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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:

) Docket No. 72-22-ISFSI

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

) ASLBP No. 97-732-02-ISFSI

) October 25, 2000

**STATE OF UTAH'S REQUEST FOR ADMISSION OF
LATE-FILED CONTENTION UTAH PP
(Exceedance of Rail Loading Capacities)**

Pursuant to 10 CFR § 2.714, the State of Utah hereby seeks the admission of late-filed Contention Utah PP, which challenges the failure of the draft Environmental Impact Statement¹ ("DEIS") to assess the impacts of transporting loaded spent fuel transportation casks on railcars whose allowable weight exceeds U.S. railway lines' guidelines for transportation.

The State meets the late-filed factors and, for the reasons stated below, the State requests the Board to admit Contention Utah PP. This contention is supported by the Declarations of Dr. Marvin Resnikoff and Matthew R. Lamb, attached hereto as Exhibit 1.

BACKGROUND

In the DEIS the NRC Staff selected a rail route from the Maine Yankee nuclear power plant to the proposed Private Fuel Storage ("PFS") facility to analyze the "radiological

¹ NUREG -1714, *Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah*, June 2000.

impacts for both incident-free transportation and for possible transportation accidents.” DEIS at 5-39, ln. 15-16. In its analysis the Staff assumed that each loaded rail car containing spent nuclear fuel would be separated by spacer or buffer cars. *See e.g.*, DEIS at 5-45, ln. 37-38. Contrary to this belief, and contrary to testimony presented at the hearing on Contention E,² PFS now maintains that “PFS does not plan to provide buffer cars between cask cars.” PFS’s Comments on the DEIS, dated September 21, 2000 (“PFS Comments”), excerpts from which are attached hereto as Exhibit 2. The Staff’s analysis in the DEIS is based on an incorrect assumption, the implications of which must be addressed to satisfy National Environmental Policy Act (“NEPA”).

CONTENTION PP. Exceedance of Rail Loading Capacities.

The DEIS, NUREG-1714, fails to comply with the National Environmental Policy Act and 10 CFR § 51.71(d) because it fails to address the environmental impacts of transporting loaded spent fuel transportation casks on railway cars that are not separated by spacer or buffer cars and whose allowable weight exceeds guidelines for transportation on U.S. railway lines.

BASIS:

A draft environmental impact statement must include an analysis that “considers and weighs the environmental effects of the proposed action ... and the alternatives available for reducing or avoiding adverse environmental effects.” 10 CFR § 51.71(d). PFS, by

² *See* pre-filed testimony of John D. Parkyn on Utah E, Construction Costs (May 15, 2000), at 7 A18 and 8 A25 as to the cost of buffer cars. *See, e.g. also* Tr. at 1872, ln. 18-19; 1881, ln. 19-22, and 1882, ln. 12-15; 1961, ln. 22; 2000, ln.16.

eliminating the use of spacer or buffer cars between railcars loaded with spent nuclear fuel casks, has concentrated the overall weight of the rail shipment and thus increased the probability of bridge failure. Moreover, PFS's latest plan not to provide buffer cars between cask cars vitiates the Staff's conclusion in the DEIS that "in an accident, all four casks would not be damaged to the extent that each one would release material and provide a source of radiation exposure to the public" because the Staff appears to rely on the erroneous fact that each cask will be widely separated by a buffer car. DEIS at 5-45, ln. 37-41.

In its comments on the DEIS, PFS claims that because applicable Department of Transportation ("DOT") regulations³ do not require that a buffer or spacer car be positioned between cask-carrying rail cars, it can eliminate the use of buffer cars between cask cars. PFS Comments at 12 (*see* Exhibit 2). The DOT regulations, however, are not the end of the analysis on the environmental consequences of cross country shipment of potentially overweight loads over the nation's railroads. For railroads in the United States, the railroad industry provides general track loading and clearance requirements which are published annually in a document entitled "Railway Line Clearances." Neither PFS nor the Staff have analyzed the environment effects of the concentrated weight (without buffer cars to distribute the weight) of a PFS shipment of loaded fuel casks based on the rail route's capacity to handle such a load.

