

October 6, 1997

**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

**APPLICANT'S ANSWER TO THE STATE OF UTAH'S
MOTION FOR AN EXTENSION OF TIME TO FILE CONTENTIONS**

I. INTRODUCTION

Applicant Private Fuel Storage L.L.C. ("PFS") submits this answer to the "State of Utah's Motion for Extension of Time to File Contentions" (the "Motion") concerning the licensing of the Private Fuel Storage Facility (the "Facility"). In its motion, dated October 1, 1997, the State of Utah (the "State") requests a 45-day extension of the deadline for filing its contentions, from October 24, 1997 set by the Board's Initial Prehearing Order, to December 8, 1997.

This motion and a companion motion to suspend¹ appear to be examples of the State's carrying out its self-proclaimed threat to do "everything possible to block storage of high level nuclear waste in Utah" (see Exhibit 1) by delaying this proceeding in order to

¹ See State of Utah's Motion to Suspend Licensing Proceedings Pending Establishment of a Local Public Document Room and Applicant's Submission of a Substantially Complete Application, and Request for Re-Notice of Construction Permit/Operating License Application, dated October 1, 1997. PFS will be filing its response to this motion later this week.

stop the Facility from going forward. The electric utility participants of PFS, however, urgently need this proceeding to progress expeditiously to its ultimate conclusion. The various participating utilities currently have limited capability to store additional spent nuclear fuel on their respective plant sites and need to ensure such storage to allow continued operations. For example, the storage capability of Northern States Power (one of the participating utilities) at its Prairie Island nuclear plant, as currently permitted by the State of Minnesota, will allow operation of the plant only until about the year 2002. PFS therefore urges the Board not to countenance what are likely to be repeated attempts of those opposed to the Facility to seek extended delays in this proceeding.

With respect to the instant motion, the State has had more than adequate time to review the application and to identify its contentions. The State has been aware of this project since late December 1996 and by April 1997 had established a multi-agency task force and a special "Office of High Level Nuclear Waste Storage Opposition" to oppose and block the project. Further, it has known for more than four years of the interest of the Skull Valley Band of the Goshute Indians (the "Skull Valley Band" or the "Band") in locating a spent fuel storage facility on its reservation. Moreover, the State was hand delivered copies of the application the very day it was received by the Nuclear Regulatory Commission ("NRC") -- more than three months ago.

Thus, the State has had sufficient time to obtain the expert technical assistance that it deemed necessary to develop the technical bases of its opposition, both generally and specifically focused on PFS's license application for the Facility. The State has not

adequately explained why it is just now engaging outside technical experts to review the application. The State should not be allowed to use its own delay in obtaining outside technical assistance to delay this proceeding.

Although PFS opposes the State's request for a 45-day extension of time, it would not oppose some modest extension of time, such as a week, provided that the prehearing conference (currently scheduled during the week of November 17, 1997) can be held before the Christmas holiday season.

II. FACTUAL BACKGROUND

PFS submitted a license application (dated June 20, 1997) which the NRC received June 25, 1997, to construct and operate an Independent Spent Fuel Storage Installation ("ISFSI") pursuant to 10 C.F.R. Part 72 on the reservation of the Skull Valley Band. On that same day, June 25, 1997, PFS hand delivered to the State copies of the license application. On July 21, 1997, the NRC formally accepted the application as complete for review and docketed the application under 10 C.F.R. Part 72 as Docket No. 72-22. On July 31, 1997, the NRC published a Notice of Opportunity for Hearing with respect to the application. The Notice informed all parties interested in intervening in the proceeding of the need to submit petitions to intervene and of the need to submit a list of contentions identifying the specific issues that a party sought to have litigated in the proceeding.

The State was fully aware of the proposal to build the Facility long before its receipt of the application in June and the NRC's Notice of Opportunity for Hearing in

July. PFS announced in late December 1996 that it had reached an agreement with the Skull Valley Band for locating the Facility on its reservation. This development was reported in the Utah papers together with statements from various State officials indicating the State's opposition to such a facility. Further, as early as February 12, 1997, the Governor of Utah appeared on Utah television stating his intention to block the Facility.

