

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:

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

)  
) Docket No. 72-22-ISFSI  
)  
) ASLBP No. 97-732-02-ISFSI  
)  
) July 30, 1999

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STATE OF UTAH'S SECOND SET OF DISCOVERY REQUESTS  
DIRECTED TO THE NRC STAFF

Pursuant to the Board's Orders dated April 22, 1998 (LBP-98-7), June 29, 1998 and August 20, 1998, and 10 CFR §§ 2.740, 2.741, and 2.742, Intervenor, State of Utah, hereby requests that the Staff of the Nuclear Regulatory Commission ("Staff" or "NRC") answer the following Interrogatories and Requests for Admissions separately, fully, in writing, and under oath within 10 days after service of this discovery request and produce documents requested below within 15 days after service of this request.

I. INSTRUCTIONS

A. Scope of Discovery. These interrogatories and requests for admissions and production of documents are directed to NRC Staff and any of the Staff's contractors or agency (collectively "NRC" or "Staff"). The interrogatories cover all information in the possession, custody and control of NRC, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or

other persons directly or indirectly employed or retained by NRC, or anyone else acting on their behalf or otherwise subject to NRC's control. The discovery sought by this request encompasses material contained in, or which might be derived or ascertained from, the personal files of NRC employees, representatives, investigators, and agents.

B. Lack of Information. If you currently lack information to answer any Interrogatory completely, please state:

1. The responsive information currently available;
2. The responsive information currently unavailable;
3. Efforts which you intend to make to secure the information currently unavailable; and
4. When you anticipate receiving the information currently unavailable.

C. Supplemental Responses. Each of the following requests is a continuing one pursuant to 10 C.F.R. § 2.740(e) and the State hereby demands that, in the event that at any later date NRC obtains or discovers any additional information which is responsive to these interrogatories and request for admissions and production of documents, NRC shall supplement its responses to this request promptly and sufficiently in advance of the adjudicatory hearing.

Such supplementation shall include, but not be limited to:

1. The identity and location of persons having knowledge of discoverable matters; the identity of each person expected to be called as an expert witness at any hearing, the subject matter on which she/he is expected to testify, and the substance of her/his testimony; and
2. New information which makes any response hereto incorrect.

D. Objections. If you object to or refuse to answer any interrogatory under a claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, privilege, immunity or other reason, the person on whose behalf the objection, privilege, immunity, or other reason is asserted, and describe the factual basis for asserting the objection, privilege, immunity, or other reason in sufficient detail so as to permit the administrative judges in this matter to ascertain the validity of such assertion.

If you withhold any document covered by this request under a claim of privilege, immunity, or for any other reason, please furnish a list identifying each document for which the privilege, immunity, or other reason is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and the job title and affiliation of any such persons, the subject matter of the documents, the basis for asserting the privilege,

immunity, or other reason, and the name of the person on whose behalf the privilege, immunity, or other reason is asserted.

E. Estimates. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

## II. DEFINITIONS

Each of the following definitions, unless otherwise indicated, applies to and shall be a part of each interrogatory and request for production which follows:

A. "NRC," "Staff," "you" and "your" refers to the officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by U.S. Nuclear Regulatory Commission, or anyone else acting on its behalf or otherwise subject to its control.

B. "PFS," or "Applicant," refers to Private Fuel Storage, LLC and the PFS members and their officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on their behalf or otherwise subject to their control.

C. The term "documents" means the originals as well as copies of all written, printed, typed, recorded, graphic, photographic, and sound reproduction

matter however produced or reproduced and wherever located, over which you have custody or control or over which you have the ultimate right to custody or control. By way of illustration, but not limited thereto, said term includes: records, correspondence, telegrams, telexes, wiring instructions, diaries, notes, interoffice and intraoffice communications, minutes of meetings, instructions, reports, demands, memoranda, data, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, charts, working papers, computer tapes, computer printout sheets, information stored in computers or other data storage or processing equipment, microfilm, microfiche, corporate minutes, blueprints, drawings, contracts and any other agreements, rough drafts, and all other writings and papers similar to any of the foregoing, however designated by you. If the document has been prepared and several copies or additional copies have been made that are not identical (or are no longer identical by reason of the subsequent addition of notations or other modifications), each non-identical copy is to be construed as a separate document. The term "document" includes notes and draft as well as final versions of documents, and includes materials contained in, or which might be derived or ascertained from, the personal files of NRC employees, representatives, investigators, and agents.