A railway car carrying a loaded HI-STAR transportation cask used by PFS to transport spent nuclear power plant fuel will weigh approximately 211 tons, or 422,000

³ PFS cites to 49 CFR § 174.85. PFS Comments at 12 (Exh. 2).

pounds. See Exhibit 2,⁴ State of Utah's Request for Admission of Late-filed Contentions Utah LL Through OO (Relating to the DEIS's Analysis of Spent Fuel Transportation Risks) (August 2, 2000). This weight is significantly higher than general train track "car + lading" capacities determined by railroad owners published in "Railway Line Clearances."

The loading capacities listed in "Railway Line Clearances" are for an entire track segment, and are generally based on the loading capacities of the weakest section of a segment, often a bridge. Railroad owners determine the capacity of their tracks and bridges, and set the "Maximum Gross Weight of Car and Lading" which is published in "Railway Line Clearances." A general weight limit for tracks in the United States is 263,000 lbs, according to Gordon Davids of the Federal Railroad Administration.⁵ These loading capacities are not legal limits, but rather they constitute capacity guidelines.⁶ If a posted maximum load limit is exceeded by a given shipment, this does not necessarily mean that the shipment will be prohibited.⁷ However, the shipment will not be allowed to proceed

⁴ Exhibit 2 to Utah LL-OO, a PFS-produced discovery document labeled as containing PFS confidential information, was determined by PFS counsel to no longer be considered proprietary. See NRC Staff's Response to State of Utah's Request for Admission of Late-filed Contentions Utah LL Through OO (August 30, 2000) at 22 and n. 22.

⁵ Telephone conversation on or about October 20, 2000 between Gordon Davids, Bridge Engineer at the FRA's Office of Safety Assurance and Compliance, and Matthew Lamb, Radioactive Waste Management Associates.

⁶ The State researched, but was unable to identify, any legal loading limits on railway lines.

⁷ Mr. Davids stated that loads of 211 tons will nearly always require a special clearance. See footnote 5.

without a safety review. If a shipment exceeds the limits posted in "Railway Line Clearances," railroad owners generally determine whether a given shipment can be safely shipped on a given track, and whether special provisions should be made (such as axle configuration or placement of spacer cars) to enhance the safety of the shipment.⁸

The State obtained a copy of "Railway Line Clearances," and attempted to determine the maximum gross weights for railroad tracks comprising the route from the Maine Yankee Reactor to Skull Valley. This route is specified in Appendix C of the PFS DEIS. The table below shows the route specified in the DEIS, and estimated loading capacities for the tracks comprising this route.

Estimated Loading Limits of Railroad Tracks Comprising Route from Maine Yankee to Skull Valley⁹

⁸ See footnote 5.

⁹ Note: "Maximum Gross Weight of Car and Lading" was obtained from: "Railway Line Clearances," No. 168, (1958). This was the latest copy of the document that was available at the New York Public Library. This report is currently published annually by Primedia Directories Transportation Programs (www.primediadir.com/rlc.html). Because there have been changes in ownership and mergers since the publication of this document, the railroad companies listed in the DEIS could not always be found in "Railway Line Clearances." Therefore, to determine approximate segment loading guidelines, routes were looked at that traveled from the same start point to the same destination listed in the DEIS. More recent versions of the "Railway Line Clearances" document also may have slightly different loading capacities than the 1958 version. However, FRA official Gordon Davids' statement that a general loading limit on U.S. railways is 268,000 pounds shows that any recent changes have not been significant enough to overcome the significant differential between railway capacities and the weight of the rail cars and casks that PFS intends to ship. Because the HI-STAR transportation cask and carriage is significantly higher than the reported weight limits for all of the tracks which were investigated (the vast majority of all railway load limits were listed at 250,000 lbs or lower), the difficulty in correlating the lines listed in the DEIS with those listed in "Railway Line Clearances" is not considered important in terms of determining whether the HI-STAR casks will exceed the guidelines. This, combined with Mr. Davids' statement that a general loading limit on U.S. Railways is 268,000 lbs, is

Starting Point	End Point	Railway Listed in DEIS	Miles Traveled	"Maximum Gross Weight of Car and Lading" (lbs)
Maine Yankee	Brunswick, ME	Maine Coast Railroad	31	208,000 to 250,000
Brunswick, ME	Mechanicsville, NY	ST Rail System	293	did not determine
Mechanicsville, NY	Buffalo, NY	Canadian Pacific, St. Lawrence and Hudson Operating Subsidiary	353	200,000 to 212,000
Buffalo, NY	Chicago, IL	Norfolk Southern	529	210,000 to 220,000
Chicago, IL	Utah	Union Pacific	1576	240,000

