

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
(Independent Spent Fuel
Storage Installation)

) ASLBP No. 97-732-02-ISFSI
)
) June 4, 1999
)

STATE OF UTAH'S RESPONSE TO APPLICANT'S
SECOND AND THIRD SETS OF DISCOVERY REQUESTS
WITH RESPECT TO GROUP I CONTENTIONS

The State responds to Applicant's Second and Third Sets of Discovery Requests with respect to Group I contentions. Applicant's Second Set of Discovery Requests, dated May 13, 1999, as it relates to Group I contentions, includes Utah K (credible accidents) and Utah Security contentions. Applicant's Third Set of Discovery Requests, dated May 18, 1999, relates to Utah K and Utah M (probable maximum flood) only.

The State files declarations (included hereto as Exhibit 1) for each person who assisted in answering particular interrogatories and requests for admissions, specifically; Martin D. Gray, Dane Finerfrock, Bronson W. Hawley¹, David Larsen², John L.

¹ While Bronson W. Hawley reviewed these Responses, he was unavailable to sign his Declaration, which will be filed once he has signed it.

² While David Larsen reviewed these Responses, he was unavailable to sign his Declaration, which will be filed once he has signed it.

Matthews, Maj. Gen. USAF (Ret), David C. Schen, Boyd Swenson, Neil Taylor, William M. Wallner, Otis Willoughby (Utah Contention K); David B. Cole³ (Utah Contention M); and Lieutenant R. Mark Millett (Utah Security Contentions).

The State also files the resumes (attached hereto as Exhibit 2), not previously available, for Martin D. Gray, Gary A. Wise, and Lt. R. Mark Millett, named as witnesses in State's Third Supplemental Response to Applicant's First Set of Formal Discovery Requests dated May 20, 1999.

I. STATE'S RESPONSES TO SECOND SET OF DISCOVERY REQUESTS (UTAH K)

A. Requests for Admissions - Utah K/Confederated Tribes

ADMISSION REQUEST NO. 1 - UTAH K. Do you admit that the distance from the military targets on the Utah Test and Training Range at which live ammunition is fired are over 20 miles from the PFS ISFSI site?

RESPONSE TO ADMISSION REQUEST NO. 1 - UTAH K:

The State objects because the Applicant has not distinguished whether the distance involved is in nautical or statute miles. Notwithstanding this objection, the State admits Request No.1 to the extent that the distance is in statute miles.

ADMISSION REQUEST NO. 2 - UTAH K. Do you admit that aircraft and missile run-ins and drop and launch approaches on the Utah Test and Training Range, South Area are all oriented either south to north or east to west and hence away from the PFS ISFSI site?

³ Mr. Cole prepared responses for Utah M interrogatories, but is presently on annual leave. His Declaration will be supplied next week when he returns.

RESPONSE TO ADMISSION REQUEST NO. 2 - UTAH K:

Admission Request No. 2 is denied.

ADMISSION REQUEST NO. 3 - UTAH K. Do you admit that all missiles fired on the Utah Test and Training Range with the capability of flying off the range possess flight termination systems?

RESPONSE TO ADMISSION REQUEST NO. 3 - UTAH K:

Admission Request No. 3 is admitted.

ADMISSION REQUEST NO. 4 - UTAH K. Do you admit that Air Force aircraft flying over Skull Valley do not engage in threat reaction or tactical maneuvering.

RESPONSE TO ADMISSION REQUEST NO. 4 - UTAH K:

Admission Request No. 4 is denied.

ADMISSION REQUEST NO. 5 - UTAH K. Do you admit that military aircraft flying over Skull Valley with live ordnance do not arm the ordnance while over the valley?

RESPONSE TO ADMISSION REQUEST NO. 5 - UTAH K:

Admission Request No. 5 is denied.

ADMISSION REQUEST NO. 6 - UTAH K. Do you admit that aircraft carrying "hung bombs" that seek to land at Michael Army Airfield (on Dugway Proving Ground) do not fly over the PFS ISFSI site?

RESPONSE TO ADMISSION REQUEST NO. 6 - UTAH K:

Admission Request No. 6 is admitted in part and denied in part. Admit that, in general, aircraft carrying "hung bombs" that seek to land at Michael Army Airfield do not fly over the PFS ISFSI site. Deny to the extent that exigent circumstances may

occur to cause aircraft carrying "hung bombs" to fly over the PFS ISFSI site en route to Michael Army Airfield.

B. Document Requests - Utah K/Confederated Tribes B

DOCUMENT REQUEST NO. 1 - UTAH K. All versions of the Chemical Accident/Incident Response and Assistance Plans for Dugway Proving Ground or any installations on Dugway Proving Ground.

RESPONSE TO DOCUMENT REQUEST NO. 1 - UTAH K:

As a State regulatory agency, the Utah Division of Solid and Hazardous Waste has hundreds of thousands of pages of documents relating to hazardous waste activities and the treatment and testing of biological agent at Dugway Proving Ground. In addition, the State Military Advisor maintains thousands of pages of files concerning the biological testing and treatment activities at the Dugway Proving Ground. The Applicant was provided open access to all documents at the Utah Division of Solid and Hazardous Waste and the office of the State Military Advisor.⁴

Moreover, all documents requested by the Applicant and other documents in the State's possession and control relating to the PFS case have been produced.⁵ These

⁴ All the files at the Utah Division of Solid and Hazardous Waste and the office of the State Military Advisor, including hundreds of thousands of regulatory files, have been made available to the Applicant even though the State considers most of these files irrelevant to the PFS case. The Applicant reviewed these files in November 1998 and February 1999.

⁵ With the exception of documents requested during depositions of State witnesses (*see* response to Document Request No. 12), the State will continue to periodically notify the Applicant of newly obtained relevant documents. The scope of the State's notification will depend upon whatever agreement PFS and the State can

documents, including all versions of the Chemical Accident/Incident Response and Assistance Plan in the State's possession, are still available for review at the Utah Division of Solid and Hazardous Waste by coordination with counsel for the State.