D. "All documents referring or relating to" means all documents that in whole or in part constitute, contain, embody, reflect, identify, state, interpret, discuss,

describe, explain, apply to, deal with, evidence, or are in any way pertinent to a given subject.

E. The words "describe" or "identify" shall have the following meanings:

1. In connection with a person, the words "describe" or "identify" mean to state the name, last known home and business address, last known home and business telephone number, and last known place of employment and job title;

2. In connection with a document, the words "describe" or "identify" mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the date, title, caption, or other style by which the document is headed, the name of each person and entity which is a signatory to the document, the date on which the document was prepared, signed, and/or executed, any relevant bates numbers on the document, the person or persons having possession and/or copies thereof, the person or persons to whom the document was sent, all persons who reviewed the document, the substance and nature of the document, the present custodian of the document, and any other information necessary to adequately identify the document;

3. In connection with an entity other than a natural person (e.g., corporation, partnership, limited partnership, association, institution, etc.), the words “describe” or “identify” mean to state the full name, address and telephone number of the principal place of business of such entity.

4. In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identify of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identity of any document recording or documenting such activity, occurrence, or communication.

F. “Date” shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

G. “ISFSI” shall mean the PFS proposed Independent Spent Fuel Storage Installation located in the northwest corner of the Skull Valley Goshute Indian reservation, Utah.

H. The word “person” shall include any individual, association, corporation, partnership, joint venture, or any other business or legal entity.

I. Words herein of any gender include all other genders, and the singular form of words encompasses the plural.

J. The words "and" and "or" include the conjunctive "and" as well as the disjunctive "or" and the words "and/or."

K. "Aircraft hazard factor" means one of the individual probabilities that must be summed with all other individual probabilities in order to ascertain the total aircraft hazard probability pursuant to NUREG-0800.

L. "Evaluate the probability of aircraft hazard" means performing an original analysis of the probability of aircraft hazard, reviewing an analysis of aircraft hazard provided by Applicant or any other person, or any combination thereof.

### III. GENERAL DISCOVERY

#### A. GENERAL INTERROGATORIES

The State requests that, pursuant to the Staff's continuing obligation to respond to discovery, the Staff supplement its response to the State's General Interrogatories Nos. 1 through 5 (from "State of Utah's First Set of Discovery Requests Directed to the NRC Staff," dated June 10, 1999, at pp. 9-10) with additional information pertinent to its response to this "State of Utah's Second Set of Discovery Requests Directed to the NRC Staff."



## B. GENERAL DOCUMENT REQUESTS

The State requests that, pursuant to the Staff's continuing obligation to respond to discovery, the Staff supplement its response to the State's General Document Requests Nos. 1 through 3 (from "State of Utah's First Set of Discovery Requests Directed to the NRC Staff," dated June 10, 1999, at pp. 10-11) with additional information pertinent to its response to this "State of Utah's Second Set of Discovery Requests Directed to the NRC Staff."

## IV. UTAH CONTENTION K

### A. REQUEST FOR ADMISSIONS - Utah Contention K

REQUEST FOR ADMISSION NO. 1: Admit that the Staff has not evaluated the risk to the proposed ISFSI posed by military training exercises conducted on Dugway Proving Ground.

REQUEST FOR ADMISSION NO. 2: Admit that, in evaluating the risk to the proposed ISFSI posed by military training exercises conducted on Dugway Proving Ground, Staff did not evaluate the risk posed by the firing of rocket-propelled munitions with ranges of up to 30 kilometers (18.64 miles), fired from positions less than 15 miles away from the ISFSI site.

REQUEST FOR ADMISSION NO. 3: Admit that, in evaluating the risk to the proposed ISFSI posed by activities pertaining to Dugway Proving Ground, Staff

did not evaluate the risk posed by buried and as-yet undiscovered explosive, chemical, or biological munition from past military testing and training activities associated with Dugway Proving Ground located within its boundaries.

REQUEST FOR ADMISSION NO. 4: Admit that, in evaluating the risk to the proposed ISFSI posed by activities pertaining to Dugway Proving Ground,” Staff did not evaluate the risk posed by buried and as-yet undiscovered explosive, chemical, or biological munition from past military testing and training activities associated with Dugway Proving Ground located outside its boundaries.

REQUEST FOR ADMISSION NO. 5: Admit that, in evaluating the risk to the proposed ISFSI posed by activities pertaining to Dugway Proving Ground,” Staff did not evaluate the risk posed by detonation of unstable explosive munitions at sites fewer than 2,380 feet from the proposed ISFSI.