In several places, the DEIS expresses the Staff's apparent belief that spent nuclear fuel casks on trains will be separated by buffer cars.¹⁰ According to Gordon Davids of the Federal Railroad Administration, separation by a buffer car is one common measure used to allow cargo exceeding track weight limits to be shipped on that track.¹¹ While not reducing

considered sufficient evidence to show that the HI-STAR cask to be employed by PFS will exceed "maximum gross weight of car and lading" standards as published in "Railway Line Clearances."

¹⁰ E.g., "cask-carrying railcars probably would be separated by buffer cars" (DEIS at 5-43, ln. 20-21); "The four casks are widely separated from each other on the train (usually by a buffer car between each cask-carrying railcar. . .)" (DEIS at 5-45, ln.37-38).

¹¹ See footnote 5.

the weight of an individual rail car, this strategy would have redistributed the overall weight of a loaded train. PFS recently announced in its DEIS comments that it does not intend to use buffer cars, but PFS comments did not address the problem posed by the excessive weight of the loaded railway cars.

The proposed use of railway cars whose weight exceeds industry standards poses adverse environmental impacts that have not been considered in the DEIS. For example, many railroad bridges, which were originally designed to carry steam locomotives, may be severely stressed by a short train consisting of 211-ton cars, with no buffer cars. Without a methodology for addressing the fact that the HI-STAR transportation cask and carriage will exceed general train track loading capacities, PFS has not ensured that it will be permitted to transport its heavy loads. Furthermore, neither PFS, nor the Staff in the DEIS, have addressed the potential impacts that these heavy loadings would have on railroad bridges and tracks en route to the proposed facility.

The consequences of a potential accident caused by the heavy weight of a train carrying four consecutive train cars holding spent nuclear fuel casks, such as the collapse of a railroad bridge, have not been addressed by PFS or the Staff; they have failed to consider the effect on "incident-free" exposure, to operators and the general public, which will be caused by potential changes in operating requirements (such as reduction in speeds over bridges) necessary to allow transport of these heavy trains over rail bridges. PFS and the Staff have also failed to consider potential increases in the probability of an accident due to the heavy loading placed on rail tracks and bridges by the spent fuel shipments.

In sum, the Staff's analysis in the DEIS is faulty because it relies on the erroneous

assumption that loaded fuel casks shipments will be separated by buffer cars. Consequently, the DEIS does not satisfy NEPA which requires consideration of the environmental effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental effects impacts.

LATE FILED FACTORS

The State meets the 10 CFR § 2.714(a) late filed factors for proposing its Contention Utah PP:

Good Cause: The State has good cause for late filing Contention Utah PP. Until PFS submitted its DEIS comments, it had been assumed by the State, and apparently by the Staff, that PFS would use buffer cars between the loaded fuel cars on rail shipments. In fact, PFS testified in the hearing on Contention E as to the cost of buffer cars and the make up of a unit train spent fuel shipment, which included buffer cars.¹² The State had no reason to assume that PFS would eliminate the use of buffer cars in proposed rail shipments to the PFS facility. Only when PFS submitted its DEIS comments was the State aware of this significant change to the make up of a unit train shipment to the PFS facility.

The State received a copy of PFS's DEIS comments on September 25, 2000 and has filed this contention within 30 days of receipt of those comments. Given the other issues the State has had to deal with in this proceeding – such as distribution and review of the Staff's Safety Evaluation Report, distribution and review of the PFS Model Service Agreement, and depositions of numerous experts on Contention L – filing this contention

¹² See, e.g., Tr. at 1881, ln. 19-22.

within thirty days of receipt of the relevant information from is reasonable.

Development of a Sound Record: Contention Utah PP is supported by the declarations of Dr. Marvin Resnikoff and Matthew Lamb. Dr. Resnikoff has extensive professional experience in issues relating to the transportation of spent nuclear fuel. For example, Dr. Resnikoff assisted the State in drafting transportation comments on the DEIS. See State's Comments at Attachment 19. Moreover, Dr. Resnikoff has displayed his breadth of knowledge and understanding of transportation issues in assisting the State file other transportation-related contentions, such as Contentions Utah V, and Utah LL through OO. The State is prepared to offer testimony by Dr. Resnikoff on the environmental impacts of and risks posed by the transportation of spent nuclear fuel casks that are not separated by buffer cars. He is also prepared to offer testimony on the defects in the DEIS's failure to address these impacts.

