

**RELATED CORRESPONDENCE**

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USNRC**

**March 12, 2001**

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**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF**

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
PRIVATE FUEL STORAGE L.L.C.	)	Docket No. 72-22
	)	
(Private Fuel Storage Facility)	)	ASLBP No. 97-732-02-ISFSI

**APPLICANT'S OBJECTIONS AND RESPONSES  
TO THE STATE OF UTAH'S TENTH SET OF  
DISCOVERY REQUESTS DIRECTED TO THE APPLICANT**

Applicant Private Fuel Storage, L.L.C. ("Applicant" or "PFS") files the following objections and responses to "State of Utah's Tenth Set of Discovery Requests Directed to the Applicant" ("State's Tenth Discovery Request"), which was served on the Applicant on February 28, 2001.

**I. GENERAL OBJECTIONS**

These objections apply to the Applicant's responses to all of the State's Tenth Discovery Requests.

1. The Applicant objects to the State's instructions and definitions on the grounds and to the extent that they request or purport to impose upon the Applicant any obligation to respond in manner or scope beyond the requirements set forth in 10 C.F.R. §§ 2.740, 2.741 and 2.742.

2. The Applicant objects to the State's Request for Production of Documents to the extent that it requests discovery of information or documents protected under the attorney-client

privilege, the attorney work product doctrine, and limitations on discovery of trial preparation materials and experts' knowledge or opinions set forth in 10 C.F.R. § 2.740 or other protection provided by law.

## **II. GENERAL DISCOVERY**

**GENERAL INTERROGATORY NO. 1.** State the name, business address, and job title of each person who was consulted and/or who supplied information for responding to interrogatories, requests for admissions and requests for the production of documents. Specifically note for which interrogatories, requests for admissions and requests for production each such person was consulted and/or supplied information.

If the information or opinions of anyone who was consulted in connection with your response to an interrogatory or request for admission differs from your written answer to the discovery request, please describe in detail the differing information or opinions, and indicate why such differing information or opinions are not your official position as expressed in your written answer to the request.

**APPLICANT'S RESPONSE:** In addition to counsel for PFS, the following persons were consulted and/or supplied information in responding to the discovery requests for the contentions in the State's Tenth Discovery Requests:

John D. Parkyn  
Chairman of the Board  
Private Fuel Storage L.L.C.  
P.O. Box C4010  
La Crosse, WI 54602-4010  
Utah Contention V, AA.

Jerry Cooper  
Project Engineer  
Stone & Webster  
7677 East Berry Avenue  
Greenwood Village, CO 80111-2137  
Utah Contention O, V, Z, AA, DD.

Wayne Lewis  
Lead Mechanical Engineer  
Stone & Webster  
7677 East Berry Avenue  
Greenwood Village, CO 80111-2137  
Utah Contention O.

George Liang  
Senior Principal Environmental Engineer  
Stone & Webster  
245 Summer Street  
Boston, MA 02210  
Utah Contention O

Paul Trudeau  
Lead Geotechnical Engineer  
Stone & Webster  
245 Summer Street  
Boston, MA 02210  
Utah Contention O.

Scott Northard  
Project Manager  
Private Fuel Storage L.L.C.  
Northern States Power Co.  
414 Nicollet Mall, Ren. Sq. 7  
Minneapolis, MN 55401  
Utah Contention Z, AA.

John Donnell  
Project Director  
Private Fuel Storage L.L.C.  
7677 Berry Avenue  
Denver, CO 80111-2137  
Utah Contention O, V, Z, AA, DD.

Peter Conlon  
Director, Marketing and Business Development  
Transportation Technology Center, Inc.  
55500 DOT Road  
Pueblo, CO 81001  
Utah Contention V.

Jeffrey Johns  
Lead Licensing Engineer  
Stone & Webster  
7677 East Berry Avenue  
Greenwood Village, CO 80111-2137  
Utah Contention DD.

Sue Davis  
Environmental Scientist  
Stone & Webster  
245 Summer Street  
Boston, MA 02210  
Utah Contention DD.

In response to whether the information or opinions of anyone who was consulted in connection with PFS's response to an interrogatory or request for admission differs from the PFS's written answer to the discovery request, PFS is unaware of any such difference among those consulted.

**GENERAL INTERROGATORY NO. 2.** To the extent that PFS has not previously produced documents relevant to any Utah admitted contention, identify all such documents not previously produced. PFS may respond to this request by notifying the State that PFS has updated its repository of documents relevant to admitted contentions at Parsons, Behle and Latimer.

**APPLICANT'S RESPONSE:** PFS has updated its document repository at Parsons, Behle and Latimer.

**GENERAL INTERROGATORY NO. 3.** For each admitted Utah contention, give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person whom PFS expects to call as a witness at the hearing. For purposes of answering this interrogatory, the educational and scientific experience of expected witnesses may be provided by a resume of the person attached to the response.

**APPLICANT'S RESPONSE:** The Applicant filed a response on February 16, 2001, which contained a list of witnesses on which the Applicant intends to rely for responses to environmental contentions. See Applicant's Sixth Supplemental Response to State's First

Request for Discovery, dated February 16, 2001. The Applicant will revise and update this list as necessary.

**GENERAL INTERROGATORY NO. 4.** For each admitted Utah contention, identify the qualifications of each expert witness whom PFS expects to call at the hearing, including but not limited to a list of all publications authored by the witness within the preceding ten years and a listing of any other cases in which the witness has testified as an expert at a trial, hearing or by deposition within the preceding four years.

**APPLICANT'S RESPONSE:** See response to General Interrogatory No. 3.

**GENERAL INTERROGATORY NO. 5.** For each admitted Utah contention, describe the subject matter on which each of the witnesses is expected to testify at the hearing, describe the facts and opinions to which each witness is expected to testify, including a summary of the grounds for each opinion, and identify the documents (including all pertinent pages or parts thereof), data or other information which each witness has reviewed and considered, or is expected to consider or to rely on for his or her testimony.

**APPLICANT'S RESPONSE:** See response to General Interrogatory No. 3.

### **III. UTAH CONTENTION O**

#### **A. REQUESTS FOR ADMISSIONS - Utah Contention O**

**REQUEST FOR ADMISSION NO. 1.** Do you admit that groundwater and surface waters located within the boundaries of the proposed facility are hydrologically connected?

**APPLICANT'S RESPONSE:** Denied. Based on available information, PFS has found no direct hydrological link between groundwater and surface waters located within the boundaries of the proposed site. There are few perennial streams in Skull Valley and none near the site of the proposed PFSF. There are no perennial lakes or ponds within 8.5 km (5 miles) of the proposed PFSF site or along the proposed Low Corridor rail line other than a few stock ponds or small reservoirs used to store irrigation water (PFSF/ER 2000). Very low soil permeability and the depth to groundwater on the PFS site prevent rainwater from percolating to ground water depth (ER § 2.5 at page 2.5-11. Local drainage features are poorly developed dry washes [0.3 to 0.66 m (1 to 2 ft deep)] that may carry flows temporarily during spring snowmelt

or during infrequent summer thunderstorms. Because of the arid climate and geologic conditions in and around the mountains, most of the runoff from the mountains either evaporates or infiltrates into alluvial materials near the margins of Skull Valley. Draft Environmental Impact Statement ("DEIS") at page 3-9.

**REQUEST FOR ADMISSION NO. 2.** Do you admit that groundwater under the proposed facility is hydrologically connected with groundwaters located outside the facility?

**APPLICANT'S RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 3.** Do you admit that groundwater under the proposed facility is hydrologically connected with groundwaters located outside the Skull Valley reservation?

**APPLICANT'S RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 4.** Do you admit that there is little or no recharge to the groundwater under the site or elsewhere near the center of Skull Valley?

**APPLICANT'S RESPONSE:** Applicant objects to this Request as vague and ambiguous in that where the recharge occurs is not defined. Notwithstanding this objection, PFS denies the request.

**REQUEST FOR ADMISSION NO. 5.** Do you admit that the recharge to the groundwater under the site is less than the volume of groundwater proposed to be extracted by PFS at the site?

**APPLICANT'S RESPONSE:** Applicant objects to this Request as vague and ambiguous in that where the recharge occurs is not defined. Notwithstanding this objection, the Applicant denies the request.

**REQUEST FOR ADMISSION NO. 6.** Do you admit that the recharge to the groundwater near the center of Skull Valley is less than the volume of groundwater currently extracted by existing water users from the groundwater located near the center of Skull Valley?

**APPLICANT'S RESPONSE:** Denied.

**REQUEST FOR ADMISSION NO. 7.** Do you admit that all of the water resources located within the boundaries of the proposed PFS facility are the property of the public of the State of Utah?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is outside the scope of Contention Utah O. The Contention claims that PFS "has failed to adequately discuss or evaluate the effect of its water usage on other well users and on the aquifer." State Contentions at 105. It does not raise any claims of legal entitlement or property rights to such water. Moreover, Applicant objects to this Request on the grounds that it calls for a legal conclusion.

**REQUEST FOR ADMISSION NO. 8.** Do you admit that some of the water resources located within the boundaries of the proposed PFS facility are the property of the public of the State of Utah?

**APPLICANT'S RESPONSE:** See Applicant's objections to Request for Admission No. 7, which it incorporates here.

**REQUEST FOR ADMISSION NO. 9.** Do you admit that all of the water resources located within the boundaries of the proposed PFS facility are the property of the public of the State of Utah?

**APPLICANT'S RESPONSE:** See Applicant's objections to Request for Admission No. 7, which it incorporates here.

**REQUEST FOR ADMISSION NO. 10.** Do you admit that all of the water resources located outside the boundaries of the Skull Valley reservation and within the Valley are the property of the public of the State of Utah?

**APPLICANT'S RESPONSE:** See Applicant's objections to Request for Admission No. 7, which it incorporates here.

**REQUEST FOR ADMISSION NO. 11.** Do you admit that some of the water resources located within the boundaries of the proposed PFS facility are subject to the jurisdiction of the water rights laws of the State of Utah, including Utah Code Title 73 chapters 1 - 6 inclusive?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is outside the scope of Contention Utah O. The Contention claims that PFS "has failed to adequately discuss or evaluate the effect of its water usage on other well users and on the aquifer." State Contentions at 105. It does not raise any claims concerning the jurisdiction of the water rights laws or other laws or requirements of the State of Utah with respect to such water usage. Moreover, Applicant objects to this Request on the grounds that it calls for a legal conclusion.

**REQUEST FOR ADMISSION NO. 12.** Do you admit that all of the water resources located within the boundaries of the proposed PFS facility are subject to the jurisdiction of the water rights laws of the State of Utah, including Utah Code Title 73 chapters 1 - 6 inclusive?

**APPLICANT'S RESPONSE:** See Applicant's objections to Request for Admission No. 11, which it incorporates here.

**REQUEST FOR ADMISSION NO. 13.** Do you admit that all of the water resources located in Skull Valley but outside the boundaries of the Skull Valley reservation are subject to the jurisdiction of the water rights laws of the State of Utah, including Utah Code Title 73 chapters 1 - 6 inclusive?

**APPLICANT'S RESPONSE:** See Applicant's objections to Request for Admission No. 11, which it incorporates here.

**REQUEST FOR ADMISSION NO. 14.** Do you admit that water appropriated by existing water users may not be transferred to PFS without approval by the State of Utah, State Engineer, Division of Water Rights?

**APPLICANT'S RESPONSE:** See Applicant's objections to Requests for Admission No. 7 which it incorporates here.

**REQUEST FOR ADMISSION NO. 15.** Do you admit that all of the water resources located in Skull Valley but outside the boundaries of the Skull Valley reservation are subject to the jurisdiction of the water rights laws of the State of Utah, including Utah Code Title 73 chapters 1 - 6 inclusive?



**APPLICANT'S RESPONSE:** See Applicant's objections to Request for Admission No.

11, which it incorporates here.

**REQUEST FOR ADMISSION NO. 16.** Do you admit that the volume of groundwater PFS proposes to extract or acquire for the operation of its facility will result in a net loss of available local water resources for use in the future?

**APPLICANT'S RESPONSE:** Applicant objects to this request as vague and ambiguous as to what time period is considered "future." Notwithstanding this objection, Applicant admits that, during operation, the PFS facility will utilize water resources that will be precluded from other use at that time.

