the Tooele County Sheriff's office will, in fact, act as the principal LLEA to the PFS facility.

DATED this 1st day of July, 1999.

Respectfully submitted,



Denise Chancellor, Assistant Attorney General
Fred G Nelson, Assistant Attorney General
Diane Curran, Special Assistant Attorney General
Connie Nakahara, Special Assistant Attorney General
Attorneys for State of Utah
Utah Attorney General's Office
160 East 300 South, 5th Floor, P.O. Box 140873
Salt Lake City, UT 84114-0873
Telephone: (801) 366-0286, Fax: (801) 366-0292

CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S RESPONSE TO
APPLICANT'S MOTION FOR SUMMARY DISPOSITION OF CONTENTIONS
UTAH SECURITY-A AND SECURITY-B AND PARTIAL SUMMARY
DISPOSITION OF CONTENTION UTAH SECURITY-C was served on the
persons listed below by electronic mail (unless otherwise noted) with conforming
copies by United States mail first class, this 1st day of July, 1999:

Rulemaking & Adjudication Staff
Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington D.C. 20555
E-mail: hearingdocket@nrc.gov
(original and two copies)

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: gpb@nrc.gov

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: jrk2@nrc.gov
E-Mail: kjerry@erols.com

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: psl@nrc.gov

Sherwin E. Turk, Esq.
Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: set@nrc.gov
E-Mail: clm@nrc.gov
E-Mail: pfscase@nrc.gov

Jay E. Silberg, Esq.
Ernest L. Blake, Jr.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N. W.
Washington, DC 20037-8007
E-Mail: Jay_Silberg@shawpittman.com
E-Mail: ernest_blake@shawpittman.com
E-Mail: paul_gaukler@shawpittman.com

John Paul Kennedy, Sr., Esq.
1385 Yale Avenue
Salt Lake City, Utah 84105
E-Mail: john@kennedys.org

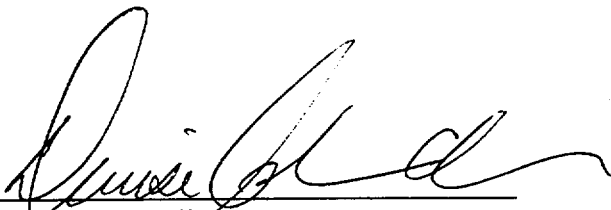
Richard E. Condit, Esq.
Land and Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302
E-Mail: rcondit@lawfund.org

Joro Walker, Esq.
Land and Water Fund of the Rockies
2056 East 3300 South Street, Suite 1
Salt Lake City, Utah 84109
E-Mail: joro61@inconnect.com

Danny Quintana, Esq.
Danny Quintana & Associates, P.C.
68 South Main Street, Suite 600
Salt Lake City, Utah 84101
E-Mail: quintana@xmission.com

James M. Cutchin
Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-Mail: jmc3@nrc.gov
(electronic copy only)

Office of the Commission Appellate
Adjudication
Mail Stop: 16-G-15 OWFN
U. S. Nuclear Regulatory Commission
Washington, DC 20555
(United States mail only)



Denise Chancellor
Assistant Attorney General
State of Utah