In addition, Contention Utah PP is also supported by Matthew Lamb. As shown above in the basis to the contention, Mr. Lamb has used his considerable ability to ascertain the weight capacities of the Maine Yankee to Utah rail route that is analyzed in the DEIS. Mr. Lamb would be prepared to offer testimony on this aspect of Contention PP.

For the foregoing reasons, the State's participation will assist in developing a sound record.

Availability of Other Means for Protecting The State's Interests: The State has no alternative means, other than this proceeding, for protecting its interest. The State has significant concerns on behalf of its citizens in the safe shipment of spent nuclear fuel casks through the State of Utah.

Representation by Another Party: The State's position will not be represented by any other party, as there is no other party in this proceeding who has an admitted contention relating to spent fuel shipments.

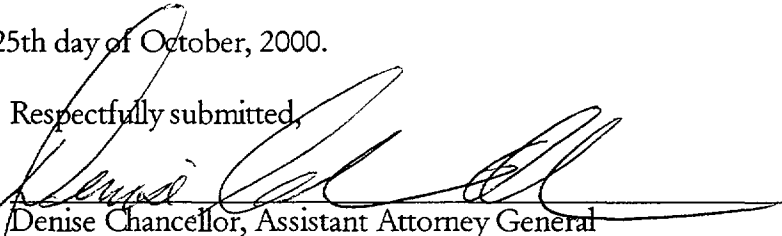
Broadening of Issues or Delay of the Proceeding: The admission of Late-filed Contention Utah PP should not broaden the proceeding. Contention Utah PP may be accommodated in the existing schedule with other admitted NEPA contentions. Thus, the licensing proceeding will not be delayed. Moreover, safety concerns outweigh any broadening or delay in the proceeding.

CONCLUSION

For the foregoing reasons, Contention Utah PP meets the Commission's standard for late filed contentions and, thus, should be admitted.

DATED this 25th day of October, 2000.

Respectfully submitted,



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Fred G Nelson, Assistant Attorney General
Laura Lockhart, Assistant Attorney General
Diane Curran, Special Assistant Attorney General
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CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S REQUEST FOR ADMISSION OF LATE-FILED CONTENTION UTAH PP (Exceedance of Rail Loading Capacities) was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 25th day of October 2000:

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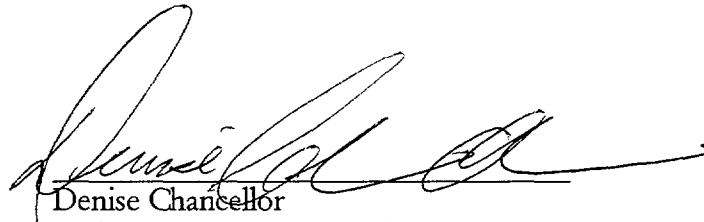
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Denise Chancellor
Assistant Attorney General
State of Utah

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	Docket No. 72-22-ISFSI
)	
PRIVATE FUEL STORAGE, LLC)	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel)	
Storage Installation))	October 25, 2000

**DECLARATION OF DR. MARVIN RESNIKOFF IN SUPPORT OF
STATE OF UTAH'S REQUEST FOR ADMISSION OF
LATE-FILED CONTENTION UTAH PP
(Exceedance of Rail Loading Capacities)**

I, Dr. Marvin Resnikoff, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that:

1. I am the Senior Associate at Radioactive Waste Management Associates, a private consulting firm based in New York City. On November 20, 1997 and January 16, 1998, I prepared declarations which were submitted to the Licensing Board by the State of Utah in support of Contention Utah V (Inadequate Consideration of Transportation-Related Radiological Environmental Impacts), regarding Private Fuel Storage, L.L.C.'s proposed Independent Spent Fuel Storage Installation. Additionally, on August 2, 2000, my declaration in support of Contentions Utah LL-OO (DEIS's Analysis of Spent Fuel Transportation Risks) was filed in this proceeding.