REQUEST FOR ADMISSION NO. 6: Admit that the probability of aircraft hazard to the proposed ISFSI posed by military flights traveling through Skull Valley to or from the Utah Test and Training Range (UTTR) north and south areas is an aircraft hazard factor<sup>1</sup> that must be evaluated in order to determine the total aircraft hazard to the proposed ISFSI.

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<sup>1</sup> See Definition II.K.

REQUEST FOR ADMISSION NO. 7: Admit that Staff has not evaluated the probability of aircraft hazard<sup>2</sup> to the proposed ISFSI posed by military flights traveling through Skull Valley to or from the UTTR north and south areas.

REQUEST FOR ADMISSION NO. 8: Admit that the probability of hazard to the proposed ISFSI posed by military flights flying to and from Michael Army Air Field, Dugway Proving Ground through Skull Valley is an aircraft hazard factor that must be evaluated in order to determine the total aircraft hazard to the proposed ISFSI.

REQUEST FOR ADMISSION NO. 9: Admit that Staff has not evaluated the probability of aircraft hazard to the proposed ISFSI posed by military flights flying to and from Michael Army Air Field, Dugway Proving Ground through Skull Valley.

REQUEST FOR ADMISSION NO. 10: Admit that the probability of hazard to the proposed ISFSI posed by private flights flying in the vicinity of the proposed ISFSI is an aircraft hazard factor that must be evaluated in order to determine the total aircraft hazard to the proposed ISFSI.

REQUEST FOR ADMISSION NO. 11: Admit that Staff has not evaluated the probability of aircraft hazard to the proposed ISFSI posed by private flights flying in the vicinity of the proposed ISFSI.

REQUEST FOR ADMISSION NO. 12: Admit that the probability of hazard to the proposed ISFSI posed by commercial aircraft flying in the vicinity of the

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<sup>2</sup> See Definition II.L.

proposed ISFSI is an aircraft hazard factor that must be evaluated in order to determine the total aircraft hazard to the proposed ISFSI.

REQUEST FOR ADMISSION NO. 13: Admit that Staff has not evaluated the probability of aircraft hazard to the proposed ISFSI posed by commercial aircraft flying in the vicinity of the proposed ISFSI.

REQUEST FOR ADMISSION NO. 14: Admit that Staff has not evaluated the probability of aircraft hazard to the proposed ISFSI posed by ascending or descending commercial aircraft flying in the vicinity of the proposed ISFSI.

REQUEST FOR ADMISSION NO. 15: Admit that the Salt Lake International Airport projects an increase in the number of commercial aircraft flying into and out of the airport. See, e.g., Resnikoff July 21, 1999 Decl. (in opposition to PFS Motion for Summary Disposition on Contention K) at ¶ 11.

REQUEST FOR ADMISSION NO. 16: Admit that foreseeable increases in the number of commercial aircraft flying in the vicinity of the proposed ISFSI during the term of its initial license must be evaluated in order to determine the aircraft hazard factor posed by such commercial aircraft.

REQUEST FOR ADMISSION NO. 17: Admit that Staff has not evaluated any projected increase in aircraft traffic in the vicinity of the proposed ISFSI.

REQUEST FOR ADMISSION NO. 18: Admit that the probability of hazard to the proposed ISFSI posed by cruise missiles flying in the vicinity of the proposed

ISFSI is an aircraft hazard factor that must be evaluated in order to determine the total aircraft hazard to the proposed ISFSI.

REQUEST FOR ADMISSION NO. 19: Admit that Staff has not evaluated the probability of aircraft hazard to the proposed ISFSI posed by cruise missiles flying in the vicinity of the proposed ISFSI.

REQUEST FOR ADMISSION NO. 20: Admit that the probability of hazard to the proposed ISFSI posed by aircraft parts or munitions accidentally or intentionally dropping from military aircraft flying in the vicinity of the ISFSI is an aircraft hazard factor that must be evaluated in order to determine the total aircraft hazard to the proposed ISFSI.

REQUEST FOR ADMISSION NO. 21: Admit that Staff has not evaluated the probability of aircraft hazard to the proposed ISFSI posed by aircraft parts or munitions accidentally or intentionally dropping from military aircraft flying in the vicinity of the ISFSI.

REQUEST FOR ADMISSION NO. 22: Admit that the proposed ISFSI site lies beneath the Sevier B Military Operating Area ("MOA") airspace.

