

DOCKETED  
USNRC

June 8, 2001

01 JUN 11 P3:10

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSIONBefore the CommissionOFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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

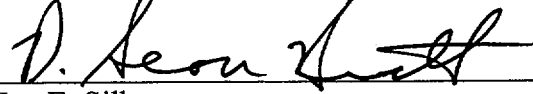
**APPLICANT'S RESPONSE TO STATE REQUEST TO BRIEF THE CERTIFIED  
QUESTION IN LICENSING BOARD ORDER LBP-01-19**

Applicant Private Fuel Storage, L.L.C. ("PFS") files this response to "State of Utah's Request for an Opportunity to Brief the Licensing Board's Certified Question to the Commission in LBP-01-19," dated June 7, 2001. PFS submits that the briefing below was adequate, in that the question of the appropriate probability to use in defining credible design basis events for 10 C.F.R. Part 72 facilities was at the heart of the parties' arguments regarding whether the PFS ISFSI would be sufficiently safe from aircraft crash hazards.<sup>1</sup> Thus, PFS believes that further briefing on this question is unnecessary. If, however, the Commission grants the State's request or decides sua sponte that further briefing is appropriate, PFS would request the right to reply to the State's brief.

---

<sup>1</sup> See Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B (Dec. 30, 2000) at 9-10; State of Utah's Response to Applicant's Motion for Summary Disposition on Utah Contention K/Confederated Tribes Contention B (Jan. 30, 2001) at 6-8; Applicant's Motion to Strike Portions of State of Utah's Response to Applicant's Motion for Summary Disposition on Utah Contention K/Confederated Tribes Contention B (Feb. 9, 2001) at 6-9.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Sean Barnett", written over a horizontal line.

Jay E. Silberg

Ernest L. Blake, Jr.

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: June 8, 2001

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before the Commission

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 Applicant's Response to State Request to Brief the Certified Question in Licensing Board Order LBP-01-19 were served on the persons listed below (unless otherwise noted) by electronic mail with conforming copies by U.S. mail, first class postage prepaid, this 8<sup>th</sup> day of June 2001.

Richard A. Meserve, Chairman  
OCM/RAM  
U.S. Nuclear Regulatory Commission  
One White Flint North, Rm. 17-D1  
Mail Stop 16 C1  
11555 Rockville Pike  
Rockville, MD 20852-2738  
e-mail: [CHAIRMAN@nrc.gov](mailto:CHAIRMAN@nrc.gov)

Edward McGaffigan, Jr., Commissioner  
OCM/EXM  
U.S. Nuclear Regulatory Commission  
One White Flint North, Rm. 18-G1  
Mail Stop 16 C1  
11555 Rockville Pike  
Rockville, MD 20852-2738  
e-mail: [cmrmcgaffigan@nrc.gov](mailto:cmrmcgaffigan@nrc.gov)

Greta J. Dicus, Commissioner  
OCM/GJD  
U.S. Nuclear Regulatory Commission  
One White Flint North, Rm. 17-D1  
Mail Stop 16 C1  
11555 Rockville Pike  
Rockville, MD 20852-2738  
e-mail: [cmrdicus@nrc.gov](mailto:cmrdicus@nrc.gov)

Nils J. Diaz, Commissioner  
OCM/NJD  
U.S. Nuclear Regulatory Commission  
One White Flint North, Rm. 18 E1  
Mail Stop 16 C1  
11555 Rockville Pike  
Rockville, MD 20852-2738  
e-mail: [cmrdiaz@nrc.gov](mailto:cmrdiaz@nrc.gov)

Jeffrey S. Merrifield, Commissioner  
OCM-JSM  
U.S. Nuclear Regulatory Commission  
One White Flint North, Rm. 18-F1  
Mail Stop 16 C1  
11555 Rockville Pike  
Rockville, MD 20852-2738  
e-mail: [cmmerrifield@nrc.gov](mailto:cmmerrifield@nrc.gov)

G. Paul Bollwerk III, Esq., Chairman Ad-  
ministrative 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. 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)

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)

Office of the Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
One White Flint North, Rm. 14-G13  
Mail Stop 16 C1  
Washington, DC 20555-0001  
email: [rmf@nrc.gov](mailto:rmf@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)

\* Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

\* 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)

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@harmoncurran.com](mailto:dcurran@harmoncurran.com)

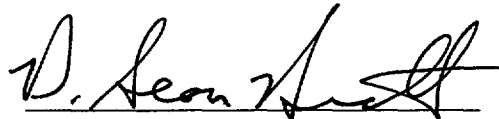
\*Richard E. Condit, Esq.  
Land and Water Fund of the Rockies  
2260 Baseline Road, Suite 200  
Boulder, CO 80302

\*By U.S. Mail only

Joro Walker, Esq.  
Land and Water Fund of the Rockies  
2056 East 3300 South, Suite 1  
Salt Lake City, UT 84109  
e-mail: [joro61@inconnect.com](mailto:joro61@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)

Samuel E. Shepley, Esq.  
Steadman & Shepley, LC  
550 South 300 West  
Payson, Utah 84651-2808  
e-mail: [Steadman&Shepley@usa.com](mailto:Steadman&Shepley@usa.com)

  
D. Sean Barnett