**REQUEST FOR ADMISSION NO. 17.** Do you admit that the possible beneficial uses to which appropriated groundwater can be put depends upon the quality of the appropriated water?

**APPLICANT'S RESPONSE:** Applicant objects to this Request as being vague and ambiguous in that "quality" is undefined. Notwithstanding this objection, Applicant admits that the presence of various hazardous and/or non-hazardous substances, elements, chemicals, or biological agents could materially impair or preclude beneficial use of groundwater.

**REQUEST FOR ADMISSION NO. 18.** Do you admit that groundwater quality which is adversely impacted the presence various hazardous substances, elements, chemicals, or biological agents may materially impair or preclude any beneficial use of that water?

**APPLICANT'S RESPONSE:** Applicant objects to this Request on the grounds that it is vague, ambiguous and confusing. Notwithstanding this objection, Applicant admits that the presence of various hazardous substances, elements, chemicals, or biological agents could materially impair or preclude beneficial use of groundwater.

**REQUEST FOR ADMISSION NO. 19.** Do you admit that PFS proposes to store and use at its facility various hazardous substances, elements, and chemicals, which have the

potential to adversely effect the quality of groundwater at the facility if they come in contact with that groundwater?

**APPLICANT'S RESPONSE:** Admit that hazardous substances that will be used at the PFSF have the potential to adversely affect the quality of the groundwater if they were to come in contact with the groundwater but deny that such substances have the potential to come into contact with the ground water because of their confinement at the PFSF and the depth to ground water at the site. The only substances, elements, and chemicals that will be used at the PFSF that are listed as hazardous materials in accordance with 40CFR355, Appendix A (EPA), 49CFR172, Subpart B (DOT), or 29CFR1910, Subpart H (OSHA), are typical janitorial cleaning agents, lubricating oils, diesel fuel, and propane. As noted in Section 2.2 of the PFSF Emergency Plan, there will be limited quantities of hazardous materials that will be stored and used at the PFSF.

The Emergency Plan specifically states:

"Since limited quantities of hazardous materials will be stored and used at the PFSF, spills or other accidents involving hazardous materials do not have the potential for posing a threat to onsite or offsite personnel and would not constitute an emergency condition. The Emergency Plan implementing procedures will contain a list of all hazardous materials used at the PFSF, including quantities, locations, use and storage requirements."

All hazardous materials at the PFSF will be marked and stored in designated locations in sealed containers and controlled in accordance with facility procedures as required by government regulations. Cleaning agents will be stored in marked sealed containers in designated janitor closets. Lubricant oils will either be contained in facility equipment gearbox compartments or kept for spare use in limited quantities in sealed metal drums in designated operating and maintenance storage areas. Diesel fuel will either be contained in facility vehicle

tanks or in double containment storage tanks in the fuel dispensing stations. Propane will be contained in NFPA approved tanks and pipe.

Therefore, the limited quantities of hazardous materials at the PFSF will be contained and controlled such that they will not have the potential to adversely affect the surrounding environment. Further, the lack of direct hydrological link between the groundwater and surface at the site (see Applicant's response to Request for Admission No. 1) further precludes interaction of such liquids with the groundwater located underneath the PFS site.

Therefore, the limited quantities of hazardous materials at the PFSF will be contained and controlled such that they will not have the potential to adversely effect the surrounding environment. The lack of direct hydrological link between the groundwater and surface at the site (see Applicant's response to Request for Admission No. 1) further precludes sewer and waste water from adversely affecting the groundwater located underneath the PFS site.

**REQUEST FOR ADMISSION NO. 20.** Do you admit that PFS proposes to store and use at its facility various hazardous substances which have the potential to adversely effect the quality of surface water at the facility if they come in contact with that surface water?

**APPLICANT'S RESPONSE:** Admit that hazardous substances that will be used at the PFSF have the potential to adversely affect the quality of surface water if they were to come in contact with surface water but deny that such substances have the potential to come into contact with the surface water because of their confinement at the PFSF and the lack of hydrological link between surface waters and the site. See also Applicant's Response to Requests for Admission Nos. 1 and 19.

**REQUEST FOR ADMISSION NO. 21.** Do you admit that some of the hazardous substances PFS proposes to store and use at the facility have the potential to harm human health, wildlife, or the environment?

**APPLICANT'S RESPONSE:** Admit that hazardous substances that will be used at the PFSF have the potential to adversely affect the environment but deny that such hazardous substances have the potential to come into contact with the surrounding environment because of their confinement at the PFSF. See also Applicant's response to Request for Admission No. 19.

**REQUEST FOR ADMISSION NO. 22.** Do you admit that the proposed use of water by PFS, alone and in combination with other Skull Valley water users, may impair the current and future agricultural use of Skull Valley?

**APPLICANT'S RESPONSE:** Denied. Based on our analysis using the average water pumping rate test, the drawdown from a well constructed on site is not expected to extend beyond about 2.1 km (1.3 miles) from the pumped well. Calculation No. 0599602-G(B)-15, Rev. 1, dated 12/16/99. The nearest well to the proposed PFSF is approximately 4 km (2.5 miles) from the center of the PFSF site.

**REQUEST FOR ADMISSION NO. 23.** Do you admit that the proposed use of water by PFS, alone and in combination with other Skull Valley water users, may impair current and future residential use of Skull Valley?

**APPLICANT'S RESPONSE:** Denied. See Applicant's response to Request for Admission No. 22.

**REQUEST FOR ADMISSION NO. 24.** Do you admit that the proposed use of water by PFS, alone and in combination with other Skull Valley water users, may impair current and future business development of Skull Valley?

**APPLICANT'S RESPONSE:** Denied. See Applicant's response to Request for Admission No. 22.

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

**INTERROGATORY NO. 8.** For each source of water, identify the legal basis and fully explain how PFS intends to obtain the legal right to use the water it proposes to use at its facility.

**APPLICANT'S RESPONSE:** See Applicant's objections to Requests for Admission

Nos. 7 and 11, which it incorporates here.

**INTERROGATORY NO. 9.** Fully explain the technical and economic reasons why the proposed use of water by PFS, alone and in combination with other Skull Valley water users, will not impair potential current and future uses of Skull Valley, e.g., uses such as agricultural, residential, and business development.

**APPLICANT'S RESPONSE:** The water wells at PFSF site will be located and developed in a manner that prevents any impact (e.g., groundwater drawdown) on adjacent wells (the nearest of which is 2.5 miles from the center of the PFS site). Estimated water pumpage from all sources in Skull Valley, Utah is about 5,300 acre-feet of water per year. It is estimated that water needs will be no more than 9,300 gallons per day during construction and, on average, 1,720 gallons per day during operation. Assuming a conservative 365 days in a year, the water usage is estimated to be 10.4 acre-feet per year during construction activities and 1.93 acre-feet per year for operational activities. Therefore, the projected amount of water used during construction activities is about 0.2 percent (10.4 acre-feet divided by 5,300 acre-feet used per year) of current total water production estimated in Skull Valley and 0.036 percent (1.93 acre-feet divided by 5,300 acre-feet used per year) for operations. These water-use amounts attributed to the facility are very small when compared to the total ground water budget and should have no perceptible impact on current or future water use.

Past measurements of water levels in wells in Skull Valley indicate that, as a whole, the withdrawal of water from wells has not appreciably altered the natural balance. Hood and Waddell, 1968. Limited well records indicate that groundwater levels have fluctuated no more than five feet from an average mean. Only in the immediate vicinity of the Town of Dugway (16 miles from the PFSF), where water has been pumped for public supply, have water levels

declined appreciably in response to pumping, indicating changes in aquifer storage. Hood and Waddell, 1968.

It is unlikely that the permanent population within 5 miles of the proposed facility will change significantly during the proposed license period, due to the remoteness and extreme low population density of the area (36 persons within a 5-mile radius). No facilities such as hospitals, prisons, or recreational areas are located or planned within the 5-mile study area. Based on preliminary testing of the onsite monitoring well, it has been determined that operation of the facility water well will have no measurable offsite effects on existing groundwater quality or levels. Thus, impacts on future water use are considered to be minimal.

**INTERROGATORY NO. 10.** Fully explain the scientific and engineering data and reasoning for determining that spills, releases or disposal of wastes and wastewaters at the facility will not migrate into the groundwater under the proposed facility.

**APPLICANT'S RESPONSE:** The only liquid releases during site operations will be those associated with the sanitary sewer system, and these liquids will not contain radioactive effluents. Further, all PFSF floor drains will be designed to ensure that inadvertent spills of oil, antifreeze, and other chemicals will not enter the sanitary septic system. As discussed in the Applicant's response to Request for Admission No. 19, the only chemicals stored at the PFS site will be cleaners typical of most households and in similar quantities.

Sewer and waste water requirements at the operating PFS facility will be handled by a septic system, designed and installed according to the Uniform Plumbing Code to ensure that it is adequate to accommodate anticipated usage and located in acceptable soils. Based on expected usage and soil types encountered onsite, the septic system has been sized to consist of two 3500-gallon septic tanks, each having a leach field of 1400 sq. ft. Calculation No. 0599601-P-002, Rev. 4. The lack of direct hydrological link between the groundwater and surface at the site (see

Applicant's response to Request for Admission No. 1) further precludes sewer and waste water from adversely affecting the groundwater located underneath the PFS site.

**C. DOCUMENT REQUESTS - Utah Contention O**

**DOCUMENT REQUEST NO. 1.** All documents, data or other information related to, or considered by PFS in making, the responses to the State of Utah's interrogatories regarding Contention O.

**APPLICANT'S RESPONSE:** Applicant has previously provided documents relevant to Utah O at its document repository maintained at Parsons, Behle and Latimer in Salt Lake City. To the extent that documents were used in responding to the above-stated interrogatories and such documents have not already been provided to the State, PFS will update its repository of documents relevant to Utah Contention O, subject to any applicable claims of privilege.

**DOCUMENT REQUEST NO. 2.** All documents, data or other information related to any impact, or lack thereof, of the PFS facility in relation to Contention "O," including but not limited to the information and data considered in drafting the PFS Environmental Report, the DEIS, or other similar documents generated by PFS regarding the subject matter of Contention O.

**APPLICANT'S RESPONSE:** To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository maintained at Parsons, Behle and Latimer in Salt Lake City.

**DOCUMENT REQUEST NO. 3.** All documents, information, and data, including any computer modeling of groundwater flow, arising from or regarding the onsite test well, including construction logs, pumping test data and the results thereof.

**APPLICANT'S RESPONSE:** To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository maintained at Parsons, Behle and Latimer in Salt Lake City.

**DOCUMENT REQUEST NO. 4.** All documents, data, or other information regarding the quality and quantity of groundwater under the proposed PFS facility.

**APPLICANT'S RESPONSE:** To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository maintained at Parsons, Behle and Latimer in Salt Lake City.

**DOCUMENT REQUEST NO. 5.** All documents, data or other information regarding the extraction of groundwater from a five mile radius surrounding the center of the proposed PFS facility, including but not limited to water rights, well ownership, locations and operation, groundwater pumping rates, historical and recent groundwater elevation data, and groundwater quality data and analyses.

**APPLICANT'S RESPONSE:** PFS objects to producing documents related to water rights as beyond the scope of Contention O. See objections to Request for Admission Nos. 7 and 11. To the extent that PFS has not previously produced documents otherwise responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository maintained at Parsons, Behle and Latimer in Salt Lake City.

**DOCUMENT REQUEST NO. 6.** Provide all documents, or other information, that are in any way relevant to Utah Contention O.

**APPLICANT'S RESPONSE:** To the extent that PFS has not previously produced documents relevant to Utah O, Applicant will make them available, subject to any applicable claims of privilege, at its document repository maintained at Parsons, Behle and Latimer in Salt Lake City.

#### **IV. UTAH CONTENTION V**

##### **A. REQUESTS FOR ADMISSION - Utah Contention V**

**REQUEST FOR ADMISSION NO. 1.** Do you admit that the Applicant has not, in any



of the documents analyzing or describing environmental impacts resulting from the operation of trains containing HI-STORM 100 spent fuel casks en route to Skull Valley, specified the meaning of the term "controlled conditions" as used in association with the American Association of Railroads' Interchange Rules, which allow for a six axle car weighing as much as 472,500 pounds to be operated under controlled conditions?