DOCUMENT REQUEST NO. 2 - UTAH K. All documents related to training exercises of the Utah National Guard on Dugway proving ground, including, but not limited to, the location of the training exercises, the equipment, weapons and munitions used during the exercises, the directions of any firing ranges used during the exercises, and procedures used to protect against accidents and mishaps in the firing of weapons.

RESPONSE TO DOCUMENT REQUEST NO. 2 - UTAH K:

The State does not currently possess any documents related the Utah National Guard training exercises on Dugway Proving Ground. The State is in the process of determining whether documents related to training exercises for the National Guard fall under the auspices of the federal government or the State government.

DOCUMENT REQUEST NO. 3 - UTAH K. Any maps or other documents showing the location and/or use of the weapon firing ranges on Dugway Proving Ground, including any documents depicting "range fans," the nature and type of weapons and munitions fired, and the procedures used to protect against accidents and mishaps in firing.

RESPONSE TO DOCUMENT REQUEST NO. 3 - UTAH K:

The State objects to this request on the grounds that it is duplicative of previous requests, over broad and burdensome. Some of the hundreds of thousands of pages of Dugway documents may include maps or other documents showing the location

reach. See, State's Responses and Objections to Applicant's First Set of Formal Discovery Requests, dated April 14, 1999, Response to General Interrogatory No. 2.

and/or use of weapon firing ranges. See Response to Document Request No. 1. It is overly burdensome to expect the State to identify all such documents, in particular, when the Applicant has a map which shows such locations. See Bronson W. Hawley Deposition, Exhibit 3.

Notwithstanding the State's objections, the Dugway documents in the State's possession which may show the location and/or use of weapon firing ranges on Dugway Proving Ground are still available for review at the Utah Division of Solid and Hazardous Waste by coordination with counsel for the State.

DOCUMENT REQUEST NO. 4 - UTAH K. All documents related to the types, quantities, location, testing, storage and disposal of chemical agents and munitions at Dugway Proving Ground.

RESPONSE TO DOCUMENT REQUEST NO. 4 - UTAH K.

The State objects to this request on the grounds that it is over broad and burdensome. Many of the hundreds of thousands of pages of Dugway documents relate to the types, quantities, location, testing, storage and disposal of chemical agents and munitions at Dugway Proving Ground. See Response to Document Request No. 1. It is overly burdensome to expect the State to identify all such documents, in particular, when many of the documents have been previously copied for the Applicant.

Notwithstanding the State's objections, the Dugway documents in the State's possession are still available for review at the Utah Division of Solid and Hazardous

Waste by coordination with counsel for the State.

DOCUMENT REQUEST NO. 5 - UTAH K. All documents related to the types, quantities, location, testing, storage and disposal of biological agents at Dugway Proving Ground.

RESPONSE TO DOCUMENT REQUEST NO. 5 - UTAH K.

The State objects to this request on the grounds that it is over broad and burdensome. Some of the hundreds of thousands of pages of Dugway documents relate to the types, quantities, location, testing, storage and disposal of biological agents at Dugway Proving Ground. See Response to Document Request No. 1. It is overly burdensome to expect the State to identify all such documents in particular when many of the documents have been previously copied for the Applicant.

Notwithstanding the State's objections the Dugway documents in the State's possession are still available for review at the Utah Division of Solid and Hazardous Waste and the office of the State Military Advisor by coordination with counsel for the State.

DOCUMENT REQUEST NO. 6 - UTAH K. All documents related to unexploded ordnance (conventional, chemical or biological) on or in the vicinity of Dugway Proving Ground, including any studies or analyses of the hazards posed by unexploded ordnance.

RESPONSE TO DOCUMENT REQUEST NO. 6 - UTAH K.

The State objects to this request on the grounds that it is over broad and burdensome. Many of the hundreds of thousands of pages of Dugway documents relate to unexploded ordnance (conventional, chemical, or biological) on or in the

vicinity of Dugway Proving Ground. See Response to Document Request No. 1. It is overly burdensome to expect the State to identify all such documents in particular when many of the documents have been previously copied for the Applicant.

Notwithstanding the State's objections the Dugway documents in the State's possession are still available for review at the Utah Division of Solid and Hazardous Waste by coordination with counsel for the State.

DOCUMENT REQUEST NO. 7 - UTAH K. All documents related to the transportation of chemical or biological agent to or from federal facilities in Utah.

RESPONSE TO DOCUMENT REQUEST NO. 7 - UTAH K.

The document relating to the transportation of chemical agents from South Dakota requested during the deposition of Martin D. Gray will separately be provided. See response to Document Request No. 12.

With respect to other documents, the State objects to this request on the grounds that it is over broad and burdensome. In addition to the documents relating to Dugway Proving Ground the State has hundreds of thousands of pages of documents relating to chemical agent activities at the Deseret Chemical Depot.⁶ See Response to Document Request No. 1. It is overly burdensome to expect the State to identify all such documents relating to the transportation of chemical or biological agents from federal facilities in Utah, in particular when many of the documents have

⁶Although the State failed to see the relevance of some of these documents to the PFS case, the Applicant had open access to these files and reviewed them in November 1998 and February 1999.

been previously copied for the Applicant.

Notwithstanding the State's objections, the Dugway and Deseret Chemical Depot documents in the State's possession are still available for review at the Utah Division of Solid and Hazardous Waste by coordination with counsel for the State.

DOCUMENT REQUEST NO. 8 - UTAH K. All documents related to safety procedures and requirements for the handling, testing, storage, and disposal of chemical agents and/or munitions, biological agents and/or munitions, and any other hazardous material at or in the vicinity of Dugway Proving Ground.

RESPONSE TO DOCUMENT REQUEST NO. 8 - UTAH K.

