



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 7, 1999

Elaine Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, 5th Floor
Washington, DC 20423

SUBJECT: PARTICIPATION OF SURFACE TRANSPORTATION BOARD AS A
COOPERATING AGENCY

Dear Ms. Kaiser:

This is to confirm discussions between members of the staffs of the U.S. Nuclear Regulatory Commission (NRC) and U.S. Department of Transportation, Surface Transportation Board (STB) during a meeting on December 2, 1999. The discussions were with regard to STB participation as a cooperating agency in preparing an Environmental Impact Statement related to the application of Private Fuel Storage, L.L.C. (PFS) to construct and operate a rail line in the vicinity of Skull Valley, Utah. The rail line would link the existing main line with the proposed Private Fuel Storage Facility on the reservation of the Skull Valley Band of Goshute Indians. We have enclosed, for your review and acceptance, a proposed Agreement between NRC and STB.

If the proposed Agreement is acceptable, please endorse it and return it to the U.S. Nuclear Regulatory Commission, Mail Stop O13-D13, 11555 Rockville Pike, Rockville, MD 20852.

Sincerely,

M. Wayne Hodges

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E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Enclosure: Agreement

Docket: 72-22

cc: PFS Service Lists

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Sincerely,

/s/
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Spent Fuel Project Office
Office of Nuclear Material Safety
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Surface Transportation Board
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If the proposed Agreement is acceptable, please endorse it and return it to the U.S. Nuclear Regulatory Commission, Mailstop O13-D13, 11555 Rockville Pike, Rockville, MD 20852.

Sincerely,

E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

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**AGREEMENT BETWEEN
U.S. NUCLEAR REGULATORY COMMISSION
AND SURFACE TRANSPORTATION BOARD**

I. Purpose and Objectives

This agreement provides procedures and guidance for coordination and cooperation between the U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Material Safety and Safeguards, and the Surface Transportation Board (STB) concerning the preparation of an Environmental Impact Statement (EIS) for the application of Private Fuel Storage, L.L.C. (PFS) to construct and operate a rail line in the vicinity of Skull Valley, Utah.

This agreement is intended to assist in meeting the requirements and objectives of the National Environmental Policy Act (NEPA) through integrating each agency's planning, environmental review, and other procedures with NEPA requirements so that such efforts may take place concurrently rather than consecutively; eliminating duplication of effort; and emphasizing interagency cooperation.

II. Agency Roles

The NRC shall be the lead agency and shall supervise the preparation of the EIS. The STB shall be a cooperating agency.

III. Procedures and Responsibilities

- A. The NRC shall provide financial resources for its environmental review and preparation of the EIS. STB shall provide the financial resources to carry out its role as a cooperating agency.
- B. NRC shall identify STB as a cooperating agency for preparation of the EIS in all Federal Register (FR) Notices concerning availability of the Draft EIS, Final EIS, and any Record of Decision (ROD).
- C. Each agency shall designate a coordinator who shall be a single point of contact for the project.
- D. STB shall provide information to NRC regarding potential environmental impacts (as defined by the STB's rules at 49 CFR Part 1105) of the rail transportation options.
- E. STB shall review transportation alternatives identified by NRC and STB and provide comments where appropriate.
- F. STB shall provide to NRC required and suggested mitigating measures for constructing and operating the proposed rail line.

- G. NRC shall analyze STB's recommended changes to the Draft and Final EISs and shall describe STB's required and recommended mitigating measures in the subject EIS.
- H. NRC shall inform STB of progress on the project and shall invite STB to attend meetings (at STB's expense) related to NRC's environmental review.
- I. NRC shall provide an opportunity for STB to comment on the preliminary Draft EIS (if any), Draft EIS, preliminary Final EIS (if any), and Final EIS.
- J. Upon NRC's request, STB shall provide a letter indicating whether it concurs with the Draft EIS and Final EIS.
- K. To the extent consistent with NRC regulations and policy, NRC shall attempt to schedule notices and releases of required documents, approvals, and decisions to accommodate the requirements of STB.
- L. NRC shall provide financial resources for its technical experts to testify before the Atomic Safety and Licensing Board. If expertise within STB's authority is required, STB shall provide assistance, including expert witnesses, at STB's expense. If expertise within NRC's authority is required for any STB hearing, NRC shall provide assistance, including expert witnesses, at NRC's expense.

IV. Administration

- A. Nothing in this agreement will be construed as affecting the authorities of the participating agencies or as binding beyond their respective authorities or to require either agency to obligate or expend funds in excess of available appropriations or contributions by the applicant.
- B. NRC, as the lead agency, shall maintain the formal project file and shall make the file available to STB as needed by STB.
- C. This agreement terminates following the completion of the Final EIS and issuance of the Final ROD; or the agreement may be canceled at any time by one of the participating agencies following at least 30-days notice to the other participant.

- D. The terms of this agreement may be re-negotiated at any time at the initiative of the participating agencies, following at least 30-days notice to the other participant. Changes will be in the form of an amendment and will become effective upon signature by both agencies.

APPROVED:

E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission

M. Wayne Hodges
Signature

Dated: 7 December, 1999

Elaine Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board

Signature

Dated: _____, 1999