**APPLICANT'S RESPONSE:** Admitted. See also Response to Request for Admission No. 2 and Responses to Interrogatory Nos. 1 and 2 below.

**REQUEST FOR ADMISSION NO. 2.** Do you admit that the Applicant has not, in any of the documents analyzing or describing environmental impacts resulting from the operation of trains containing HI-STORM 100 spent fuel casks en route to Skull Valley, considered to analyzed any additional impacts that may result from operating under "controlled conditions"?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission as vague and ambiguous in that the nature and subject of the additional impact is undefined. Notwithstanding this objection, Applicant admits that it has not analyzed any additional impacts that may result from operating under controlled conditions beyond those encompassed in the recommended standards and procedures of the Association of American Railroads ("AAR") for shipment of spent nuclear fuel by rail See also Responses to Interrogatory Nos. 1 and 2 below.

**B. INTERROGATORIES - Utah Contention V**

**INTERROGATORY NO. 1.** Specify Applicant's understanding of the term "controlled conditions" as used in Request for Admission Number 3, Utah Contention V.

**APPLICANT'S RESPONSE:** "Controlled conditions" or "controlled interchange conditions" concern non-standard railcars that do not qualify for unrestricted interchange between railroads. Such railcars can be operated only by agreement with participating railroads, subject to 'conditions' as may be specified and agreed to by the shipper and the railroad.

**INTERROGATORY NO. 2.** Provide examples, and the basis for these examples, of special operating procedures typical of trains operating under "controlled conditions."

**APPLICANT'S RESPONSE:** PFS will ship spent nuclear fuel in accordance with standards and procedures recommended by the AAR for such shipments. PFS is not aware of any "special operating procedures" typical of trains carrying spent nuclear fuel operating under controlled conditions beyond those encompassed in the AAR recommended procedures for such shipments. Therefore, PFS does not expect the need for agreement with individual participating railroads for the imposition of "controlled conditions" for the shipment of spent fuel by PFS beyond those encompassed within the AAR standards and procedures, which concern matters such as speed, passing and other applicable parameters for the shipment of spent nuclear fuel by rail.

**INTERROGATORY NO. 3.** Provide a list of all reactors that are able to accommodate in the reactor bays the railroad cars with 3 or 4 axle trolleys that PFS intends to use to transport the HI-STAR 100 casks.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory as beyond the scope of Utah V as admitted by the Licensing Board. See LBP-98-7, 47 NRC at 199-200 (Utah V only admissible with respect to the weight of PFS's railcar and the use of Table S-4).

**C. DOCUMENT REQUESTS – Utah Contention V**

**DOCUMENT REQUEST NO. 1.** All documents used by PFS to establish the meaning of "controlled conditions" used by the AAR in its Interchange Rules.

**APPLICANT'S RESPONSE:** PFS will make available documents responsive to this request, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City.

**DOCUMENT REQUEST NO. 2.** All documents used by PFS to determine potential transportation restrictions for trains operating under "controlled conditions."

**APPLICANT'S RESPONSE:** PFS will make available documents responsive to this request, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City.

**DOCUMENT REQUEST NO. 3.** All documents created or used PFS or its contractors that describe and/or calculate the design and performance of railroad cars with 3 or 4 axle trolleys that PFS intends to use to transport the HI-STAR 100 casks.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request as beyond the scope of Utah V as admitted by the Licensing Board. The Board rejected as unjustifiably late Utah Contention LL, which sought to introduce the issue of the design of PFS's rail cars into the proceeding. Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-00-28, 52 NRC 226, 231-32, 239 at n.3 (2000).

**DOCUMENT REQUEST NO. 4.** All documents created or used by PFS or its contractors that calculate the accident rate for railroad cars with 3 or 4 axle trolleys that PFS intends to use to transport the HI-STAR 100 casks.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request as beyond the scope of Utah V as admitted by the Licensing Board. The Board rejected as unjustifiably late Utah Contention \_\_, which sought to introduce into the proceeding the issue of the accident rate that would result from the design of PFS's rail cars. LbP-00-28, 52 NRC at 231-32, 239 at n.3.

**DOCUMENT REQUEST NO. 5.** All documents related to whether reactors are able to accommodate in the reactor bays the railroad cars with 3 or 4 axle trolleys that PFS intends to use to transport the HI-STAR 100 casks.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request as beyond the scope of Utah V as admitted by the Licensing Board. See LBP-98-7, 47 NRC at 199-200.

**DOCUMENT REQUEST NO. 6.** Provide all documents, or other information, that are in any way relevant to Utah Contention V.

**APPLICANT'S RESPONSE:** To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

**V. UTAH CONTENTION Z – NO ACTION ALTERNATIVE**

Specific objections applicable to Contention Utah Z:

1. The Applicant objects to the State's discovery requests regarding Contention Utah Z as outside the scope of Utah Z to the extent that the requests: (1) are not relevant to environmental impacts of the no action alternative and (2) are not relevant to the question of whether the DEIS contains the required discussions of the environmental impacts of the "no action" alternative. Utah Z "is limited only to environmental (as opposed to economic) impacts." Memorandum and Order (Ruling on Contention Utah Z Discovery Production Requests) (Nov. 9, 2000) at 4. Discovery requests regarding PFS financial considerations or economic information, PFS members, or potential PFS members are not consistent with this limitation and, therefore, are not reasonably calculated to lead to the discovery of admissible evidence. Further, Utah Z challenges only the existence of material in the DEIS, as fully discussed in Applicant's Motion for Summary Disposition of Utah Contention Z – No Action Alternative, dated February 14, 2001 ("Applicant's Motion")<sup>1</sup>.

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<sup>1</sup> The State also admits that the DEIS: (1) identifies the no action alternative as leaving spent nuclear fuel at individual reactors until a permanent repository is ready; (2) discusses the advantages and disadvantages of the no action alternative; (3) discusses the advantages of not transporting spent fuel rods to the PFSF; (4) discusses the risk of accidents from cask handling and related activities; (5) does not contain a statement that the construction of addition onsite ISFSIs at plant sites will result in greater environmental impact than constructing a site in a remote, desert environment; and (6) discusses the NRC conclusion that the storage of spent fuel at reactor sites will not have a significant incremental effect on the quality of the human environment. *Id.* at 30-32. The State admits that "some advantages and disadvantages of the no-action alternative are discussed in the DEIS," but attempts to revise the basis for Utah Z, without having amended its contention as required, by now asserting that it considers the

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Applicant, therefore, objects to discovery requests not reasonably calculated to lead to the discovery of admissible evidence demonstrating that the environmental impacts of the no action alternative alleged in Utah Z are or are not discussed in the DEIS.

2. The Applicant objects to the State's discovery requests regarding Contention Utah Z to the extent that it requests information not related to the no action alternative described in the DEIS. Under the no action alternative analyzed by the NRC Staff in the DEIS, "[u]tilities would continue to store SNF at their reactor sites" until shipment to a permanent repository. DEIS at 2-43. The State admits that the DEIS "has selected an appropriate 'no action' alternative." State of Utah's Objections and Response to Applicant's Sixth Set of Discovery Requests to Intervenor State of Utah (Feb. 28, 2001) ("State's Discovery Response") at 31.

3. The Applicant objects to the State's discovery requests regarding Contention Utah Z to the extent that they relate to matters previously determined inadmissible by the Board. The State attempted to challenge the need for the PFSF in Contention Utah X – Need for the Facility. The Board rejected Utah X, finding it inadmissible because of the lack of any genuine dispute and an impermissible attempt to challenge the Commission's regulations or rulemaking-associated generic determinations. Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-98-07, 47 NRC 142, 202 (1998). Applicant, therefore, objects to discovery requests that attempt to obtain information relevant to need for the facility and Utah X and which are not reasonably calculated to lead to the discovery of admissible evidence relevant to Utah Z.

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discussion to be incomplete. State's Discovery Response at 27. The State admits that "some advantages of not transporting spent nuclear fuel rods to the PFSF are discussed in the DEIS," but attempts to revise the basis for Utah Z, without having amended its contention as required, by now asserting that it does not consider the discussion to be "fairly balanced." Id. at 28. The State admits that "some risks of accidents from cask handling and related activities

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4. The Applicant objects to the State's discovery requests regarding Contention Utah Z to the extent that they relate to the State's position that the NEPA environmental impact analysis mandates a substantive decision regarding building the PFSF based on perceived environmental advantages of the no action alternative. The State grossly misreads NEPA and related case law in arguing that "the only reason the PFS facility could naturally be 'preferred' is if the status quo alternative were not safe or feasible." State of Utah's Response to Applicant's Motion For Summary Disposition On Utah Contention Z (March 6, 2001) ("State's Response") at 15. To the contrary, it is fundamental that NEPA "does not mandate particular results." Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989). NEPA also does not require an agency to select the most environmentally benign option if "other values outweigh the environmental costs."<sup>2</sup> Louisiana Energy Services (Claiborne Enrichment Center), CLI-98-3, 47 NRC 77, 88 (quoting Robertson, 490 U.S. at 350).<sup>3</sup> The State's discovery requests, to the extent they seek information to mandate the selection of the no action alternative because of purported environmental advantages, are beyond even the remotest penumbra of NEPA and the scope of Utah Z. Therefore, Applicant objects to these discovery requests because they are not reasonably calculated to lead to the discovery of admissible evidence.

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are discussed in the DEIS," but attempts to revise the basis for Utah Z, without having amended its contention as required, by now asserting that it considers the discussion to be incomplete or not "fairly balanced." Id.

<sup>2</sup> Nor does NEPA require the NRC, in licensing a facility, to determine the most environmentally preferable site. The "licensing process is structured for rejection or acceptance of the proposed site rather than choice of sites." Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), CLI-77-8, 5 NRC 503, 529 (1977). An "application should not be denied on the basis of a comparison between the applicant's proposed site and an alternative site unless the alternative site appears to be obviously superior to the proposed site." Id. at 514 (emphasis added); accord New England Coalition on Nuclear Pollution v. NRC, 582 F.2d 87, 95 (1<sup>st</sup> Cir. 1978) (finding no conflict between the "obviously superior" test and NEPA).

<sup>3</sup> In Robertson, "it would not have violated NEPA" if the cognizant federal agency "had decided that the benefits to be derived from downhill skiing at [a wilderness area] justified the issuance of a special use permit, notwithstanding the loss of 15 percent, 50 percent, or even 100 percent of the [indigenous] mule deer herd." Id. at 351.

5. The Applicant objects to the State's discovery requests regarding Contention Utah Z to the extent that they relate to information regarding the environmental impacts from utilities continuing to store spent fuel at their reactor sites, subject to Commission requirements, until shipment to a permanent repository. As the State notes, and Applicant agrees, the Commission has found, as a matter of law, that spent nuclear fuel can be safely stored at reactor sites without a significant incremental effect on the quality of the human environment. See Applicant's Mot. at 16; State's Resp. at 10 n.6; Request for Admission No. 14 and Applicant's Response below. Additional information regarding this issue, whether or not supportive of the Commission's position, is irrelevant, cumulative, duplicative, and unduly burdensome. Applicant, therefore, objects to these discovery requests as they are not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR ADMISSION NO. 1.** Do you admit that regardless of whether the proposed PFS facility is built, some utility companies with operating reactors will not store their spent nuclear fuel at the PFS facility?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify at what period in time the admission is requested and some utility companies may make or change spent fuel storage decisions based on time-dependent factors; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so where utilities will store the spent fuel if the PFSF is built is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information related to the need for

the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 2.** Do you admit that if a specific utility company does not choose to store its spent nuclear fuel at the proposed PFS facility then not building the proposed PFS facility would not increase the probability of shutdown of that specific utility's operating reactor(s) before expiration of its operating license?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify at what period in time the admission is requested and some utility companies may make or change spent fuel storage decisions based on time-dependent factors; and (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built with reactor shutdown as one possibility of no action, so whether utilities would choose, or not choose, to store spent fuel at the PFSF if the PFSF were built is irrelevant to the contention (see Utah Z Specific Objection 2).