The State objects to this request on the grounds that it is over broad and burdensome. Some of the hundreds of thousands of pages of Dugway documents relate to the safety procedures and requirements for the handling, testing, storage, and disposal of chemical agents and/or munitions, biological agents and/or munitions, and any other hazardous material at or in the vicinity of Dugway Proving Ground. See Response to Document Request No. 1. It is overly burdensome to expect the State to identify all such documents, in particular, when many of the documents have been previously copied for the Applicant.

Notwithstanding the State's objections, the Dugway documents in the State's possession are still available for review at the Utah Division of Solid and Hazardous Waste and the office of the State Military Advisor by coordination with counsel for the State.

DOCUMENT REQUEST NO. 9 - UTAH K. All documents concerning

emergency procedures for responding to hazardous waste spills.

RESPONSE TO DOCUMENT REQUEST NO. 9 - UTAH K.

The State objects to this request on the grounds that it is over broad and burdensome. Notwithstanding the State's objections, specific emergency procedures for responding to hazardous waste spills at various hazardous waste facilities are included in the hazardous waste permits and files for Dugway Proving Ground, Deseret Chemical Depot, Utah Test and Training Range, Safety-Kleen (Aragonite) Inc., the Safety-Kleen (Clive), Inc., the Safety-Kleen (Lone and Grassy Mountain), Inc., and Envirocare Low Level and Mixed Waste Landfill. The Applicant has previously obtained copies of many of these procedures. In addition, the files for these hazardous waste facilities located at the Utah Division of Solid and Hazardous Waste have previously been made available to the Applicant and will again be available upon coordination with counsel for the State. See Response to Document Request Nos. 10 and 11.

Moreover, in general, the Utah Department of Public Safety is the on-scene coordinating agency for hazardous materials incidents. See Response to Document Request No. 4, Utah Security C, paragraphs d and e, which lists documents that may be relevant to this request.

DOCUMENT REQUEST NO. 10 - UTAH K. Any and all RCRA permits and/or applications, and related documents for Dugway Proving Ground, including, but not limited to, the permit modifications related to Igloo G.

RESPONSE TO DOCUMENT REQUEST NO. 10 - UTAH K.

The State objects to this request on the grounds that it is over broad and burdensome. Many of the hundreds of thousands of pages of Dugway documents relate to RCRA permits and/or applications for Dugway Proving Ground. *See* Response to Document Request No. 1. The application and permit for each particular hazardous waste unit likely exceed the volume of the Applicant's own application submitted in this case. Most of the applications and permits are not relevant to Contention K; thus, it is overly burdensome to expect the State to identify all such documents, in particular, when many of the documents have been previously copied for the Applicant.

Notwithstanding the State's objections, the Dugway documents in the State's possession are still available for review at the Utah Division of Solid and Hazardous Waste by coordination with counsel for the State.

DOCUMENT REQUEST NO. 11 - UTAH K. The RCRA permits for Laidlaw Grassy Mountain Hazardous Waste Landfill, Envirocare Low-Level and Mixed Waste Landfill, Laidlaw Aptus Hazardous Waste Incinerator, and Laidlaw Clive Hazardous Waste Incinerator and all documents related to the specific type and quantity of hazardous materials transported to or from these facilities which the State contends would pose a threat to the ITP.

RESPONSE TO DOCUMENT REQUEST NO. 11 - UTAH K.

The State objects to this request on the grounds that it is over broad and burdensome. Each permit and all documents related to hazardous waste transported to

the Safety-Kleen⁷ (Aragonite) Inc., the Safety-Kleen (Clive), Inc., the Safety-Kleen (Lone and Grassy Mountain), Inc. and Envirocare will likely exceed the total volume of the Applicant's own application submitted in this case. The majority of each permit and related documents are not relevant to Contention K, thus, it is overly burdensome to expect the State to identify all such documents.

Notwithstanding the State's objections, the documents in the State's possession for the commercial facilities listed in this Request are still available for review at the Utah Division of Solid and Hazardous Waste by coordination with counsel for the State.

DOCUMENT REQUEST NO. 12 - UTAH K. All documents requested during the depositions of State personnel the week of May 10, 1999.

RESPONSE TO DOCUMENT REQUEST NO. 12 - UTAH H.

The State is in the process of copying all documents requested.

II. STATE'S RESPONSES TO THIRD SET OF DISCOVERY REQUESTS (UTAH K)

A. Requests for Admissions

ADMISSION REQUEST NO. 1 - UTAH K. Do you admit that the document entitled, "Waste Received at Commercial Permitted Facilities In/Out of State by Tons," (Bates No. UT-05267 to UT-05284) indicates the amount of waste received by the Aptus/Aragonite, Envirocare, Clive, and Grassy Mountain hazardous waste facilities in Fiscal Years 1986 through 1997?

RESPONSE TO ADMISSION REQUEST NO. 1 - UTAH K.

⁷ Laidlaw was the previous owner or operator of the Safety-Kleen facilities.

Admission Request No. 1 is admitted.

ADMISSION REQUEST NO. 2 - UTAH K. Do you admit that the document entitled, "Spill Reports - 1994," (Bates No. UT-37743 to UT-37744) indicates the hazardous material spill reports received by Utah Department of Environmental Quality, Division of Hazardous Waste in 1994?

RESPONSE TO ADMISSION REQUEST NO. 2 - UTAH K.

Admission Request No. 2 is denied.

ADMISSION REQUEST NO. 3 - UTAH K. Do you admit that the document entitled, "Spill Reports - 1995," (Bates No. UT-37740 to UT-37742) indicates the hazardous material spill reports received by Utah Department of Environmental Quality, Division of Hazardous Waste in 1995?

RESPONSE TO ADMISSION REQUEST NO. 3 - UTAH K.

Admission Request No. 3 is denied.