REQUEST FOR ADMISSION NO. 23: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that cruise missile test flights conducted at the UTTR include flightpaths within the Sevier B MOA airspace.

REQUEST FOR ADMISSION NO. 24: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that a cruise missile flying in accordance with its test plan may fly within a single nautical mile of the proposed ISFSI.

REQUEST FOR ADMISSION NO. 25: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that a cruise missile test flight in the UTTR airspace (including the Sevier B MOA airspace) may last from two to five hours and cover hundreds of miles.

REQUEST FOR ADMISSION NO. 26: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that during a cruise missile test flight in the UTTR airspace (including the Sevier B MOA airspace), the missile typically will change direction and altitude a number of times while traversing the Utah Test and Training Range airspace.

REQUEST FOR ADMISSION NO. 27: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that since 1983, 19 uncontrolled Air Launched Cruise Missiles and 2 uncontrolled Conventional Air Launched Cruise Missiles launched in the Utah Test and Training Range air space have crashed.

REQUEST FOR ADMISSION NO. 28: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that since

1983 two cruise missiles launched in the Utah Test and Training Range airspace crashed, landing outside of Department of Defense land on public or private property.

REQUEST FOR ADMISSION NO. 29: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider the June 1999 cruise missile crash on property directly underneath the Sevier B MOA, the same MOA under which the proposed ISFSI site lies.

REQUEST FOR ADMISSION NO. 30: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that the flight termination systems did not prevent two cruise missiles launched in the Utah Test and Training Range airspace that crashed outside of Department of Defense ("DOD") property from leaving airspace over DOD land.

REQUEST FOR ADMISSION NO. 31: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that the flight termination system for the cruise missile that crashed in December 1997 at Dugway Proving Ground did not prevent it from crashing and destroying civilian property.

REQUEST FOR ADMISSION NO. 32: Admit that Staff did not, in its analysis of the risk posed to the proposed ISFSI by cruise missiles, consider that the December 1997 cruise missile crash at Dugway Proving Ground was a result of human error and equipment malfunction.

REQUEST FOR ADMISSION NO. 33: Admit that the Holtec HI-STORM cask is not designed to withstand a tornado missile strike of any object greater than 1,800 kilogram, or at speeds of greater than 126 mph.

REQUEST FOR ADMISSION NO. 34: Admit that the Holtec HI-STORM cask is not designed to withstand a strike by an inert 2000 lb concrete bomb with a steel nose cone moving at a speed of 600 mph.

REQUEST FOR ADMISSION NO. 35: Admit that probable consequences of a strike to a Holtec HI-STORM cask by an inert 2000 lb concrete bomb with a steel nose cone moving at a speed of 600 mph include overturning of the cask, shattering of concrete overpack of the cask, and release of at least some of the cask's contents.

REQUEST FOR ADMISSION NO. 36: Admit that the Holtec HI-STORM cask is not designed to withstand a strike by a cruise missile.

REQUEST FOR ADMISSION NO. 37: Admit that probable consequences of a strike to a Holtec HI-STORM cask by a cruise missile include overturning of the cask, shattering of concrete overpack of the cask, and release of at least some of the cask's contents.

REQUEST FOR ADMISSION NO. 38: Admit that, in evaluating risk related to the activities of the Alliant Techsystems Tekoi Rocket Motor Test Facility, the Staff did not evaluate the risk to the proposed PFS ISFSI posed by flying objects from a detonation of a rocket in transit along Skull Valley Road to the Test Facility.



## **B. INTERROGATORIES - Utah Contention K**

INTERROGATORY NO. 1: To the extent the Staff responds to any of the requests for admission in Part II.A., above, with a partial or complete denial, please explain the basis for the denial.

INTERROGATORY NO. 2: To the extent the Staff responds to Requests for Admission Nos 1, 2, 3, 4, 5, 7, 9, 11, 13, 14, 17, 19, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, or 38 by denying that it failed to consider, analyze, or evaluate the specified risks, please explain how the specified risks were considered, analyzed, or evaluated.

## **C. DOCUMENT REQUEST - Utah Contention K**

DOCUMENT REQUEST NO. 1: All documents in your possession, custody, or control that are identified, referred to or used in any way in responding to the Requests for Admission in Part IV.A., above or to the Interrogatories in Part IV.B.