**REQUEST FOR ADMISSION NO. 3.** Do you admit that if a specific utility company does not choose to store its spent nuclear fuel at the proposed PFS facility then not building the proposed PFS facility would not increase the probability of loss of electrical power generation from the premature shutdown of that specific utility's operating reactor(s) before expiration of its operating license?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify at what period in time the admission is requested and some utility



companies may make or change spent fuel storage decisions based on time-dependent factors; and (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built with reactor shutdown as one possibility of no action, so whether utilities would choose, or not choose, to store spent fuel at the PFSF if the PFSF were built is irrelevant to the contention (see Utah Z Specific Objection 2).

**REQUEST FOR ADMISSION NO. 4.** Do you admit the current available capacity in most spent fuel pools can be increased by re-racking the spent fuel pools?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether spent fuel pools can be re-racked is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 5.** Do you admit the current available capacity in more than half of the spent fuel pools can be increased by re-racking the spent fuel pools?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 4.

**REQUEST FOR ADMISSION NO. 6.** Do you admit that the rate of spent nuclear fuel generation at operating reactors would be reduced if the utility company increased the average burn up of the fuel assemblies used?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether spent fuel generation can be reduced is irrelevant to the contention (see Utah Z Specific Objection 2); (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3); and (3) it seeks information duplicative and cumulative to the Commission's findings regarding environmental impacts of onsite storage of spent fuel (see Utah 2 Specific Objection 5).

**REQUEST FOR ADMISSION NO. 7.** Do you admit that regardless of whether the proposed PFS facility is built, spent nuclear fuel will continue to accumulate and be stored at operating reactors?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, already assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the request is duplicative and irrelevant; and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 8.** Do you admit that the amount of land required to store spent nuclear fuel at the generating reactor site in a dry ISFSI is less than two acres?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that land characteristics vary from site to site and a general response as required by the request cannot be provided; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the amount of land required is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information duplicative and cumulative to the Commission's findings regarding environmental impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 9.** Do you admit that the amount of land required to store spent nuclear fuel at the generating reactor site in a dry ISFSI would be a negligible portion of the land owned by the utility where the reactor is located?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 8.

**REQUEST FOR ADMISSION NO. 10.** Do you admit that on-site dry ISFSIs could be physically located on the land currently owned by the utility at each power plant site?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that land characteristics vary from site to site and a general response as required by the request cannot be provided; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is

available if the PFSF were not built, so whether dry ISFSIs could be built on land currently owned by the utility is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information duplicative and cumulative to the Commission's findings regarding the environmental impacts of onsite storage of spent fuel (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 11.** Do you admit that PFS has not performed a detailed analysis, specific to each operating reactor site, of the amount of land necessary to build an on-site ISFSI at each operating reactor site?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the request is overly burdensome as it requires an analyses of each of the approximately 72 reactor sites; (2) the no action alternative, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF is not built, so the amount of land necessary to build an ISFSI is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 12.** Do you admit that PFS has not performed a detailed analysis, specific to each operating reactor site, of the available land necessary to build an on-site ISFSI at each operating reactor site?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 11.

**REQUEST FOR ADMISSION NO. 13.** Do you admit that consistent with NRC's Waste Confidence Decision spent nuclear fuel generated at any reactor can be safely stored without significant environmental impacts for at least 30 years beyond the licensed life for operation of that reactor at on-site ISFSIs?

**APPLICANT'S RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 14.** Do you admit that the Commission concluded that the proposed rulemaking allowing storage of spent nuclear fuel in storage casks reactor sites [sic] “will not have a significant incremental effect on the quality of the human environment?” See, *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*, NUREG-1714 (June 2000) at 6-44.

**APPLICANT'S RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 15.** Do you admit that PFS agrees with the Commission’s conclusion as stated in the above request.

**APPLICANT'S RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 16.** Do you admit that PFS agrees with NRC’s assessment of environmental impacts of at-reactor storage of spent nuclear fuel in NRC’s *Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites*, 55 Fed. Reg. 29190, July 18, 1990?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission as it is overly broad, vague, and ambiguous in that it requests a single admission regarding the contents of a large and complex document containing a number of technical conclusions. Notwithstanding these objections, Applicant admits that it agrees with the Commission’s conclusion that the storage of spent nuclear fuel in storage casks at reactor sites will not have a significant incremental effect on the quality of the human environment.

**REQUEST FOR ADMISSION NO. 17.** Do you admit that PFS agrees with NRC’s assessment of environmental impacts of at-reactor storage of spent nuclear fuel in NRC’s *Environmental Assessment of 10 CFR Part 72 “Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste,”* NUREG-1092, August 1984?

**APPLICANT'S RESPONSE:** See Applicant’s Objections and Response to Request for Admission No. 16.

**REQUEST FOR ADMISSION NO. 18.** Do you admit that building on-site ISFSIs would create no significant impacts to geology, soils, or on-site minerals beyond the impacts already discussed in the existing NEPA documentation for each reactor?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is overly burdensome as it requires a review of NEPA documentation for each of the approximately 72 reactor sites; and (2) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 19.** Do you admit that building on-site ISFSIs would create no significant impacts to geology, soils, or on-site minerals beyond the impacts already discussed in the existing NEPA documentation for each reactor?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 18, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 20.** Do you admit that potential impacts to surface water from building on-site ISFSIs would be small based on the previous and current use of surface water at the power reactor facility (i.e., reactor cooling and wet pool storage requirements)?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous as the use of surface water varies from facility to facility and a general statement of any impacts cannot be accurately made; and (2) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 21.** Do you admit that potential impacts to groundwater from building on-site ISFSIs would be small based on the previous and current use of groundwater at the power reactor facility (i.e., reactor cooling and wet pool storage requirements)?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 20, which is applicable to groundwater and which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 22.** Do you admit that potential existing plant disturbance at each site from building on-site ISFSIs would be small based if the ISFSI was built within the owner-controlled area of the existing reactor site?

**APPLICANT'S RESPONSE:** Applicant objects to this request as vague, in that "plant disturbance" is undefined. Applicant also objects to this request as seeking information duplicative of the Commission's finding regarding the effects of onsite spent fuel storage (see Utah Z Specific Objection 5). .

**REQUEST FOR ADMISSION NO. 23.** Do you admit that based on existing NEPA documentation for each reactor site, the potential existing plant disturbance from building an ISFSI in the vicinity of the reactor site would be small?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 22, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 24.** Do you admit that potential animal habitat disturbance at each site from building on-site ISFSIs would be small based if the ISFSI was built within the owner-controlled area of the existing reactor site?

**APPLICANT'S RESPONSE:** Applicant objects to this request as vague, in that the term "animal habitat disturbance" is undefined. Applicant also objects to this request as seeking information duplicative of the Commission's findings regarding the effect of onsite spent fuel storage (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 25.** Do you admit that based on existing NEPA documentation for each reactor site, the potential animal habitat disturbance from building an ISFSI in the vicinity of the reactor site.

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 24, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 26.** Do you admit that regardless of whether the proposed PFS facility is built, some utility companies with shutdown reactors will not store its spent nuclear fuel at the PFS facility?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 1, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 27.** Do you admit that if a specific utility company with a shutdown reactor does not choose to store its spent nuclear fuel at the proposed PFS facility then not building the proposed PFS facility would not increase the delays in reactor decommissioning at that facility?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 2, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 28.** Do you admit that the additional, incremental radiation that would emanate into the environment from on-site ISFSIs must comply with NRC dose limits to minimize offsite impacts?

**APPLICANT'S RESPONSE:**

Applicant admits that additional incremental radiation that would emanate into the environment from on-site ISFSIs must comply with NRC dose limits.

**REQUEST FOR ADMISSION NO. 29.** Do you admit that each at-reactor ISFSIs would store less than 4,000 metric tons of uranium of spent nuclear fuel?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative



evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the amount of spent fuel stored at any particular facility is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 30.** Do you admit that each at-reactor ISFSIs would store less than 400 metric tons of uranium of spent nuclear fuel?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 29, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 31.** Do you admit that PFS has not performed a detailed analysis of the environmental impacts that could occur from the premature shutdown of each specific operating reactor due to a lack of available spent nuclear fuel storage capacity?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is overly burdensome as it requires an detailed analysis of each operating reactor at approximately 72 sites.

**REQUEST FOR ADMISSION NO. 32.** Do you admit that a shutdown reactor could be decommissioned if its spent nuclear fuel was transferred to an on-site dry ISFSI with a site specific license?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1).

**REQUEST FOR ADMISSION NO. 33.** Do you admit that a significant portion of the land associated with a shutdown reactor could be decommissioned and returned to green field status if its spent nuclear fuel was transferred to an on-site dry ISFSI with a site specific license?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 32. Applicant further objects to this Request for Admission as vague and ambiguous as it does not define or otherwise quantify what is meant by a "significant portion" of land.

**REQUEST FOR ADMISSION NO. 34.** Do you admit that PFS has not performed a detailed analysis of the amount of land necessary to build an on-site site specific ISFSI at each shutdown reactor site?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 8. Applicant further objects to this Request for Admission as it is overly burdensome as it requires a detailed analysis of approximately 72 reactor sites.

**REQUEST FOR ADMISSION NO. 35.** Do you admit that any ongoing environmental impacts caused by the storage of spent nuclear fuel at a shutdown reactor could be substantially reduced if the spent nuclear fuel was transferred to an on-site dry ISFSI with a site specific license?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that the term "substantially reduced" is not defined or otherwise quantified; and (2) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 36.** Do you admit that regardless of whether the proposed PFS facility is built, some utility companies will [sic] construct at-reactors ISFSIs?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative

evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether some utilities would construct ISFSIs is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 37.** Do you admit that if a specific utility company does not choose to store its spent nuclear fuel at the proposed PFS facility then not building the proposed PFS facility would not itself increase the need to construct additional at-reactor ISFSIs?

**APPLICANT'S RESPONSE:** See Applicant's objections to Request for Admission No. 36, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 38.** Do you admit that environmental impacts from construction of an on-site ISFSI at individual reactors would likely be less than the impacts for the proposed PFS facility because the amount of land disturbed would be much less than 99 acres?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because (1) it is vague and confusing in that "much less than 99 acres" is not defined or otherwise quantified; and (2) it seeks information regarding a substantive decision on building the PFSF based on relative environmental harms (see Utah Z specific Objection 4).

Further, even assuming arguendo that each on-site ISFSI would only require two acres of land (see Request for Admission No. 8), because there are 72 reactor sites, the minimum land required is approximately 144 acres, which is clearly not "much less than 99 acres."

**REQUEST FOR ADMISSION NO. 39.** Do you admit that environmental impacts from construction of on-site ISFSI at individual reactors would likely be less than the impacts for the proposed PFS facility because the amount of concrete and asphalt would be much than [sic] at the PFS site?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it seeks information regarding a substantive decision on building the PFSF based on relative environmental harms (see Utah Z specific Objection 4).

**REQUEST FOR ADMISSION NO. 40.** Do you admit that PFS has not entered into any written contracts with any non-PFS member customer to store spent nuclear fuel at the proposed PFS facility. This request, and Requests for Admission Nos 41 through 43, are relevant because such written contracts or verbal agreements would provide support for the premise that the proposed PFS facility would decrease the probability of premature shutdown as operating reactors?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether PFS has entered into any written contracts with non-PFS customers to store spent fuel is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 41.** Do you admit that PFS has no verbal agreement with any non-PFS customer to store spent nuclear fuel at the proposed PFS facility. See also Request for Admission No. 40.

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether PFS has any verbal agreement with any non-PFS customer to store spent fuel is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 42.** Do you admit that PFS has not entered into any written contracts with any PFS member to store spent nuclear fuel at the proposed PFS facility. See also Request for Admission No. 40.

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether PFS has entered into any written contracts to store spent fuel is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in

contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 43.** Do you admit that PFS has no verbal agreement with any PFS member to store spent nuclear fuel at the proposed PFS facility. See also Request for Admission No. 40.