Also, starting in early 1997, PFS met on several occasions with the Utah Radiation Control Board (comprised of professional and technical personnel from throughout the State) to brief the Board on the PFS project. Further, on March 19, 1997 and April 24, 1997, State representatives attended meetings held between PFS and the NRC Staff at which PFS described the proposed Facility and, at the April 24 meeting, stated its intent to file a license application for the Facility in June. In this same time frame, the Governor of Utah undertook steps to actively oppose and block the facility. On April 15, 1997 the Governor issued an Executive Order announcing the creation of a "multi-agency task force that will do everything possible to block storage of high level nuclear waste in Utah." See Exhibit 1. Also in April, the Governor formed an "Office of High Level Nuclear Waste Storage Opposition" within the Utah Department of Environmental Quality to serve as a focal point for the State's opposition to the Facility.

In addition to establishing governmental structures for opposing the Facility, the State took concrete actions in the Spring and Summer to make known and to effectuate its

opposition. These included (1) a strongly worded letter written by the Governor to Chairman Jackson on May 19, 1997 opposing the PFS project (see Exhibit 2); (2) letters written by the Executive Director of the Utah Department of Environmental Quality on or about June 13, 1997 to the public service commissions for each of the utilities participating in PFS seeking information from each commission on the proposal; (3) the filing of 2,206 petitions with the NRC Staff on June 27, 1997 and July 21, 1997 requesting the NRC to reject the license application because of asserted deficiencies in the application; and (4) retaining by at least early August 1997 Diane Curran of the law firm of Harmon, Curran, Gallagher, and Spielberg, an experienced nuclear licensing attorney who has served as counsel on numerous nuclear licensing cases for the Union of Concerned Scientists, the New England Coalition on Nuclear Pollution, and other groups opposing the licensing of nuclear facilities. These actions by the State not only reflect its opposition to the Facility but also its active review of the application and its knowledge of regulations and related issues concerning the storage of spent nuclear fuel.²

Further, the State's knowledge and familiarity of issues concerning the storage of spent nuclear fuel within its boundaries and its opposition to such storage predates the PFS license application by at least several years. As early as 1993, the Governor had issued a policy statement strongly opposing the interim storage of spent nuclear fuel within Utah's boundaries. See Exhibit 3. Indeed, in response to the Skull Valley Band's request

² Although the State took these and other steps to oppose the Facility, it apparently failed to issue a request for proposals for outside technical assistance until August 25, 1997.

for funds in 1993 to study the possibility of locating a Department of Energy monitored retrievable spent fuel storage facility on its reservation, the Governor was quoted as saying that “[t]his is an over-my-dead-body issue.” See Exhibit 4.

The State has also developed general familiarity and expertise with respect to radiological issues by virtue of its being an Agreement State under Section 274 of the Atomic Energy Act. 42 U.S.C. § 2021. As such, the State licenses and regulates the low-level waste facility operated by Envirocare of Utah, Inc. -- one of the few such facilities in the United States -- as well as other licensees within Utah that possess certain categories of nuclear materials regulated under the Atomic Energy Act.

III. ARGUMENT

A. The Board’s Schedule Allows Sufficient Time For The State To Prepare And File Its Contentions

The schedule set by the Board in the Initial Prehearing Order allows the State sufficient time to prepare and file contentions, particularly in view of the facts set forth above. Clearly, the State has not been surprised by the prospect of a spent nuclear fuel storage facility being located on the Skull Valley Band reservation. The State has known for over four years of the Band’s desire to locate such a facility on its reservation, and of the actual proposed facility since late last year. Moreover, the State has had PFS’s application in hand for over three months.