ADMISSION REQUEST NO. 4 - UTAH K. Do you admit that the document entitled, "1996 Spill Report," (Bates No. UT-37722 to UT-37739) indicates the hazardous material spill reports received by Utah Department of Environmental Quality, Division of Hazardous Waste in 1996?

RESPONSE TO ADMISSION REQUEST NO. 4 - UTAH K.

Admission Request No. 4 is denied.

ADMISSION REQUEST NO. 5 - UTAH K. Do you admit that the document entitled, "1997 Spill Report," (Bates No. UT-37708 to UT-37721) indicates the hazardous material spill reports received by Utah Department of Environmental Quality, Division of Hazardous Waste in 1997?

RESPONSE TO ADMISSION REQUEST NO. 5 - UTAH K.

Admission Request No. 5 is denied.

ADMISSION REQUEST NO. 6 - UTAH K. Do you admit that the document entitled, "1998 Spill Report," (Bates No. UT-37701 to UT-37707) indicates

the hazardous material spill reports received by Utah Department of Environmental Quality, Division of Hazardous Waste in 1998?

RESPONSE TO ADMISSION REQUEST NO. 6 - UTAH K.

Admission Request No. 6 is denied.

ADMISSION REQUEST NO. 7 - UTAH K. Do you admit that the documents entitled, "Utah Division of Solid and Hazardous Waste, Spill Reports 1998," (Bates No. UT-37550 to UT-37556) are spill reports received by Utah Department of Environmental Quality, Division of Hazardous Waste in 1998?

RESPONSE TO ADMISSION REQUEST NO. 7 - UTAH K.

Admission Request No. 7 is denied.

ADMISSION REQUEST NO. 8 - UTAH K. Do you admit that the documents entitled, "Utah Division of Solid and Hazardous Waste, Spill Reports 1997," (Bates No. UT-37544 to UT-37549) are spill reports received by Utah Department of Environmental Quality, Division of Hazardous Waste in 1997?

RESPONSE TO ADMISSION REQUEST NO. 8 - UTAH K.

Admission Request No. 8 is denied.

ADMISSION REQUEST NO. 9 - UTAH K. Do you admit that the documents entitled, "Utah Division of Environmental Response and Remediation, Incident Notification," (Bates No. UT-37758 to UT-37782) are records of the incident notifications received by Utah Department of Environmental Quality, Division of Environmental Response and Remediation of hazardous materials transportation spills in Tooele County from 1990 to 1998?

RESPONSE TO ADMISSION REQUEST NO. 9 - UTAH K.

Admission Request No. 9 is admitted.

ADMISSION REQUEST NO. 10 - UTAH K. Do you admit that the UTTR, South Area approaches no closer than within 18 miles of the PFSF?

RESPONSE TO ADMISSION REQUEST NO. 10 - UTAH K:

The State objects to this Request for Admission on the grounds that the term "approaches" is ambiguous. Request for Admission No. 10 does not appear to be referring to the boundary of the UTTR, South Area. Cf Admission Request No. 10 with Request No. 12. Notwithstanding the previous objection, assuming the term "approaches" refers to aircraft approach into the Utah Test and Training Range, South Area, then the Admission Request No. 10 is denied.

ADMISSION REQUEST NO. 11 - UTAH K. Do you admit that most of the Air Force targets for training with air-delivered munitions on the UTTR, South Area are located at Wildcat Mountain?

RESPONSE TO ADMISSION REQUEST NO. 11 - UTAH H.

The State objects to this Request for Admission on the grounds that the term "most" is ambiguous. Notwithstanding the previous objection, assuming the term "most" means more than fifty percent, then the Admission Request No. 11 is denied.

ADMISSION REQUEST NO. 12 - UTAH K. Do you admit that Wildcat Mountain is more than 25 miles from the PFSF?

RESPONSE TO ADMISSION REQUEST NO. 12 - UTAH K.

Admission Request No. 12 is denied.

ADMISSION REQUEST NO. 13 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any military aircraft flying to or from the UTTR that has released a weapon (e.g., missile, bomb, or rocket) outside the area in which the weapon was intended to be released?

RESPONSE TO ADMISSION REQUEST NO. 13 - UTAH K.

The State objects to Admission No. 13 to the extent that it implies that no such

information exists. However, the State admits that currently it has no record of the matter described in Admission Request No. 13.

ADMISSION REQUEST NO. 14 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any military aircraft having released live ordnance over Skull Valley?

RESPONSE TO ADMISSION REQUEST NO. 14 - UTAH K.

The State objects to Admission No. 14 to the extent that it implies that no such information exists. However, the State admits that currently it has no record of the matter described in Admission Request No. 14.

ADMISSION REQUEST NO. 15 - UTAH K. Do you admit that the State's and its consultants have no knowledge of any record in their possession, or otherwise, of any incident on Dugway Proving Ground involving chemical munitions or agents having harmed anyone off of Dugway Proving Ground, other than the 1968 sheep incident?

RESPONSE TO ADMISSION REQUEST NO. 15 - UTAH K.

The State objects to Admission No. 15 to the extent that it implies that no such information exists. The State also objects to this Request for Admission on the grounds that the term "having harmed anyone" is ambiguous. Notwithstanding the previous objections, assuming that "1968 sheep incident" is presumed to "hav[e] harmed [some]one," then Admission Request No. 15 is denied.

ADMISSION REQUEST NO. 16 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident on Dugway Proving Ground involving biological munitions or agents having harmed anyone off of Dugway Proving Ground?

RESPONSE TO ADMISSION REQUEST NO. 16 - UTAH K.

The State objects to Admission No. 16 to the extent that it implies that no such information exists. The State also objects to this Request for Admission on the grounds that the term "having harmed anyone" is ambiguous. Notwithstanding the previous objections, if "1968 sheep incident" mentioned in Admission Request 15 is presumed to "hav[e] harmed [some]one," then the State admits Admission Request No. 16.