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether PFS has a verbal agreement with any PFS member to store spent fuel is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 44.** Do you admit that the PFS member, Xcel Energy (formerly Northern State Power Company) spent fuel pools at Prairie Island may increase current storage capacity by re-racking the spent fuel pools?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that there is some chance any conceived occurrence “may” happen and the request does not identify the inherent legal, engineering, and financial assumptions related to re-racking and (2) it

seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 45.** Do you admit that Xcel Energy could increase the average burn up of its fuel assemblies used at its Prairie Island reactors to reduce the rate of spent nuclear fuel generation?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that there is some chance any conceived occurrence “could” happen and the request does not identify the inherent legal, engineering, and financial assumptions for increasing fuel burn-up and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 46.** Do you admit that the dry ISFSI located at Xcel Energy’s (formerly Northern State Power) Prairie Island facility is licensed as a site specific facility?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether any utility’s particular storage facility is or is not currently licensed is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in

contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 47.** Do you admit environmental impacts of constructing a dry ISFSI at Xcel Energy's Prairie Island facility will not be avoided by building the PFS facility?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3); and (2) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 48.** Do you admit that the dry storage ISFSI at Prairie Island is physically capable of storing much more than seventeen casks?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify what quantity comprises "much more" spent fuel and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 49.** Do you admit that Xcel Energy's Monticello facility has sufficient spent fuel pool storage capacity until the end of its current operating license in 2010?



**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify the conditions and assumptions that determine “sufficient” spent fuel storage capacity; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the capacity of any particular spent fuel storage facility is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 50.** Do you admit that PFS member, Southern Nuclear Operating Company has completed construction of a dry ISFSI at its Hatch reactor facility?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 51.** Do you admit that environmental impacts of constructing a dry ISFSI at the Southern Nuclear Operating Company's Hatch facility will not be avoided by building the PFS facility?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request For Admission No. 47, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 52.** Do you admit that Southern Nuclear Operating Company is currently operating a dry cask storage facility at its Hatch reactor facility?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 53.** Do you admit that shutdown of Southern Nuclear Operating Company's Hatch reactors prior to expiration of its operating license would not occur if the PFS facility was not built?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 54.** Do you admit that Southern Nuclear Operating Company will not store its spent nuclear fuel at the proposed PFS facility?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 1, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 55.** Do you admit that PFS member, Southern California Edison is currently pursuing an at-reactor dry ISFSI license?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1).

Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that the broad term “pursuing” is not defined in the context used; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether any particular utility is currently “pursuing” a license for a spent fuel storage facility is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 56.** Do you admit that Southern California Edison plans to store its spent nuclear fuel from its San Onofre reactor, Unit 1 on-site in a dry ISFSI?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether and how any particular utility plans to store its spent fuel is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 57.** Do you admit that Southern California Edison plans to store its spent nuclear fuel from its San Onofre reactor, Unit 2 on-site in a dry ISFSI?

**APPLICANT'S RESPONSE:** See Applicant’s Objections to Request for Admission No. 56, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 58.** Do you admit that Southern California Edison plans to store its spent nuclear fuel from its San Onofre reactor, Unit 3 on-site in a dry ISFSI?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 56, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 59.** Because Southern California Edison Company has already committed to constructing an on-site dry ISFSI, do you admit that environmental impacts of constructing a dry ISFSI at the San Onofre facility will not be avoided by building the PFS facility?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request For Admission No. 47, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 60.** Do you admit that shutdown of Southern California Edison Company's San Onofre reactors prior to expiration of its operating license would not occur if the PFS facility was not built?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 53, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 61.** Do you admit that Southern California Edison will not store its spent nuclear fuel at the proposed PFS facility?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 1, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 62.** Do you admit that PFS member, GPU Nuclear Corporation no longer owns its Three Mile Island Unit 1 nuclear power plant?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the ownership of any

particular plant is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 63.** Do you admit that GPU Nuclear Corporation no longer owns its Oyster Creek nuclear power plant?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 62, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 64.** Do you admit that all the spent nuclear fuel from GPU Nuclear Corporation's Three Mile Island Unit 2 is stored at U.S. Department of Energy, Idaho National Engineering and Environmental Laboratory (INEEL)?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether a small amount of spent fuel is stored at a Department of Energy facility is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3).

**REQUEST FOR ADMISSION NO. 65.** Do you admit that GPU Nuclear Corporation will not store spent nuclear fuel at the PFS facility?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 1, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 66.** Do you admit that PFS member, Consolidated Edison Company of New York has entered into an agreement to sell its Indian Point 2 reactor?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 62, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 67.** Do you admit that once Consolidated Edison Company of New York completes the sale its Indian Point 2 reactor it will no longer have any operating reactors?

**APPLICANT'S RESPONSE:** See Applicant's Objections to Request for Admission No. 62, which PFS incorporates as its response.

**REQUEST FOR ADMISSION NO. 68.** Do you admit that the early release of reactor sites under the DECON decommissioning alternative does not necessarily outweigh the benefits of the dose savings achieved by the SAFSTOR alternative?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify what benefits of dose savings it refers or over what time frames such benefits are assumed to accrue; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the method of plant decommissioning is irrelevant to the contention (see Utah Z Specific Objection 2); (3) it seeks information related to the need for the facility as in contention Utah X, which the Board has already ruled inadmissible (see Utah Z Specific Objection 3); and (4) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**REQUEST FOR ADMISSION NO. 69.** Do you admit that the radioactivity levels will continue to decrease as spent nuclear fuel is stored at the reactor site?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify what “radioactivity levels” to which it refers; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether “radioactivity levels” decrease or not is irrelevant to the contention (see Utah Z Specific Objection 2); (3) it seeks information duplicative and cumulative to the Commission’s findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5); and (6) it seeks information relating to the asserted environmental advantages of the no-action alternative, which is irrelevant to Utah Z (see Utah Z Specific Objection 4).

**REQUEST FOR ADMISSION NO. 70.** Do you admit that the radioactivity levels from Co-60 will significantly decrease in the next eight years?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify or quantify what “significantly decrease” means in the context used; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether radioactivity levels from Co-60 “significantly decrease” or not is irrelevant

to the contention (see Utah Z Specific Objection 2); and (3) it seeks information relating to the asserted environmental advantages of the no-action alternative, which is irrelevant to Utah Z (see Utah Z, Specific Objection 4). Notwithstanding these objections, Applicant admits that the half-life of Cobalt 60 ("Co-60") is 5.272 years.

**REQUEST FOR ADMISSION NO. 71.** Do you admit that the if [sic] spent nuclear fuel stored at the proposed PFS site is in fact transported to a federal repository, that the number of spent nuclear fuel handling operations would be significantly reduced if the spent nuclear fuel was transported directly to the federal repository from the reactor site?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify how spent fuel is assumed to be transported or what type of handling operations are required by the assumed transportation method(s); (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the number of handling operations to transport spent fuel from the PFSF is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information relating to the asserted environmental advantages of the no-action alternative, which is irrelevant to Utah Z (see Utah Z Specific Objection 4).

**REQUEST FOR ADMISSION NO. 72.** Do you admit that the radioactive exposure during spent nuclear fuel shipping would be significantly decrease [sic] if spent nuclear fuel continued to be stored on-site until a federal repository is available?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1).



Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify how spent fuel is assumed to be shipped, what quantity of radioactive exposure savings is required to “significantly decrease” exposure, or when the federal repository is assumed to be available, all of which are required to provide a response to the request; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the radioactive exposure from shipping spent fuel to the PFSF is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information relating to the asserted environmental advantages of the no-action alternative, which is irrelevant to Utah Z (see Utah Z Specific Objection 4).

**REQUEST FOR ADMISSION NO. 73.** Do you admit that the radioactive exposure during spent nuclear fuel handling to nuclear employees would be significantly less if spent nuclear fuel continued to be stored on-site until a federal repository is available?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify how spent fuel is assumed to be handled, what quantity of radioactive exposure savings is required to be classified as “significantly less” exposure, or identify what the radioactive exposure is supposed to be “significantly less” than (i.e., what exposure is to be used as a comparison); (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the information sought is duplicative and irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information relating to the asserted environmental

advantages of the no-action alternative, which is irrelevant to Utah Z (see Utah Z Specific Objection 4).

**REQUEST FOR ADMISSION NO. 74.** Do you admit that PFS has not analyzed the decrease in incident-free doses to cask handlers if the spent nuclear fuel is stored on-site until a federal repository is available?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not specify what “incident-free doses to cask handlers” are supposed to be compared (i.e., on-site storage versus what other storage option(s)); (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the information sought is duplicative and irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information relating to the asserted environmental advantages of the no-action alternative, which is irrelevant to Utah Z (see Utah Z Specific Objection 4).

**REQUEST FOR ADMISSION NO. 75.** Do you admit that the radiological consequences of a transportation accident releasing radiation would be significantly smaller if spent nuclear fuel continued to be stored on-site until a federal repository is available?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because: (1) it is vague and ambiguous in that it does not quantify “significantly smaller,” specify what “radiological consequences” are supposed to be compared (i.e., on-site storage versus what other storage option(s)), or identify

the accident(s) assumed to occur; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the information sought is duplicative and irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information relating to the asserted environmental advantages of the no-action alternative, which is irrelevant to Utah Z (see Utah Z Specific Objection 4).

**REQUEST FOR ADMISSION NO. 76.** Do you admit that there is no nuclear power plant located beneath airspace designated as a military operating area?

**APPLICANT'S RESPONSE:** Applicant objects to this Request for Admission because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Request for Admission because the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so whether any nuclear power plants are located under a military operating airspace is irrelevant to the contention (see Utah Z Specific Objection 2).

## **INTERROGATORIES - Utah Contention Z**

**INTERROGATORY NO. 1.** To the extent the Applicant does not admit Request for Admissions Nos. 4-6, 8-10, 13, 18-25, 28-34, 38-46, 48-50, 53, 54, 56-61, 65, 67, 68, 71-76 above, fully explain the bases, including the technical, scientific, statistical, or other bases, for the denial.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory for the reasons described in each of the listed Request for Admissions. The Applicant also objects to the State's abuse of the discovery process in this interrogatory. The Board has allotted a total of ten interrogatories per contention, including "all discrete subparts." See Private Fuel Storage, L.L.C.

(Independent Spent fuel Storage Installation), LBP-98-7, 47 NRC 142, 245 (1998). The State's 76 Requests for Admissions coupled with the request in this interrogatory to "fully explain the bases" for any of the enumerated requests not admitted, yield 49 contention interrogatories. Requests for admission are not discovery devices. Workman v. Chinchinian, 807 F. Supp. 634, 648 (E.D. Wash. 1992). Coupling requests for admission with one interrogatory in the manner the State has is wholly inappropriate. See Olympia Holding Corp. v. Belt Concepts of America, Inc., 189 B.R. 846, 853 (Bankr. M.D. Fla. 1995) (citing Misco, Inc. v. United States Steel Corp., 784 F.2d 198, 206 (6<sup>th</sup> Cir. 1986)).

**INTERROGATORY NO. 2.** Identify any and all environmental impacts and fully explain the scope, severity (including unit of measure) and the bases (e.g., scientific, technical, statistical, or otherwise) of the environmental impacts for each site in which the Applicant claims the impacts from the construction and operation of on-site dry ISFSIs would be avoided by constructing and operating the proposed PFS facility.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Interrogatory because: (1) it is overbroad and overly burdensome in that it does not restrict or limit "any and all" to information reasonably calculated to lead to the discovery of admissible evidence; and (2) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**INTERROGATORY NO. 3.** Identify any and all environmental impacts and fully explain the scope, severity (including unit of measure) and the bases (e.g., scientific, technical, statistical, or otherwise) of the environmental impacts that would occur from the pre-mature shutdown of each operating reactor in which the Applicant claims the impacts would be avoided by constructing and operating the proposed PFS facility.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Interrogatory because: (1) it is overbroad and overly burdensome in that it does not restrict or limit “any and all” to information reasonably calculated to lead to the discovery of admissible evidence; and (2) it seeks information duplicative and cumulative to the Commission’s findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**INTERROGATORY NO. 4.** Identify any and all environmentally advantageous and disadvantageous impacts and fully explain the scope, severity (including unit of measure) and the bases (e.g., scientific, technical, statistical, or otherwise) of the environmental impacts at each site that would occur if a shutdown reactor transferred its spent nuclear fuel to an on-site dry ISFSI and released the returned the remaining nuclear plant property for other uses after decommissioning.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Interrogatory because: (1) it is overbroad and overly burdensome in that it does not restrict or limit “any and all” to information reasonably calculated to lead to the discovery of admissible evidence; (2) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the release of plant property for other uses is irrelevant to the contention (see Utah Z Specific Objection 2); and (3) it seeks information duplicative and cumulative to the Commission’s findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

**INTERROGATORY NO. 5.** To the extent the Applicant does not admit Request for Admissions Nos. 42 through 45, identify each customer by name and reactor site.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory for the reasons described in each of the listed Request for Admissions. See also Objection to Interrogatory No. 1.

