

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

PRIVATE FUEL STORAGE, LLC
(Independent Spent Fuel
Storage Installation)

)
) Docket No. 72-22-ISFSI
)
) ASLBP No. 97-732-02-ISFSI
)
) December 27, 1999

DECLARATION OF WILLIAM J. SINCLAIR

I, WILLIAM J. SINCLAIR, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that:

1. I am the Director of the Division of Radiation Control ("Division" or "DRC"), Utah Department of Environmental Quality ("DEQ"), having been appointed to that position on June 1, 1993, by the Executive Director of DEQ pursuant to Utah Code Ann. § 19-1-202.

2. I am also the Executive Secretary of the Radiation Control Board (Board), having been appointed to that position on June 1, 1993 pursuant to Utah Code Ann. § 19-3-108(1). The powers and duties of the Executive Secretary are described in Utah Code Ann. § 19-3-108.

3. In my position as Director of the Division of Radiation Control, I have been directly involved with the Atlas uranium site, located near Moab, Utah.

4. The Atlas mill and tailings pile, regulated by the United States

Nuclear Regulatory Commission ("NRC"), consists of 10.5 million tons and is located at the bend of the Colorado River, near Moab, Utah.

5. The NRC required Atlas to maintain a reclamation bond in the amount of \$6.3 million.

6. The NRC maintained that it could not increase the Atlas reclamation bond until it had approved an amended reclamation plan.

7. In 1993 the Nuclear Regulatory Commission issued a notice of intent to approve Atlas' third reclamation plan and issued a finding of no significant impact ("FONSI") in its Environmental Assessment.

8. During public comment, the State of Utah, among others, challenged the FONSI and demanded that the NRC conduct a full environmental impact statement ("EIS") investigation.

9. The NRC withdrew its FONSI and issued a draft EIS and draft technical evaluation report on Atlas' proposed reclamation plan in 1996. *See, e.g., Atlas Corporation* (Moab, Utah Facility), LBP-97-9, 45 NRC 414, 418-420 (1997).

10. In September 1998, Atlas filed for Chapter 11 bankruptcy. *See In re Atlas Corporation*, Case No. 98-23331 DEC (Dist. Colo).

11. The State of Utah filed a bankruptcy claim for groundwater corrective action or in the alternative a natural resource damage claim under § 107(f) of CERCLA, 42 USC § 9607(f), in the amount of \$77 million. The federal government

filed a bankruptcy claim in the amount of \$44 million.

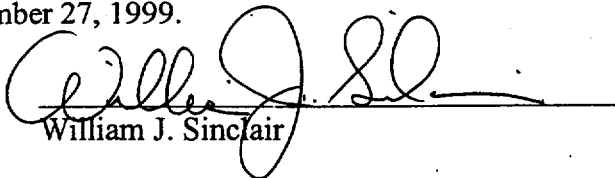
12. At the time Atlas Corp. filed for bankruptcy, the NRC had not approved the reclamation plan, and the \$6.3 million yielded a cash value of \$5.25 million.

13. The NRC and the State jointly approved PricewaterhouseCoopers, LLP, as trustee to assume responsibility, as the NRC licensee, for the Atlas tailings site.

14. The bankruptcy trustee will use funds and other assets in the trust obtained as part of a settlement agreement and reorganization resulting from the bankruptcy. *See, e.g.* www.nrc.gov/OPA/gmo/nrarcv/99-238.html. The amount of funds available for the Atlas site will be significantly less than the minimum amount of \$20 million required to merely stabilize the site. The actual cost of groundwater cleanup has not been estimated.

15. This Declaration has been prepared in support of the State of Utah's Response to Applicant's Motion for Partial Summary Disposition of Contention Utah E, and the State's accompanying Statement of Material Facts, and is true and correct to the best of my knowledge and belief.

DATED this December 27, 1999.


William J. Sinclair