ADMISSION REQUEST NO. 17 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident in which a chemical or biological munition on Dugway Proving Ground spontaneously exploding?

RESPONSE TO ADMISSION REQUEST NO. 17 - UTAH K.

The State objects to Admission No. 17 to the extent that it implies that no such information exists. Notwithstanding the previous objection, the State admits Admission Request No. 17.

ADMISSION REQUEST NO. 18 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident involving the transportation of chemical munitions or agents to or from Dugway Proving Ground in which a person was harmed by exposure to chemical agent?

RESPONSE TO ADMISSION REQUEST NO. 18 - UTAH K.

The State objects to Admission No. 18 to the extent that it implies that no such information exists. The State also objects to this Request for Admission on the grounds that the term "harmed" is ambiguous and not defined. Notwithstanding the previous objections, the State admits Admission Request No. 18.

ADMISSION REQUEST NO. 19 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident involving the transportation of biological munitions or agents to or from Dugway Proving Ground in which a person was harmed by exposure to biological agent?

RESPONSE TO ADMISSION REQUEST NO. 19 - UTAH K:

The State objects to Admission No. 19 to the extent that it implies that no such information exists. The State also objects to this Request for Admission on the grounds that the term "harmed" is ambiguous and not defined. Notwithstanding the previous objections, the State admits Admission Request No. 19.

ADMISSION REQUEST NO. 20 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident involving the transportation of hazardous materials, other than chemical munitions, chemical agents, biological munitions, or biological agents, to or from Dugway Proving Ground in which a person was harmed by exposure to such hazardous material?

RESPONSE TO ADMISSION REQUEST NO. 20 - UTAH K:

The State objects to Admission No. 20 to the extent that it implies that no such information exists. The State also objects to this Request for Admission on the grounds that the term "harmed" is ambiguous and not defined. Notwithstanding the previous objections, the State admits Admission Request No. 20.

ADMISSION REQUEST NO. 21 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident involving the transportation of hazardous materials to or from the Aptus hazardous waste incinerator in which a person was harmed by exposure to such hazardous material?

RESPONSE TO ADMISSION REQUEST NO. 21 - UTAH K:

The State objects to Admission No. 21 to the extent that it implies that no such information exists. The State also objects to this Request for Admission on the grounds that the term "harmed" is ambiguous and not defined. Notwithstanding the previous objections, the State admits Admission Request No. 21.

ADMISSION REQUEST NO. 22 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident involving the transportation of hazardous materials to or from the Clive hazardous waste incinerator in which a person was harmed by exposure to such hazardous material?

RESPONSE TO ADMISSION REQUEST NO. 22 - UTAH K.

The State objects to Admission No. 22 to the extent that it implies that no such information exists. The State also objects to this Request for Admission on the grounds that the term "harmed" is ambiguous and not defined. Notwithstanding the previous objections, the State admits Admission Request No. 22.

ADMISSION REQUEST NO. 23 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident involving the transportation of hazardous materials (including radioactive materials) to or from the Envirocare low-level radioactive waste and mixed waste landfill in which a person was harmed by exposure to such material?

RESPONSE TO ADMISSION REQUEST NO. 23 - UTAH K:

The State objects to Admission No. 23 to the extent that it implies that no such information exists. The State also objects to the term "harmed" as ambiguous and undefined. Notwithstanding these objections, with respect to the radioactive elements of hazardous materials, Admission Request No. 23 is denied. However, the State

admits that it has no record of any incident involving the transportation of hazardous materials, other than the radioactive elements, to or from Envirocare in which a person was harmed.

ADMISSION REQUEST NO. 24 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident involving the transportation of hazardous materials to or from the Grassy Mountain hazardous waste (including radioactive materials) landfill in which a person was harmed by exposure to such such material?

RESPONSE TO ADMISSION REQUEST NO. 24 - UTAH K:

The State objects to Admission No. 24 to the extent that it implies that no such information exists. In addition, the Safety Kleen Grassy Mountain hazardous waste landfill is not authorized to handle radioactive material. Thus, with respect to non-radioactive hazardous materials, the State admits Admission Request No. 24.

ADMISSION REQUEST NO. 25 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident in which a rocket motor at the Tekoi Rocket Engine Test Facility exploded while being test fired?

RESPONSE TO ADMISSION REQUEST NO. 25 - UTAH K.

The State objects to Admission No. 25 to the extent that it implies that no such information exists. Notwithstanding the previous objection, the State admits Admission Request No. 25.

ADMISSION REQUEST NO. 26 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident in which a rocket motor at the Tekoi Rocket Engine Test Facility escaped its test stand while being test fired?

RESPONSE TO ADMISSION REQUEST NO. 26 - UTAH K:

The State objects to Admission No. 26 to the extent that it implies that no such information exists. Notwithstanding the previous objection, the State admits Admission Request No. 26.

ADMISSION REQUEST NO. 27 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident in which a rocket motor being transported to the Tekoi Rocket Engine Test Facility exploded or ignited while in transit?

RESPONSE TO ADMISSION REQUEST NO. 27 - UTAH K:

The State objects to Admission No. 27 to the extent that it implies that no such information exists. Notwithstanding the previous objection, the State admits Admission Request No. 27.

ADMISSION REQUEST NO. 28 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident in which a rocket motor being transported to the former Bacchus Works rocket engine test facility exploded or ignited while in transit?

RESPONSE TO ADMISSION REQUEST NO. 28 - UTAH K:

The State objects to Admission No. 28 to the extent that it implies that no such information exists. Notwithstanding the previous objection, the State admits Admission Request No. 28.

ADMISSION REQUEST NO. 29 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident in which electromagnetic emissions from a ground facility caused the crash of an aircraft flying within 10 miles of such facility?