Further, the State began to take concrete actions to do "everything possible to block storage of high level nuclear waste in Utah" as early as mid-April -- more than five months ago -- by establishing both a "multi-agency task force" and a special state "Office of High Level Nuclear Waste Storage Opposition" to actively oppose the project. The State by mid-April had already adopted a course of strenuous opposition to the project. There is no reason why it could not have undertaken steps at that time to engage outside technical assistance to evaluate the proposed project to the extent it believed such assistance was necessary. In any event, the State has its own technical expertise to draw upon, both the Radiation Control Board and the Division of Radiation Control within the Utah Department of Environmental Quality, which is reflected by its licensing and regulatory responsibilities as an Agreement State. Additionally, attorneys for the State have been involved from the beginning of this process. For example, a State Assistant Attorney General attended the March 19, 1997 meeting between the NRC Staff and PFS.

Moreover, the record suggests that the State began its evaluation of the project well before the application was filed. The Governor's strongly worded letter to Chairman Jackson on May 19, 1997 opposing the PFS project cites the "long term risks and impacts which high level nuclear waste storage places on the Goshute Reservation and the State of Utah," at least suggesting that the State knew what these "risks and impacts" were in May 1997. Further, the State's 2.206 Petition filed June 27, 1997 reflects that the State has been exploring emergency planning issues for the PFS project at least as early as May 1997. Additionally, both 2.206 petitions filed by the State (attached to the State's

companion motion to suspend) reflect a detailed review of the license application by the State as well as its knowledge of applicable NRC requirements. Indeed, the State's June 27, 1997 petition was filed within two days of having received the license application reflecting its proactive review of the application and related issues

Thus, the State has been actively opposing the Facility since early Spring utilizing its own internal technical expertise. It was delivered a copy of the license application the moment it was filed and has reviewed the application and issues related to the application. The State now suggests, however, that it needs additional time to prepare its contentions in order to engage outside technical assistance in addition to utilizing its internal expertise. Despite its active opposition on what the Governor has described as "an over-my-dead-body issue," the State apparently did not seek to retain such outside technical consultants until late August 1997, approximately four months after having established the State office for opposing the project and two months after having received the application for the facility. The State's delay in engaging outside technical consultants can only be attributed to the State and cannot be laid at the feet of the Board or the Applicant. It should not be allowed to delay this proceeding.

B. The State's Arguments Fail To Articulate Sufficient Reasons For The Granting Of Its Request For A 45-Day Extension To File Contentions

The State in its motion makes five arguments in support of its request for a 45-day extension of time for the filing of its contention. None of the arguments, however, provides a sufficient basis for the Board to grant the State's motion.

1. The State Has Had Sufficient Time To Review The Application And To Obtain And Review Technical Documents Referenced In The Application

The State argues that it needs additional time to review the multi-volume, technically complex license application received by the NRC on June 25, 1997. Motion at 4-5. However, PFS hand delivered copies of the application to the State on the same day it was received by the NRC. By the due date for submitting contentions, the State will have had four months to review the application.

The State also complains that its review is hampered by “various significant omissions and the superficiality with which licensing issues are discussed” in the application. *Id.* at 4. PFS strongly disputes the State’s characterization of the application, as it will set forth in its opposition to the State’s companion motion to suspend this proceeding. However, even assuming the State’s characterization is correct, it would not support its request for more time to file contentions. The State’s contention under 10 C.F.R. § 2.714(b) with respect to such alleged inadequacies would simply be that the application fails to discuss or adequately address issues that the State believes should be covered in the application.

The State also claims that it needs more time to review a quantitative calculation package that PFS provided to the NRC Staff subsequent to the filing of the application, and which the State received in September. *Id.* at 4-5. It is difficult to believe that these

calculations will be the source of many, if any, contentions,³ but even so, the State will have had more than a month to review the calculations before it is required under the Board's Initial Prehearing Order to file its contentions. Moreover, a party may, upon a showing of good cause, raise additional contentions during the course of the proceeding. Accordingly, if the State believes that the calculations are a source of contentions that it could not raise by the Board's current deadline for the filing of its contentions, it could, upon showing good cause and related requirements, file supplemental contentions based upon the calculations. See 10 C.F.R. § 2.714(b). There is no basis for asserting that any possible contentions on these calculations provide cause for delaying all other contentions or the entire schedule.