**INTERROGATORY NO. 6.** Describe the specific quantity of spent nuclear fuel each PFS member or customer identified in the Applicant's response to Interrogatory No. 5 above, plans to store at the proposed PFS facility before 2010 and projected shipment dates.

**APPLICANT'S RESPONSE:** See Applicant's objections to Interrogatory No. 5, which it incorporates as its response.

**INTERROGATORY NO. 7.** Identify the options available to increase current on-site spent nuclear fuel storage capacity and fully describe the specific environmental impacts associated with each alternative for each reactor site identified in the Applicant's response to Interrogatory No. 5 above.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory because it is beyond the scope of Utah Z in that it does not relate to whether or not the environmental impacts of the no action alternative are discussed in the DEIS (see Utah Z Specific Objection 1). Applicant further objects to this Interrogatory because: (1) the no action alternative evaluated in the DEIS, admitted to be appropriate by the State, assumes onsite storage of spent fuel until a permanent repository is available if the PFSF were not built, so the options available to increase spent fuel storage capacity is irrelevant to the contention (see Utah Z Specific Objection 2); and (2) it seeks information duplicative and cumulative to the Commission's findings regarding the environment impacts of onsite storage of spent fuel (see Utah Z Specific Objection 5).

#### **DOCUMENT REQUESTS - Utah Contention Z**

**DOCUMENT REQUEST NO. 1.** To the extent the Applicant does not admit Request for Admissions Nos. 11, 12, 29, 32, provide all documents related to the detailed analysis.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request for the reasons described in each of the listed Request for Admissions.

**DOCUMENT REQUEST NO. 2.** To the extent the Applicant does not admit Request for Admissions Nos. 13-15, 17, 18, 40-45, 48-49, 68-75 provide all documents which support the bases of the denial.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request for the reasons described in each of the listed Request for Admissions.

**DOCUMENT REQUEST NO. 3.** Provide all documents which relate to the Applicant's responses to Interrogatories Nos. 1 through 10 above.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request for the reasons described in each of the listed Request for Admissions.

**DOCUMENT REQUEST NO. 4.** Provide all documents, or other information, that are in any way relevant to Utah Contention Z.

**APPLICANT'S RESPONSE:** Applicant has previously provided documents relevant to Utah Z at its repository maintained at Parsons, Behle and Latimer in Salt Lake City. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository.

## **VI. UTAH CONTENTION AA – RANGE OF ALTERNATIVES**

Applicant objects to the State's discovery requests regarding Contention Utah AA to the extent that they are outside the scope of the contention because the requests: (1) are not relevant to the range of alternatives discussed in the DEIS and (2) are not relevant to the question of whether the DEIS contains the required discussions of the range of alternatives.

1. The scope of Utah AA "is limited to the issue of the adequacy of the PFS alternative site analysis." Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-98-7, 47 NRC 142, 203 (1998) (emphasis added). Although the State filed its contentions against the Environmental Report ("ER") (as required under Commission

regulation), the State's environmental contentions are to be considered as challenges to the DEIS. Louisiana Energy Services, CLI-98-3, 47 NRC at 84. As stated by the Commission in Duke Power Company (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC 1041 (1983):

As a practical matter, much of the information in an Applicant's ER is used in the DES [Draft Environment Statement]. . . . [T]he filing of an environmental [contention] based on the ER will not be deferred because the staff may provide a different analysis in its DES. Should that circumstance transpire, there will be ample opportunity to either amend or dispose of the contention.

17 NRC at 1049 (emphasis added). It is, therefore, the present status of the environmental analysis (i.e., the DEIS) that is relevant in determining whether a material dispute exists and whether a discovery request is relevant. See also Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-99-23, 49 NRC 485, 491-94 (1999) (Licensing Board dismissed Utah Contention C as moot based on PFS's revision of its radiation dose calculation which addressed the deficiencies alleged in the contention). The State could have submitted a revised contention following issuance of the DEIS, but chose not to do so.

Further, the NRC's licensing process and related environmental analysis is focused on the "rejection or acceptance of the proposed site rather than choice of sites." Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), CLI-77-8, 5 NRC 503, 529 (1977). An "application should not be denied on the basis of a comparison between the applicant's proposed site and an alternative site unless the alternative site appears to be obviously superior to the proposed site." Id. at 514 (emphasis added); accord New England Coalition on Nuclear Pollution v. NRC, 582 F.2d 87, 95 (1<sup>st</sup> Cir. 1978) (finding no conflict between the "obviously superior" test and NEPA).



Thus, the Applicant's site selection process is described in the ER (and discussed in the DEIS) solely "to aid the Commission in complying with section 102(2) of NEPA. 10 C.F.R. § 51.14. It is, however, the Staff's analysis of the range of alternatives that is relevant to Utah AA and not the PFS site selection process. Those alternatives are set forth and summarized in Section 9 of the DEIS. Therefore, discovery requests regarding the Applicant's site selection process are not reasonably calculated to the discovery of admissible evidence.

2. Additionally, Utah AA challenges only the existence of material in the DEIS. The State's basis for Utah AA relates solely to purported omissions of required discussions and not to any substantive issues regarding the adequacy of the alternative site analysis. The State asserts that the discussion of siting alternatives is "woefully inadequate" because there is "no discussion" of site screening results, "no mention" of who received screening questionnaires, and "absolutely no discussion" of questionnaire responses. State of Utah's Contentions on the Construction and Operating License Application by Private Fuel Storage, L.L.C. for an Independent Spent Fuel Storage Facility (Nov. 23, 1997) (hereinafter "Utah Contentions") at 172-3. Another asserted basis is that "the only sites mentioned by name are the 38 initial sites and the two sites located on the Skull Valley reservation." Id. at 173. Finally, the State asserts that the "application of 10 [C.F.R. Part 72,] Subpart E, Site Evaluation Factors, to the candidate sites are not discusse[d] at all in the Environmental Report." Id. at 174. These bases further limit the scope of the contention. Applicant, therefore, objects to discovery requests not reasonably calculated to lead to the discovery of admissible evidence demonstrating that the issues relate to alternatives alleged in Utah AA are or are not discussed in the DEIS.

**REQUEST FOR ADMISSION NO. 1.** Do you admit that the following statement from the DEIS is accurate:

Although 18 of the 38 sites remained after the Phase 1 screening process, the PFS Board of Managers focused the meeting on the eight sites that were furthest along by virtue of information provided by the potential hosts.

**APPLICANT'S RESPONSE:** PFS admits that the discussion of the PFS Board of Managers at its meeting on May 22, 1996, focused on those candidates areas that were among the furthest along in the evaluation process by virtue of information that had been assembled, and which were considered to be the best potential sites from the three different host categories: tribes, private industry, and government. The discussion initially focussed on seven sites and, at the request of one of the Board members, an eighth site was added to the list to be voted on by the Board of Managers. Other potential sites were also discussed at the meeting, but were generally deemed not to provide any greater potential for a satisfactory site.

#### **INTERROGATORIES - Utah Contention AA**

**INTERROGATORY NO. 1.** PFS has identified "costs" as a technical factor that it considered during its siting process. ER, page 8.1-9c. Please describe how this criterion was used, including a description of any sites that were eliminated in whole or in part based on this criterion.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory because it is beyond the scope of Utah AA in that: (1) it seeks information regarding the site selection process which is not reasonably calculated to lead to the discovery of admissible evidence (see Utah AA Specific Objection 1) and (2) does not relate to whether issues related to alternatives alleged in Utah AA are or are not discussed in the DEIS (see Utah AA Specific Objection 2).

Notwithstanding these objections, Applicant states that cost was appropriately included as a factor considered by PFS in the site selection process. As reflected in the ER at page 8.1-5, cost was one factor in the site screening process. However, only one site, the Pacific Atolls, was preliminarily screened out due to cost (ER Appendix 8A, site # 030) and even that site was

further considered in the site selection process (as reflected in the ER at pages 8.1-8 to 8.1-10). Additionally, as reflected in the ER, cost was considered in the comparative evaluation of the Skull Valley, Utah and Freemont County sites. First, costs of developing an ISFSI, and related appurtenances, was one of the factors comparatively ranked with respect to the two sites in the "Field Investigation Evaluation Report" issued by Stone & Webster in final form on August 7, 1996. Second, the fact that the fixed payments for the Wyoming site was four times higher than the Skull Valley site was one of the factors that led to selection of the Skull Valley site, as described in the ER at pages 8.1-9c and 8.1-9d.

**INTERROGATORY NO. 2.** As described in Request for Admission No. 1, the DEIS indicates that ten sites dropped out of consideration due to a lack of information. Please describe what information was missing for these sites.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory because it is beyond the scope of Utah AA in that: (1) it seeks information regarding the site selection process which is not reasonably calculated to lead to the discovery of admissible evidence (see Utah AA Specific Objection 1) and (2) does not relate to whether issues related to alternatives alleged in Utah AA are or are not discussed in the DEIS (see Utah AA Specific Objection 2). Further, Applicant objects to this interrogatory in that it misstates and mischaracterizes the DEIS. The DEIS does not state that "ten sites dropped out of consideration for lack of information," but rather the converse: the Board of Managers focused on sites "that were furthest along by virtue of information provided by the potential hosts." In this respect, both the ER and DEIS note that PFS generally obtained more information from the promoters of particular sites. ER at page 8.1-7 and 8.1-9; DEIS at 7-4. Further, the DEIS goes on to state that "[o]ther potential sites were also discussed, but were generally deemed not to provide any greater potential for a satisfactory site." DEIS at 7-4. Thus, this interrogatory misstates the DEIS and contains a false assumption.

Notwithstanding these objections, Applicant states that the information it generally did or did not have with respect to the 10 sites referenced in the interrogatory is reflected in the exhibits to the ER and the documents produced to the State in discovery (with the exception that certain documents provided to PFS during the site selection process by the promoters of one of the sites were subsequently returned to the promoters). See also response to Interrogatory No. 3, below.

**INTERROGATORY NO. 3.** As described in Request for Admission No. 1, the DEIS indicates that ten sites dropped out of consideration due to a lack of information. Please describe what efforts were made to obtain this missing information.

**APPLICANT'S RESPONSE:** Applicant objects to this Interrogatory because it is beyond the scope of Utah AA in that: (1) it seeks information regarding the site selection process which is not reasonably calculated to lead to the discovery of admissible evidence (see Utah AA Specific Objection 1) and (2) does not relate to whether issues related to alternatives alleged in Utah AA are or are not discussed in the DEIS (see Utah AA Specific Objection 2). Further, Applicant objects to this interrogatory in that it misstates and mischaracterizes the DEIS for the reasons described in Interrogatory No. 2 above. Notwithstanding these objections, Applicant states, as reflected in the ER (at page 8.1-7), that it requested and obtained information from various owners and promoters of candidate sites, particularly from those who had expressed an interest in hosting the site. As host site interest and support for the facility was a major factor in PFS's selection process, a lack of timely response or submission of incomplete information was itself significant. Applicant did not take steps to acquire additional information from these sites after the May 22, 1996, Board meeting referenced in the DEIS above.

## **DOCUMENT REQUESTS - Utah Contention AA**

**DOCUMENT REQUEST NO. 1.** All documents from which the summarized information in Appendices 8A and 8B of the Environmental Report were derived.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request because it is beyond the scope of Utah AA in that it seeks information regarding the site selection process not reasonably calculated to lead to the discovery of admissible evidence. See Utah AA Specific Objections 1 and 2. Notwithstanding these objections, Applicant states that it has previously provided documents in its possession and control relevant to its site selection process at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository.

**DOCUMENT REQUEST NO. 2.** All documents relating to PFS's evaluation of a site during the site selection process, including documents relating to its reasons for eliminating a site from further siting consideration during that process.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request because it is beyond the scope of Utah AA in that it seeks information regarding the site selection process, which is not reasonably calculated to lead to the discovery of admissible evidence. See Utah AA Specific Objections 1 and 2. Notwithstanding these objections, Applicant states that it has previously provided documents in its possession and control relevant to its site selection process at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository.