RESPONSE TO ADMISSION REQUEST NO. 29 - UTAH K:

The State objects to Admission No. 29 to the extent that it implies that no such information exists. Notwithstanding the previous objection, the State admits Admission Request No. 29.

ADMISSION REQUEST NO. 30 - UTAH K. Do you admit that the State and its consultants have no knowledge of any record in their possession, or otherwise, of any incident in which the smoke plume from a fire or explosion prevented the correct operation of any electronic device more than two miles from the fire or explosion?

RESPONSE TO ADMISSION REQUEST NO. 30 - UTAH K.

The State objects to Admission No. 30 to the extent that it implies that no such information exists. Notwithstanding the previous objection, Admission Request No. 30 is admitted in part and denied in part. The State admits that it may not currently have in its possession any record of the matter described in Admission Request No. 30. However, such records may exist and be in the possession of other public agencies involved in wildland fire suppression. The State denies Admission Request No. 30 to the extent that, based on fire fighting experience, the power supply may be shut down in the area of wildland fires due to shorting (arcing) of transmission lines resulting from particulates in the smoke plume. In addition, wooden utility poles which carry transmission lines are known to have been burned off at the ground by wildfires. Incident Commanders often request that the power supply to transmission lines in an area affected by wildland fires be shut down to avoid shorting of the lines and for firefighter safety where wooden utility poles may be consumed by the fire. To the

extent that an electronic device is serviced by such a power supply, the lack of power supply could prevent the operation of electronic devices more than two miles from a fire or explosion.

B. Interrogatories

INTERROGATORY NO. 1 - UTAH K. To the extent that the State denies any of the Requests for Admission Nos. 13-30, indicate each record that provides the basis for each of your denials, such indication to include the Request for which it is the basis for denying, the full title and author of each record, the State office currently possessing each record, or person or entity in possession of such record, and the Utah Bates No. for each record (if the State has produced the record in this proceeding).

RESPONSE TO INTERROGATORY NO. 1 - UTAH K.

With respect to Admission Request No. 15, the following documents are located in the State of Utah, Division of Solid and Hazardous Waste:

Formerly Used Defense Site ("FUDS")
Yellow Jacket Ranges
UXO Investigation and Engineering Evaluation Workplan
U.S. Corp of Engineers ("USACE")
October 1994

FUDS
Yellow Jacket Ranges
Engineering Evaluation and Cost Analysis Report
USACE
October 1996

FUDS
Southern Triangle
UXO Investigation and Engineering Evaluation Workplan
USACE
March 1995

FUDS

Southern Triangle
Engineering Evaluation and Cost Analysis Report
USACE
October 1996

FUDS
White Rock Sheep Burial Site
Literature Search and Conceptual Workplan
USACE
May 1996

FUDS
White Rock Sheep Burial Site
Site Investiagtion Workplan
USACE
October 1996

FUDS
White Rock Sheep Burial Site
Site Investiagtion Workplan
USACE
October 1996

FUDS
White Rock Sheep Burial Site
Analytical Results
USACE
July 1997

FUDS
White Rock Sheep Burial Site
Site Investiagtion Report
USACE
December 1997

FUDS
White Rock Sheep Burial Site
Data Verification Report
USACE

November 1997

With respect to Admission Request No. 23, the transportation regulations allow for a level of radiation exposure. Thus, individuals are exposed anytime radioactive materials are handled. According to the linear non-threshold model of radiation risk assessment, each radiation exposure increases an individual's risk. Records of radioactive waste transportation to or from the Envirocare facility are maintained by Envirocare at its facility.

With respect to Admission Request No. 30, to the extent that Response to Admission Request No. 30 is denied, see explanation contained in that Response.

III. STATE'S RESPONSE TO THIRD SET OF DISCOVERY REQUESTS (UTAH M)

A. Interrogatories

INTERROGATORY NO. 1 - UTAH M. Identify what the State contends is the appropriate ground cover, and the corresponding Curve Number or n coefficient, to be used in the calculation of the Probable Maximum Flood ("PMF") for the PFS site, and fully explain the scientific and technical basis therefor.

RESPONSE TO INTERROGATORY NO. 1 - UTAH M.

The State did not use the curve number method of computing losses. The State does not believe that curve numbers are valid for this long of a duration storm. A constant infiltration rate of .15 inches per hour was used for the 72 hour general storm. This infiltration rate was chosen based on experience and verified using data in the Natural Resources Conservation Service State Soil Geographic Database (STATSGO).

A map (statsgo.jpg) is attached (Exhibit 3, Utah bates no. UT-39782) showing the distribution of soil types and the overall infiltration rates. The vegetative cover is shown on another attached map (Exhibit 4, Utah bates no. UT-39781) derived from the *Utah Gap Analysis: An Environmental Information System, Final Project Report 95-1*, Utah Cooperative Fish and Wildlife Research Unit, Utah State University, Logan, Utah 84322-5210, 1995. This map (gap.jpg) shows the detailed vegetative cover types for the PMF drainage area.

INTERROGATORY NO. 2 - UTAH M. Identify what the State contends is the appropriate time of concentration for calculating the PMF for the PFS site and fully explain the scientific and technical basis therefor.

RESPONSE TO INTERROGATORY NO. 2 - UTAH M.

The State used the following empirical equation in its revised estimate of lag time:

$$tp = 1.2 * (L * Lc / S^5)^{.38} = 4.43 \text{ hours}$$

where 1.2 is the coefficient.

L = 29.8 miles the Length of the longest water course.

Lc = 11.7 miles the Length from the point on the water course nearest the centroid to the drainage area outlet.

S = 125 feet per mile the average slope of the water course.

This empirical equation for relating lag time with drainage basin characteristics was developed by the US Corps of Engineers and published in *Hydrology for Engineers*,

Second Edition, 1975, McGraw-Hill, Inc.