DOCUMENT REQUEST NO. 2: All documents generated or relied upon by the Staff or its contractors in preparing its Statement of Position or in its Response to the Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B which relate to risk or analysis of risk posed to the proposed ISFSI by activities associated with the Alliant Techsystems Tekoi Rocket Motor Test Facility on the proposed PFS ISFSI, including documents containing facts, data, source of information, supporting calculations, basis for using various calculations and formulas, assumptions, and conclusions regarding such risk or analysis of risk.

DOCUMENT REQUEST NO. 3: All documents generated or relied upon by the Staff or its contractors in preparing its Statement of Position or in its Response to the Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B which relate to risk or analysis of risk posed to the proposed ISFSI by impacts of the detonation of munitions found in the vicinity of the proposed PFS ISFSI, including documents containing facts, data, source of information, supporting calculations, basis for using various calculations and formulas, assumptions, and conclusions regarding such risk or analysis of risk.

DOCUMENT REQUEST NO. 4: All documents generated or relied upon by the Staff or its contractors in preparing its Statement of Position or in its Response to the Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B which relate to risk or analysis of risk posed to the proposed ISFSI by impacts of chemical or biological agent activities (including documents identifying chemical or biological munitions in the vicinity of the proposed PFS ISFSI), including documents containing facts, data, source of information, supporting calculations, basis for using various calculations and formulas, assumptions, and conclusions regarding such risk or analysis of risk.

DOCUMENT REQUEST NO. 5: All documents generated or relied upon by the Staff or its contractors in preparing its Statement of Position or in its Response to the Applicant's Motion for Summary Disposition of Utah Contention K and

Confederated Tribes Contention B which relate to risk or analysis of risk posed to the proposed ISFSI by impacts of misfired munitions from combat training exercises conducted at Dugway Proving Ground with live munitions, including documents containing facts, data, source of information, supporting calculations, basis for using various calculations and formulas, assumptions, and conclusions regarding such risk or analysis of risk.

DOCUMENT REQUEST NO. 6: All documents generated or relied upon by the Staff or its contractors in preparing its Statement of Position or in its Response to the Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B which relate to risk or analysis of risk posed to the proposed ISFSI by impacts of air launched weapons in the Utah Test and Training Range airspace, including the Sevier B military operating area, including documents containing facts, data, source of information, supporting calculations, basis for using various calculations and formulas, assumptions, and conclusions regarding such risk or analysis of risk.

DOCUMENT REQUEST NO. 7: All documents generated or relied upon by the Staff or its contractors in preparing its Statement of Position or in its Response to the Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B which relate to risk or analysis of risk posed to the proposed ISFSI by impacts of military aircraft flying over Skull Valley, including

flights ingressing to the Utah Test and Training Range ("UTTR") south area, flights egressing from the UTTR north and south area, and flights flying to and from Michael Army Air Field, including documents containing facts, data, source of information, supporting calculations, basis for using various calculations and formulas, assumptions, and conclusions regarding such risk or analysis of risk.

DOCUMENT REQUEST NO. 8: All documents generated or relied upon by the Staff or its contractors in preparing its Statement of Position or in its Response to the Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B which relate to risk or analysis of risk posed to the proposed ISFSI by impacts of commercial and private aircraft flying in the vicinity of the proposed PFS ISFSI, including documents containing facts, data, source of information, supporting calculations, basis for using various calculations and formulas, assumptions, and conclusions regarding such risk or analysis of risk.

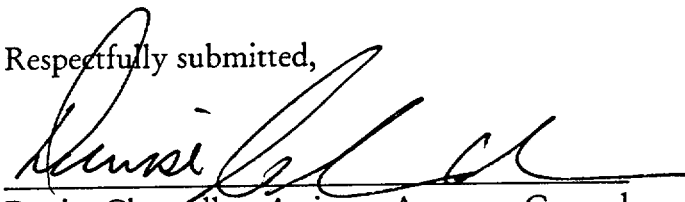
DOCUMENT REQUEST NO. 9: All documents which relate to the Staff's December 10, 1998 request for additional information No. 2, SAR 8-3 and its review of PFS's February 10, 1998 reply.

DOCUMENT REQUEST NO. 10: All documents which relate to the Staff's request and review of information included with PFS's June 30, 1999, Submittal of Commitment Resolution Letter #7 Information.

DOCUMENT REQUEST NO. 11: All documents, including notes and memorandum, which relate to the July 21, 1999 Staff's teleconference request information referenced in PFS's June 22, 1999, Commitment Resolution Letter #10.

DATED this 30th day of July, 1999.

Respectfully submitted,

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

Denise Chancellor, Assistant Attorney General  
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S SECOND SET OF DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 30th day of July, 1999:

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