**DOCUMENT REQUEST NO. 3.** All documents that relate to the Nuclear Waste Negotiator's failed attempt to find a host for an MRS site, including any documents that explain the reasons for a site's elimination from that process.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request because it is beyond the scope of Utah AA in that it seeks information regarding the site selection process, which is not reasonably calculated to lead to the discovery of admissible evidence. See Utah AA Specific Objections 1 and 2. Notwithstanding these objections, Applicant states that it has previously provided documents in its possession and control relevant to its site selection process at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository.

**DOCUMENT REQUEST NO. 4.** All documents containing information about costs that would be associated with the development of any of the original 38 candidate sites.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request because it is beyond the scope of Utah AA in that it seeks information regarding the site selection process, which is not reasonably calculated to lead to the discovery of admissible evidence. See Utah AA Specific Objections 1 and 2. Notwithstanding these objections, Applicant states that it has previously provided documents in its possession and control relevant to its site selection process at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository.

**DOCUMENT REQUEST NO. 5.** Any minutes, handouts or other papers provided at or developed during the May 22, 1996 PFS Board of Managers meeting at which candidates were discussed and evaluated. See ER, page 8.1-4.

**APPLICANT'S RESPONSE:** Applicant objects to this Document Request because it is beyond the scope of Utah AA in that it seeks information regarding the site selection process,

which is not reasonably calculated to lead to the discovery of admissible evidence. See Utah AA Specific Objections 1 and 2. Notwithstanding these objections, Applicant states that it has previously provided documents in its possession and control relevant to its site selection process at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository.

**DOCUMENT REQUEST NO. 6.** Provide all documents, or other information, that are in any way relevant to Utah Contention AA.

**APPLICANT'S RESPONSE:** Applicant has previously provided documents relevant to Utah AA at its repository maintained at Parsons, Behle and Latimer in Salt Lake City. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at its document repository.

## **VII. UTAH CONTENTION DD**

### **A. REQUESTS FOR ADMISSION - Utah Contention DD**

**REQUEST FOR ADMISSION NO. 1.** Do you admit that PFS has not analyzed, for birds or other animals exposed to radiation through close proximity to the casks, environmental impacts resulting from their subsequent dispersion from the PFS site?

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it concerns impacts outside the scope of Utah Contention DD. The objection notwithstanding, it is admitted that PFS has not done such an analysis but denied that any environmental impacts would result from the dispersion of animals exposed to radiation from the PFS site. There are no environmental impacts resulting from birds or other mammals exposed to radiation through close proximity to the casks that subsequently leave the PFSF site. Section 4.2.9.2 of the PFSF Environmental Report (ER) evaluates the effects of radiation on wildlife, and Section 4.2.9.2.2

identifies calculated doses to wildlife in the vicinity of storage casks. Section 4.2.9.2.2 concludes that an animal conservatively assumed to spend one-half of a year (4,380 hours) in contact with the inlet air duct of a HI-STORM storage cask containing relatively hot PFSF spent fuel (represented by PWR fuel having 40,000 MWd/MTU burnup and 10 years cooling time) would receive 61.3 rem. Likewise, this section concludes that a bird that perches or roosts for one-half year on top of a HI-STORM storage cask containing relatively hot PFSF spent fuel would receive 44.7 rem. Since these values are less than the 100 rad/year criteria for wildlife, established in ER Section 4.2.9.2, it is concluded that the animals will not suffer adverse effects of exposure to radiation from the PFSF. See also DEIS at 4-21 and 4-22.

In the event an animal were to spend substantial time next to or on top of a storage cask, it would receive a gamma and neutron radiation dose, as discussed in ER Section 4.2.9.2.2. However, exposure to ionizing radiation does not cause the affected animal to become radioactive. The neutron and gamma radiation passes through or is absorbed by the bodily tissues of the animal, and the radiation can interact with the tissue (generally interacting with water molecules, which comprise a large fraction of the tissue). This interaction of gamma and neutron radiation with bodily tissue does not, however, result in body tissue becoming radioactive. Therefore, in the event an animal were to receive an exposure to radiation as the result of spending time in the vicinity of storage casks at the PFSF, it would not become radioactive and would have no adverse effect on a predator that consumes the irradiated animal. Irradiation of food products is commonly used to destroy bacteria prior to taking the foodstuff to market, and there are no ill effects on people that eat the irradiated food. In the same manner, there would be no adverse effects on predators consuming irradiated animals, and this is not a pathway by which radioactivity could be introduced into the food chain.



**REQUEST FOR ADMISSION NO. 2.** Do you admit that PFS has not analyzed, for birds or other animals exposed to radiation through close proximity to the casks, environmental impacts resulting from their being eaten by predators, including impacts resulting from predators eating multiple irradiated prey?

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it concerns impacts outside the scope of Utah Contention DD. The objection notwithstanding, it is admitted that PFS has not done such an analysis but denied that any environmental impacts would result from animals exposed to radiation being eaten by predators. As discussed in the above response to Request for Admission No. 1, there are no environmental impacts resulting from animals exposed to radiation through close proximity to storage casks being eaten by predators. Even assuming that prey would become irradiated by exposure to relatively low levels of gamma and neutron radiation, as discussed in ER Section 4.2.9.2.2, the animal tissues would not become radioactive and would not adversely affect a predator that consumes the irradiated animal.

**REQUEST FOR ADMISSION NO. 3.** Do you admit that PFS has not committed to implement mitigation measures in the event it encounters nests for non-raptor bird species?

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it concerns non-raptor bird species irrelevant to environmental impacts within the scope of Utah DD. The objection notwithstanding, the request is denied. PFSF ER Section 4.2.9.2.2 concludes that an animal conservatively assumed to spend one-half of a year (4,380 hours) in contact with the inlet air duct of a HI-STORM storage cask containing relatively hot PFSF spent fuel (represented by PWR fuel having 40,000 MWd/MTU burnup and 10 years cooling time) would receive 61.3 rem. Likewise, this section concludes that a bird that perches or roosts for one-half year on top of a HI-STORM storage cask containing relatively hot PFSF spent fuel would receive 44.7 rem. PFSF ER Section 4.2.9.2.2 states: "In order to assure that animals do not

exceed the 100 rad/year PFSF criteria for wildlife, such as by spending longer times at the cask inlet ducts than assumed above, PFS will take actions to prevent wildlife from spending significant amounts of time inside the PFSF Restricted Area fence as discussed in Section 4.2.2.”

ER Section 4.2.2 states the following: “Nevertheless, if left undeterred wildlife may exist inside the fenced areas of the PFSF and around the casks. Therefore to restrict habitation, PFS will monitor any wildlife activity onsite and will take measures to prevent habitation. Animal deterrent devices will be employed to keep all wildlife from being within the area for any length of time. A chain link fence, 8 ft high and embedded 1 ft into the ground, will be installed around the perimeter of the storage pads to prevent large wildlife such as deer antelope, coyotes, fox, rabbits, etc. from entering the area. If birds are found to be perching and/or nesting around or on the casks, and the potential exists for the birds to accrue doses in excess of PFSF’s 100 rem/yr criteria for wildlife (Section 4.2.9.2.2), deterrent devices such as cones or spikes will be installed to prevent this from happening. Small mammals and reptiles will also be kept from remaining in the cask area, using traps if necessary. Furthermore, the entire area will be surveyed frequently by facility workers. If any permanent signs of wildlife are found, actions will be taken immediately to remove the animals.”

The above commitment applies to non-raptor bird species as well as to raptor birds. PFS is committed to take the necessary measures to assure that animals, including birds, do not exceed the PFSF criteria of 100 rem/yr. For HI-STORM storage casks that contain relatively hot spent fuel, it would be possible for an animal to exceed this criterion if it were to spend over 7,140 hours/yr on contact with an inlet duct. If bird nests were found at the inlet ducts of storage casks, actions would be taken (such as removing nests) to deter birds from continuing to nest in these areas.

**REQUEST FOR ADMISSION NO. 4.** PFS has indicated that “[i]f any permanent signs of wildlife are found, actions will be taken immediately to remove the animals.” ER, at 4.2-3. Does PFS admit that it does not intend to remove birds perching or nesting on top of casks under this policy if the birds are not expected to accrue do[s]es in excess of PFS facility’s 100 rem/yr criteria for wildlife?

**APPLICANT’S RESPONSE:** Applicant objects to this request to the extent that it concerns bird species irrelevant to environmental impacts within the scope of Utah DD. The objection notwithstanding, the request is denied. PFS had originally planned to have two different models of storage cask at the PFSF, the HI-STORM storage cask designed and licensed by Holtec International, and the TranStor storage cask designed by BNFL. Since BNFL withdrew its application for licensing of the TranStor storage cask, the PFSF is being licensed for a single cask storage system, the HI-STORM storage cask. Dose rates on top of the TranStor storage cask were significantly higher than those on top of the HI-STORM storage cask, due to the extensive shielding that Holtec has designed for the lid of their storage cask. Before ER Section 4.2.9.2.2 was revised to remove reference to the TranStor storage cask, it concluded that birds assumed to spend one-half year on top of a TranStor storage cask containing relatively hot spent fuel could exceed the 100 rem/yr wildlife dose criteria. For this reason, PFS committed to take actions to deter birds from perching or roosting on top of casks. While dose rates on top of HI-STORM storage casks are relatively low, and a bird perching on top of a HI-STORM storage cask continuously for one year would not exceed the dose criteria, PFS will nevertheless take action to remove animals in the event permanent signs of wildlife are found (such as nests), as stated in ER Section 4.2.2.

### **C. DOCUMENT REQUESTS - Utah Contention DD**

**DOCUMENT REQUEST NO. 3.** To the extent PFS denies Requests for Admission Nos. 1 and 2, all documents relating to PFS’s analyses.

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it seeks documents that do not contain information reasonably calculated to lead to the discovery of evidence relevant to Utah Contention DD. The objection notwithstanding, PFS has no documents that relate to this request. As discussed in its responses to Requests for Admission Nos. 1 and 2, no such analysis is necessary in that there are no environmental impacts resulting from birds or other mammals exposed to radiation through close proximity to the casks that subsequently leave the PFSF site. This is because the irradiated animal tissue does not become radioactive, and there is no effect on predators that could consume a tissue of an irradiated animal.

**DOCUMENT REQUEST NO. 4.** To the extent PFS denies Request for Admission No. 3, please provide all documents describing or otherwise relating to PFS's commitment.

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it seeks documents that do not contain information reasonably calculated to lead to the discovery of evidence relevant to Utah Contention DD. The objection notwithstanding, PFS's commitment to implement mitigation measures in the event it encounters nests for birds, whether raptor or non-raptor species, is contained in ER Section 4.2.2. This commitment was originally stated in PFS's response to question 10-8 of the NRC's first round of EIS requests for additional information (RAIs), submitted by PFS letter, Parkyn to Director Office of Nuclear Material Safety and Safeguards, "Response to EIS Request for Additional Information", dated February 18, 1999. The commitment was reiterated in PFS's response to question 4-14 of the NRC's second round of EIS RAIs, submitted by PFS letter, Parkyn to U.S. NRC, "Responses to Second Round EIS Request for Additional Information", dated October 19, 1999. The State was a recipient of these documents.

**DOCUMENT REQUEST NO. 5.** All documents relating to results from any plant surveys conducted and not already produced, including any report resulting from the March 5, 1999 request for additional scope of work from Don Butman to Ronald Kass.

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it seeks documents that do not contain information reasonably calculated to lead to the discovery of evidence relevant to Utah Contention DD. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

**DOCUMENT REQUEST NO. 6.** All documents relating to any raptor surveys (or more general surveys that included a raptor survey) conducted and not already produced.

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it seeks documents that do not contain information reasonably calculated to lead to the discovery of evidence relevant to Utah Contention DD. The objection notwithstanding, to the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

**DOCUMENT REQUEST NO. 7.** All documents relating to plans for wildlife and plant surveys that will be conducted prior to construction.

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it seeks documents that do not contain information reasonably calculated to lead to the discovery of evidence relevant to Utah Contention DD. The objection notwithstanding, to the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

**DOCUMENT REQUEST NO. 8.** PFS makes several statements about impacts of the project on peregrine falcon prey species, including:

“Impacts on local populations will be minimal because of the relatively small area of impact, the commonness of this habitat type in surrounding areas, and the high reproductive potential for any of these resident species.