The time of concentration was calculated from the lag time using the following equation.

$$tc = 1.667 * tp = 1.667 * 4.43 = 7.4 \text{ hours.}$$

IV. STATE'S RESPONSE TO SECOND SET OF DISCOVERY REQUESTS (UTAH SECURITY A, B, C)

UTAH CONTENTION SECURITY A

Document Requests - Utah Security A

DOCUMENT REQUEST NO. 1 - UTAH SECURITY A. All documents related to the claims raised by the State, as admitted by the Board, in Utah Security A.

RESPONSE TO DOCUMENT REQUEST NO. 1 - UTAH SECURITY A:

In addition to the Applicant's NRC license application, RAI responses, pleadings filed in this case, and documents already produced by the State, all documents relating to Utah Security A are located at Ms. Nakahara's Office at the Department of Environmental Quality.

DOCUMENT REQUEST NO. 2 - UTAH SECURITY A. All documents, data or other information generated, reviewed, considered or relied upon by any expert or consultant in connection with assisting the State with respect to Utah Security A.

RESPONSE TO DOCUMENT REQUEST NO. 2 - UTAH SECURITY A:

See Response to Document Request No. 1 - Utah Security A.

UTAH CONTENTION SECURITY B

Document Requests - Utah Security B

DOCUMENT REQUEST NO. 1 - UTAH SECURITY B. All documents related to the claims raised by the State, as admitted by the Board, in Utah Security B.

RESPONSE TO DOCUMENT REQUEST NO. 1 - UTAH SECURITY B:

In addition to the Applicant's NRC license application, RAI responses, pleadings filed in this case, and documents already produced by the State, all documents relating to Utah Security B are located at Ms. Nakahara's Office at the Department of Environmental Quality.

DOCUMENT REQUEST NO. 2 - UTAH SECURITY B. All documents, data or other information generated, reviewed, considered or relied upon by any expert or consultant in connection with assisting the State with respect to Utah Security B.

RESPONSE TO DOCUMENT REQUEST NO. 2 - UTAH SECURITY B:

See Response to Document Request No. 1 - Utah Security B.

UTAH CONTENTION SECURITY C

A. Interrogatories - Utah Security C

INTERROGATORY NO. 1 - UTAH SECURITY C. Identify and fully explain each respect that the State claims that PFS "has not met the requirements of 10 C.F.R. Part 73" or 10 C.F.R. 73.51(d)(6), and describe fully the State's bases therefor.

RESPONSE TO INTERROGATORY NO. 1 - UTAH SECURITY C:

The bases for the State's claim that PFS "has not met the requirements of 10

CFR Part 73" are contained in the "State's Contentions Security-A through Security-I Based on Applicant's Confidentiality Safeguards Security Plan," dated January 2, 1998, at 4-7; and the "State's Reply to the Staff and Applicant's Responses to Utah's Security Plan Contentions...", dated February 11, 1998, at 10-14. To meet the requirements of 10 CFR § 73.51(d)(6), PFS must establish "[d]ocumented liaison with a designated response force or local law enforcement agency (LLEA) ... to permit timely response to unauthorized penetration or activities." One of the bases of Security C is that no such documentation exists between Tooele County, or any other LLEA, and PFS that will permit a timely response to unauthorized penetration or activities at the proposed ISFSI site which is located on tribal sovereign land. To date, there is no documented liaison between PFS and an LLEA (or designated response force) to permit timely response to unauthorized penetration or activities at the proposed ISFSI site. PFS, not the State, must generate such documentation.

INTERROGATORY NO. 2 - UTAH SECURITY C. Identify and fully explain any and all State policies and procedures for assisting or supplementing local law enforcement agencies responding to unusual or emergency situations that might impact public health and safety.

RESPONSE TO INTERROGATORY NO. 2 - UTAH SECURITY C:

The State objects to Interrogatory No. 2 as over broad, burdensome, ambiguous and irrelevant. First, the State has no idea of the meaning or scope of the abstract term "unusual or emergency situations that might impact public health and safety." The State's police powers are wide and pervasive. Employment of such powers by

appropriately trained State law enforcement officers to protect the health and safety of its citizens and to assist local law enforcement agencies will depend on the specific incident or situation and the amount of resources available to deal with the incident. Thus, policies and procedures for rendering or supplementing assistance to local law enforcement will be incident specific. Second, Interrogatory No. 2 is over broad, burdensome and irrelevant. Examples of some assistance the State has rendered to local law enforcement agencies will show the breadth, burden and irrelevance of Interrogatory No. 2. The State deployed a substantial number of law enforcement officers over a number of weeks to assist local law enforcement in the Price area in riot control during a coal miners strike. The State assisted San Juan County officers in a manhunt for three persons involved in the shooting of a police officer. The State assists in the control of clandestine laboratories (e.g., drug making, explosives production, etc). The State has troopers trained in hazardous materials spills who may assist local entities who do not have the capability to handle an incident. In general, rural areas require more assistance from the State than the more populous areas. Finally, Interrogatory No. 2 is irrelevant because the State has no agreement with the Skull Valley Band of Goshutes, Private Fuel Storage or Tooele County to provide law enforcement assistance to the proposed PFS facility.

INTERROGATORY NO. 3 - UTAH SECURITY C. Identify knowledgeable State personnel qualified to discuss and answer questions regarding the State's policies and procedures for assisting Local Law Enforcement Agencies ("LLEAs") responding to unusual or emergency situations.

RESPONSE TO INTERROGATORY NO. 3 - UTAH SECURITY C:

The State objects to Interrogatory No. 3 as over broad, burdensome, ambiguous and irrelevant. Notwithstanding these objections, in general, the Division of Comprehensive Emergency Management, is the State agency responsible for coordinating state government emergency assistance in a "State of emergency" as that term is defined in Utah Code Ann. § 53-2-103. However, the State has no idea what the term "unusual or emergency situations" means. See Response to Interrogatory No. 2. Finally, the policies and procedures for assisting LLEA's will depend on the type of incident, the location of the incident, and the resources and capabilities of the LLEA.