2. I am familiar with Private Fuel Storage's ("PFS's") license application, Safety Analysis Report, and Environmental Report, as well as relevant PFS discovery documents produced in this proceeding. I am also familiar with and have reviewed NRC Staff's Draft Environmental Impact Statement prepared for the PFS facility, NUREG-1714, dated June 2000 ("DEIS"); PFS's Comments dated September 21, 2000 on the PFS DEIS, NUREG-1714; NRC regulations, including Table S-4, guidance documents, and environmental studies relating to the transportation, storage, and disposal of spent nuclear power plant fuel; and with other regulations and technical reports relating to transportation. I have extensive professional experience in the areas of nuclear waste storage, transportation, and disposal.

3. I assisted in the preparation of the State of Utah's Request for Admission of Late-filed Contention Utah PP. The technical facts presented in these contentions are true and correct to the best of my knowledge, and the conclusions drawn from those facts are based on my best professional judgment.

4. If Contention Utah PP is admitted for litigation, I would testify regarding my opinion of the environmental impacts of and risks posed by the transportation of spent nuclear fuel on rail cars that are not separated by spacer cars and whose weight exceeds industry standards, and the failure of the DEIS to address these impacts. The technical facts and analyses described in Contention Utah PP provide an abstract of the testimony I would give, based on the information that has been furnished to date. I would expect to be able to expand upon and refine my testimony, after having an opportunity to review materials produced by the Applicant and the NRC Staff in discovery.

Dr. Marvin Resnikoff
October 25, 2000

3. I assisted in the preparation of the State of Utah's Request for Admission of Late-filed Contention Utah PP. The technical facts presented in these contentions are true and correct to the best of my knowledge, and the conclusions drawn from those facts are based on my best professional judgment.

4. If Contention Utah PP is admitted for litigation, I would testify regarding my opinion of the environmental impacts of and risks posed by the transportation of spent nuclear fuel on rail cars that are not separated by spacer cars and whose weight exceeds industry standards, and the failure of the DEIS to address these impacts. The technical facts and analyses described in Contention Utah PP provide an abstract of the testimony I would be expected to give regarding my testimony, after having an opportunity to review materials produced by the Applicant and the NRC Staff in discovery.



By: Marvin Resnikoff

October 25, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	Docket No. 72-22-ISFSI
)	
PRIVATE FUEL STORAGE, LLC)	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel)	
Storage Installation))	October 25, 2000

**DECLARATION OF MATTHEW R. LAMB IN SUPPORT OF
STATE OF UTAH'S REQUEST FOR ADMISSION OF
LATE-FILED CONTENTION UTAH PP
(Exceedance of Rail Loading Capacities)**

I, Matthew R. Lamb, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that:

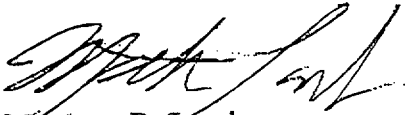
1. I am a Research Associate at Radioactive Waste Management Associates, a private consulting firm based in New York City. On May 15, 2000, my Testimony with respect to Contention Utah H and my curriculum vitae were prefiled in this proceeding, and provide information regarding my professional qualifications.

2. I am familiar with Private Fuel Storage's ("PFS's") license application, Safety Analysis Report, and Environmental Report, as well as relevant PFS discovery documents produced in this proceeding. I am also familiar with and have reviewed NRC Staff's Draft Environmental Impact Statement prepared for the PFS facility, NUREG-1714, dated June 2000 ("DEIS"); PFS's Comments dated September 21, 2000 on the PFS DEIS, NUREG-1714; NRC regulations, including Table S-4, guidance documents; and with other regulations and technical reports relating to transportation.

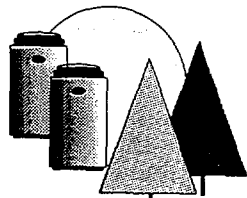
3. I assisted in the preparation of the State of Utah's Request for Admission of Late-filed Contention Utah PP. The technical facts presented in these contentions are true and correct to the best of my knowledge, and the conclusions drawn from those facts are based on my best professional judgment.