ER, at 4.1-4.

“Threatened or endangered species that may occasionally occur in the area, including bald eagle or peregrine falcon, will not be affected by vegetation removal since only a small portion of available prey habitat is affected . . . .”

ER, at 4.1-6.

“Construction activities at the intermodal transfer point area are unlikely to affect the falcon’s forage base because of the small amount of land to be altered in this area.”

ER 4.3-4.

Please provide all documents used by PFS to make or support these conclusions.

**APPLICANT’S RESPONSE:** To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at Applicant’s document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

**DOCUMENT REQUEST NO. 9.** All documents used by PFS to make or support this conclusion:

Migratory peregrines are also not likely to be affected by increased construction traffic.

ER, at 4.1-7.

**APPLICANT’S RESPONSE:** To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any

applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

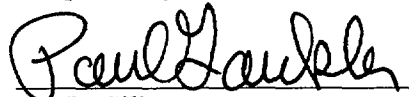
**DOCUMENT REQUEST NO. 10.** All documents used by PFS to prepare or support its analysis of "Effects of Radiation on Wildlife" at Section 4.2.9.2 (ER, at 4.2-19 through 4.2-25).

**APPLICANT'S RESPONSE:** Applicant objects to this request to the extent that it seeks documents that do not contain information reasonably calculated to lead to the discovery of evidence relevant to Utah Contention DD. To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

**DOCUMENT REQUEST NO. 11.** Provide all documents, or other information, that are in anyway relevant to Utah Contention DD.

**APPLICANT'S RESPONSE:** To the extent that PFS has not previously produced documents responsive to this request, Applicant will make them available, subject to any applicable claims of privilege, at Applicant's document repository maintained at the offices of Parsons, Behle, and Latimer in Salt Lake City, Utah.

Respectfully submitted,



Jay E. Silberg

Ernest L. Blake

Paul A. Gaukler

D. Sean Barnett

SHAW PITTMAN

2300 N Street, N.W.

Washington, DC 20037

(202) 663-8000

Counsel for Private Fuel Storage, L.L.C.

Dated: March 12, 2001

**UNITED STATES OF AMERICA**  
**NUCLEAR REGULATORY COMMISSION**

**Before the Atomic Safety and Licensing Board**

In the Matter of	)	
	)	
PRIVATE FUEL STORAGE L.L.C.	)	Docket No. 72-22
	)	
(Private Fuel Storage Facility)	)	ASLBP No. 97-732-02-ISFSI

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the Applicant's Objections and Responses to the State of Utah's Tenth Set of Discovery Requests Directed to the Applicant were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 12<sup>th</sup> day of March 2001.

G. Paul Bollwerk III, Esq., Chairman  
Administrative Judge  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
e-mail: [GPB@nrc.gov](mailto:GPB@nrc.gov)

Dr. Jerry R. Kline  
Administrative Judge  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
e-mail: [JRK2@nrc.gov](mailto:JRK2@nrc.gov); [kjerry@erols.com](mailto:kjerry@erols.com)

Dr. Peter S. Lam  
Administrative Judge  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
e-mail: [PSL@nrc.gov](mailto:PSL@nrc.gov)

\* Susan F. Shankman  
Deputy Director, Licensing & Inspection  
Directorate, Spent Fuel Project Office  
Office of Nuclear Material Safety &  
Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555



Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attention: Rulemakings and Adjudications  
Staff  
e-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)  
(Original and two copies)

Catherine L. Marco, Esq.  
Sherwin E. Turk, Esq.  
Office of the General Counsel  
Mail Stop O-15 B18  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
e-mail: [pfscase@nrc.gov](mailto:pfscase@nrc.gov)

John Paul Kennedy, Sr., Esq.  
Confederated Tribes of the Goshute  
Reservation and David Pete  
1385 Yale Avenue  
Salt Lake City, Utah 84105  
e-mail: [john@kennedys.org](mailto:john@kennedys.org)

Diane Curran, Esq.  
Harmon, Curran, Spielberg &  
Eisenberg, L.L.P.  
1726 M Street, N.W., Suite 600  
Washington, D.C. 20036  
e-mail: [DCurran.HCSE@zzapp.org](mailto:DCurran.HCSE@zzapp.org)

\*Richard E. Condit, Esq.  
Land and Water Fund of the Rockies  
2260 Baseline Road, Suite 200  
Boulder, CO 80302


\* By U.S. mail only

\* Adjudicatory File  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Denise Chancellor, Esq.  
Assistant Attorney General  
Utah Attorney General's Office  
160 East 300 South, 5<sup>th</sup> Floor  
P.O. Box 140873  
Salt Lake City, Utah 84114-0873  
e-mail: [dchancel@state.UT.US](mailto:dchancel@state.UT.US)

Joro Walker, Esq.  
Land and Water Fund of the Rockies  
1473 South 1100 East, Suite F  
Salt Lake City, Utah 84105  
e-mail: [lawfund@inconnect.com](mailto:lawfund@inconnect.com)

Danny Quintana, Esq.  
Skull Valley Band of Goshute Indians  
Danny Quintana & Associates, P.C.  
68 South Main Street, Suite 600  
Salt Lake City, Utah 84101  
e-mail: [quintana@xmission.com](mailto:quintana@xmission.com)

  
Paul A. Gaukler

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Atomic Safety And Licensing Board**

<b>In the Matter of</b>	)	
	)	
<b>PRIVATE FUEL STORAGE L.L.C.</b>	)	<b>Docket No. 72-22</b>
	)	
<b>(Private Fuel Storage Facility)</b>	)	<b>ASLBP No. 97-732-02-ISFSI</b>

**DECLARATION OF PETER CONLON**

Peter Conlon states as follows under penalties of perjury:


1. I am currently the Director of Marketing and Business Development of the Transportation Technology Center, Inc., a wholly owned subsidiary of the Association of American Railroads. I have been employed in the railroad industry for many years.

2. I am duly authorized to verify Applicant's Response to State's Tenth Set of Discovery Requests Directed to the Applicant, specifically the responses to Interrogatories Nos. 1 and 2 with respect to Utah Contention V.

3. I certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2001.

  
Peter Conlon

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety And Licensing Board

In the Matter of	)	
	)	
PRIVATE FUEL STORAGE L.L.C.	)	Docket No. 72-22
	)	
(Private Fuel Storage Facility)	)	ASLBP No. 97-732-02-ISFSI

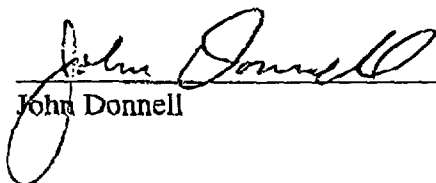
DECLARATION OF JOHN DONNELL

John Donnell states as follows under penalties of perjury:

1. I am the Project Director with Private Fuel Storage L.L.C. As the Project Director, I am responsible for all technical and licensing activities for the project.
2. I am duly authorized to verify Applicant's Response to State's Tenth Set of Discovery Requests Directed to the Applicant, specifically the responses to Request for Admissions Nos. 1 and 2 and Interrogatory No. 2 with respect to Utah Contention V.
3. I certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2001.

  
John Donnell

5-12-2001 3:31 PM

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety And Licensing Board

In the Matter of	)	
	)	
PRIVATE FUEL STORAGE L.L.C.	)	Docket No. 72-22
	)	
(Private Fuel Storage Facility)	)	ASLBP No. 97-732-02-ISFSI

**DECLARATION OF WAYNE LEWIS**

Wayne Lewis states as follows under penalties of perjury:


1. I am the Lead Mechanical Engineer with Stone & Webster Engineering Corporation (Stone & Webster) for the Private Fuel Storage Facility ("PFSF") project. As the Lead Mechanical Engineer for the PFSF, I am responsible for technical design activities for the project.

2. I am duly authorized to verify Applicant's Response to State's Tenth Set of Discovery Requests Directed to the Applicant, specifically the responses to Request for Admissions Nos. 19, 20, and 21, and Interrogatory No. 10 with respect to Utah Contention O.

3. I certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2001.

  
Wayne Lewis

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Atomic Safety And Licensing Board**

<b>In the Matter of</b>	)	
	)	
<b>PRIVATE FUEL STORAGE L.L.C.</b>	)	<b>Docket No. 72-22</b>
	)	
<b>(Private Fuel Storage Facility)</b>	)	<b>ASLBP No. 97-732-02-ISFSI</b>

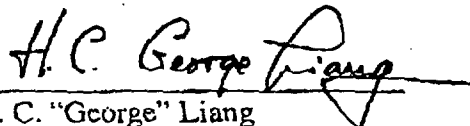
**DECLARATION OF H. C. "GEORGE" LIANG**

H. C. "George" Liang states as follows under penalties of perjury:

1. I am a Senior Principal Environmental Engineer with Stone & Webster Engineering Corporation (Stone & Webster), and am familiar with the Private Fuel Storage Facility ("PFSF") project.
2. I am duly authorized to verify the Applicant's Response to the State's Tenth Set of Discovery Requests Directed to the Applicant, specifically the responses to Request for Admissions Nos. 1, 2, 3, 4, 5, 6, 16, 17, 18, 22, 23, and 24 and Interrogatories 9 and 10 with respect to Utah Contention O.
3. I certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2001.

  
H. C. "George" Liang

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Atomic Safety And Licensing Board**

<b>In the Matter of</b>	)	
	)	
<b>PRIVATE FUEL STORAGE L.L.C.</b>	)	<b>Docket No. 72-22</b>
	)	
<b>(Private Fuel Storage Facility)</b>	)	<b>ASLBP No. 97-732-02-ISFSI</b>

**DECLARATION OF JEFFREY R. JOHNS**

Jeffrey R. Johns states as follows under penalties of perjury:

1. I am the Lead Licensing Engineer with Stone & Webster Engineering Corporation (Stone & Webster) for the Private Fuel Storage Facility ("PFSF") project. As the Lead Licensing Engineer for the PFSF, I am responsible for technical and licensing activities for the project.
2. I am duly authorized to verify Applicant's Response to State's Tenth Set of Discovery Requests Directed to the Applicant, specifically the responses to Request for Admissions Nos. 1, 2, 3, and 4 with respect to Utah Contention DD.
3. I certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2001.

  
\_\_\_\_\_  
Jeffrey R. Johns

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Atomic Safety And Licensing Board**

**In the Matter of**

**PRIVATE FUEL STORAGE L.L.C.**

**(Private Fuel Storage Facility)**

)  
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)

**Docket No. 72-22**

**ASLBP No. 97-732-02-ISFSI**

**DECLARATION OF JOHN D. PARKYN**

John D. Parkyn states as follows under penalties of perjury:

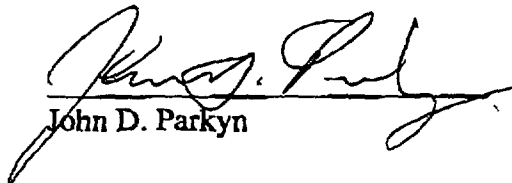
1. I am Chairman of the Board of Private Fuel Storage L.L.C. (PFS), a limited liability company organized and existing under the laws of the State of Delaware with its principal office currently located in La Crosse, Wisconsin.

2. I am duly authorized to verify Applicant's Response to State's Tenth Set of Discovery Requests Directed to the Applicant, specifically the responses to Interrogatories Nos. 1, 2, and 3 with respect to Utah Contention AA.

3. I certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2001.

  
John D. Parkyn

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Atomic Safety And Licensing Board**

<b>In the Matter of</b>	)	
	)	
<b>PRIVATE FUEL STORAGE L.L.C.</b>	)	<b>Docket No. 72-22</b>
	)	
<b>(Private Fuel Storage Facility)</b>	)	<b>ASLBP No. 97-732-02-ISFSI</b>

**DECLARATION OF SCOTT D. NORTHARD**

Scott D. Northard states as follows under penalties of perjury:

1. I am Project Manager for the Private Fuel Storage L.L.C. (PFS), a limited liability company organized and existing under the laws of the State of Delaware.
2. I am duly authorized to verify Applicant's Response to the State's Tenth Set of Discovery Requests Directed to the Applicant, specifically the responses to Interrogatories Nos. 1, 2, and 3 with respect to Utah Contention AA.
3. I certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2001.

  
\_\_\_\_\_  
Scott D. Northard