INTERROGATORY NO. 4 - UTAH SECURITY C: Identify any determined or established Utah law enforcement response times for State or LLEA response to unusual or emergency situations at any State, governmental, industrial, commercial or other facility.

RESPONSE TO INTERROGATORY NO. 4 - UTAH SECURITY C:

The State objects to Interrogatory No. 4 as over broad, burdensome, ambiguous and irrelevant. First, Interrogatory No. 4 relates to any facility within the State. The State has a land area of 84,916 square miles. Thus, the request for State or LLEA response times to any facility in the State is clearly over broad and burdensome. Second, Interrogatory No. 4 also relates to "unusual or emergency situations" - an ambiguous and abstract term the Applicant persists in using without defining. See Response to Interrogatory No. 2. Third, Interrogatory No. 4 is impossible to respond to because the following diverse factors affect response times: the type of incident (e.g.,

riots and civil disorder, criminal activity, natural disasters, hazardous materials response, wild land fires, etc.), location of the incident (rural or populous area), the time of day, the location of law enforcement officers at the time of the incident, and local resources available to cope with the incident. Fourth, the State does not know whether local law enforcement agencies within the State, who are not a party to this action, have their own policies and procedures that establish response times to "unusual or emergency situations." If PFS deems that such information will be useful, PFS may make such investigations of those entities. Finally, Interrogatory No. 4 is irrelevant because it has no relationship to Utah Contention Security C. Utah Security C deals, in part, with PFS's lack of documentation with an LLEA to timely respond to an incident at the proposed ISFSI, which will be located on the Skull Valley Indian reservation. The State has no agreement with the Skull Valley Band of Goshutes, Private Fuel Storage or Tooele County to provide law enforcement assistance to the proposed PFS facility. Moreover, the response time by any State or local LLEA to any area within the State has no relationship to the time required for a specific LLEA to respond to an incident at the proposed ISFSI.

B. Documents Requests - Utah Security C

DOCUMENT REQUEST NO. 1 - UTAH SECURITY C. All documents related to the claims raised by the State, as admitted by the Board, in Contention Security C.

RESPONSE TO DOCUMENT REQUEST NO. 1 - UTAH SECURITY C:

In addition to the Applicant's NRC license application and RAI responses, pleadings filed in this case, and documents already produced by the State, all documents relating to Utah Security C are located at Ms. Nakahara's Office at the Department of Environmental Quality.

DOCUMENT REQUEST NO. 2 - UTAH SECURITY C. All documents, data or other information generated, reviewed, considered or relied upon by any expert or consultant in connection with assisting the State with respect to Utah Contention Security C.

RESPONSE TO DOCUMENT REQUEST NO. 2 - UTAH SECURITY C:

See Response to Document Request No. 1 - Utah Security C.

DOCUMENT REQUEST NO. 3 - UTAH SECURITY C. All documents referring or relating to any agreement between any facility not owned by the State, Utah state agency or local Utah government unit, in which the government unit agrees to provide assistance for the security of the facility.

RESPONSE TO DOCUMENT REQUEST NO. 3 - UTAH SECURITY C:

The State objects to Document Request No. 3 as over broad, burdensome, ambiguous and irrelevant. *See Response to Interrogatory No. 4.* Furthermore, the State does not understand what the term "government unit" means. In addition, the State can only respond with respect to State entities and cannot possibly respond on behalf of any other "government unit" in the State. Notwithstanding these objections, the State is unaware of any agreement between the State and a non-

government owned facility in which the State provides assistance for the security of such a facility.

DOCUMENT REQUEST NO. 4 - UTAH SECURITY C: All plans, policies, and procedures and all documents referring or relating to the State's plans, policies and procedures for responding to, or assisting LLEAs in their response to, unusual or emergency situations that may threaten public health or safety.

RESPONSE TO DOCUMENT REQUEST NO. 4 - UTAH SECURITY C:

The State objects to Document Request No. 4 as over broad, burdensome, ambiguous and irrelevant. See Response to Interrogatory No. 4. Notwithstanding these objections, the State has the following documents, available for inspection and copying in Ms. Nakahara's office, that may be responsive to Request No. 4:

- a. Utah Interlocal Mutual Aid Agreement.
- b. Fact Sheet for the Utah Interlocal Mutual Aid Agreement.
- c. List of Participating Counties who signed the Utah Interlocal Mutual Aid Agreement.
- d. Utah Department of Public Safety "Hazardous Materials Response Policy."
- e. Memorandum from Governor Leavitt dated July 15, 1993 reaffirming the Utah Department of Public Safety's role as on-scene coordinating agency for hazardous materials incidents on State lands, highways and federal interstates.
- f. State Emergency Operations Plan.

DOCUMENT REQUEST NO. 5 - UTAH SECURITY C: All documents referring or relating to any determined or established Utah law enforcement response times for State or LLEA response to unusual or emergency situations at any State,

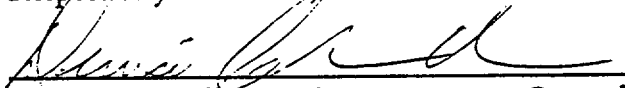
governmental, industrial, commercial or other facility.

RESPONSE TO DOCUMENT REQUEST NO. 5 - UTAH SECURITY
C:

The State objects to Document Request No. 5 as over broad, burdensome, ambiguous and irrelevant. *See* Response to Interrogatory No. 4. Notwithstanding these objections, the State is unaware of any document responsive to Request No. 5.

DATED this 4th day of June, 1999.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE 'S RESPONSE TO APPLICANT'S SECOND AND THIRD SETS OF DISCOVERY REQUESTS WITH RESPECT TO GROUP I CONTENTIONS was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 4th day of June, 1999:

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