4. If Contention Utah PP is admitted for litigation, I would testify regarding my opinion of the weight requirements for rail shipments based on the general track loading and clearance requirements for railroads in the United States, which are published

annually in a document entitled "Railway Line Clearances," and the failure of the DEIS to analyze those requirements as they relate to PFS's proposal to transport spent nuclear fuel on rail cars that are not separated by spacer cars and whose weight exceeds industry standards. The technical facts and analyses described in Contention Utah PP provide an abstract of the testimony I would give, based on the information that has been furnished to date. I would expect to be able to expand upon and refine my testimony, after having an opportunity to review materials produced by the Applicant and the NRC Staff in discovery.

A handwritten signature in black ink, appearing to read "Matthew R. Lamb", with a stylized flourish at the end.

Matthew R. Lamb
October 25, 2000



Private Fuel Storage, L.L.C.

ATTORNEY
GENERAL

SEP 25 2000

ENVIRONMENT

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John L. Donnell, P.E., Project Director

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555-0001

September 21, 2000

**COMMENTS ON THE PRIVATE FUEL STORAGE
DRAFT ENVIRONMENTAL IMPACT STATEMENT
DOCKET NO. 72-22/TAC NO. L22462
PRIVATE FUEL STORAGE FACILITY
PRIVATE FUEL STORAGE L.L.C.**

Reference: U.S. NRC letter, Delligatti to Parkyn, Request for Comment on the Private Fuel Storage Draft Environmental Impact Statement, dated June 16, 2000

Enclosed are comments from Private Fuel Storage (PFS) on the Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and Related Transportation Facilities (NUREG-1714), which the NRC submitted in the referenced letter. If you have any questions regarding this submittal, please contact me at 303-741-7009.

Sincerely,

John L. Donnell
Project Director
Private Fuel Storage L.L.C.

Enclosure

Copy to (with enclosure):

Mark Delligatti
Scott Flanders
John Parkyn
Jay Silberg

Sherwin Turk
Greg Zimmerman
Scott Northard
✓ Denise Chancellor

Richard E. Condit
John Paul Kennedy
Joro Walker

**PRIVATE FUEL STORAGE, L.L.C. COMMENTS ON THE DRAFT
ENVIRONMENTAL IMPACT STATEMENT FOR THE
PRIVATE FUEL STORAGE FACILITY**

Private Fuel Storage, L.L.C. ("PFS") provides the attached comments with respect to NUREG-1714, "Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah" ("DEIS"). Behind Tab A are PFS's comments to specific sections and statements in the DEIS. Behind Tab ~~B~~ is PFS's response to comments made at the public meetings on the DEIS that the Private Fuel Storage Facility would have a significant adverse impact on Air Force operations on the Utah Test and Training Range and Hill Air Force Base.

Section	Page	Line	Comment
			the Conclusions in Table S-4," ORNL at 16 (April 1998).
			Thus, the Final EIS should explicitly recognize that Table S-4 is the applicable NRC regulatory standard, that PFSF transportation falls within the bounds of Table S-4, and that the RADTRAN analysis described in the EIS confirms the Commission's regulatory standard in Table S-4.
5.7.2.4	5-45	37	<p>The DEIS states the casks being transported by rail will be "widely separated from each other on the train (usually by a buffer car between each cask-carrying railcar)."</p> <p>Applicable regulations do not require that a buffer or spacer car be positioned between cask-carrying railcars, <u>see</u> 49 C.F.R. § 174.85, and PFS does not plan to provide buffer cars between cask cars.</p>
5.8.2.2	5-56	39-40	<p>The DEIS states, in the context of the visibility of the rail line to the residents of the Skull Valley village, that the rail line is approximately 12 miles from the village. In fact, the distance of the rail line to the village will range from approximately three miles at its shortest distance to 32 miles at its longest distance. However, even from its closest approach to the village, the rail line will not be easily visible in light of its low elevation.</p>
6.2	6-20 et seq.		<p>The DEIS' environmental justice analysis should emphasize the fact that the siting of the PFSF on the Skull Valley reservation was a voluntary decision on the part of the Skull Valley Band. The Band began investigating interim storage technology starting well before the Band's involvement with Private Fuel Storage and the negotiations that resulted in the Lease. The Band had been an active participant in the voluntary siting effort initiated under the Nuclear Waste Policy Act by the Nuclear Waste Negotiator. Thus, it cannot reasonably be claimed that the siting of the PFSF was other than a voluntary effort by</p>