The State also complains that the "time provided by the Board's September 23 Order is insufficient to permit" it to either obtain or adequately review numerous supporting technical documents referenced in the application, such as the Safety Analysis Reports ("SARs") for TranStor Shipping Cask System and the TranStor Storage Cask System. Id. at 5. The State was aware, however, by mid-March 1997 that the PFS was considering utilizing the TranStor storage and shipping casks and it could have taken steps at that time to obtain the applicable SARs from the NRC Public Document Room.⁴ The

³ The calculation package only provides further details with respect to information already provided in the license application.

⁴ The State was made aware at least by the March 19, 1997 meeting between the NRC Staff and PFS that PFS was considering the use at the Facility of the TranStor Shipping and Storage Cask Systems as well as the Holtec cask systems. See "Summary of the March 19, 1997, Meeting Between the Nuclear Regulatory Commission Staff and Private Fuel Storage, LLC," dated March 24, 1997. See also Exhibit 5, an April 19, 1997 letter from the NRC to the Utah Department of Environmental Quality responding to the State's request to be placed on the service lists for the TranStor Shipping and Storage Cask Systems.

State has had months to obtain and review these documents. The State's asserted need for additional time to obtain and to review documents referenced in the application is certainly not a sufficient reason to abandon the Board's schedule set out in its Initial Prehearing Order.

2. The State's Claim For Additional Time To Gain Access To Proprietary Documents Is Equally Without Merit

The State also asserts that it needs additional time to obtain the SARs for the Holtec storage, transport, and repository cask system and the Holtec storage and transfer operation reinforced module cask system relied upon in the license application. According to the State, both SARs are proprietary and to obtain these documents the State must enter into a proprietary agreement with Holtec which "may take some time." Motion at 5.

However, non-proprietary versions of both SARs -- which contain substantial amounts of information concerning the cask systems -- are available from the NRC Public Document Room.⁵ The State has been aware for years of the Band's interest in receiving and temporarily storing spent nuclear fuel using cask transportation and storage systems, and it was informed at the March 19, 1997 meeting that PFS was considering the use of the Holtec casks at the Facility.⁶ The State certainly could have easily taken steps to

⁵ In its companion motion to suspend the proceeding (at page 11), the State claims that no non-proprietary versions of the Holtec SARs are available. This is incorrect. Non-proprietary versions of both SARs can be obtained from the NRC Public Document Room. Exhibit 6 is an October 23, 1995 cover letter from Holtec transmitting to the NRC both a non-proprietary as well as a proprietary version of the SAR for one of the Holtec casks. Moreover, counsel for PFS has been able to readily obtain the non-proprietary versions of the Holtec SARs from the Public Document Room.

⁶ See Summary of the March 19, 1997 Meeting.

obtain the non-proprietary versions of the two Holtec SARs at that time, or in mid-April when it took up its opposition against the Facility, or certainly no later than the latter part of June when it was delivered a copy of the license application.

Further, PFS has been informed by Holtec that to date the State has failed to contact it about entering into a confidentiality agreement which would enable the State to review the proprietary versions of the SARs. In a telephone conversation in early September with counsel for PFS, a representative from the State's Office of High Level Nuclear Waste Storage Opposition indicated that the State would be contacting Holtec to obtain the Holtec SARs. However, approximately a month has since elapsed with the State apparently taking no affirmative steps to obtain the proprietary versions of the Holtec SARs.⁷

Certainly, the State's tardiness in contacting Holtec to obtain the proprietary version of the Holtec SARs cannot justify the State's request for an extension of the Board's schedule to file its contentions.

3. The State Has Had Sufficient Time To Retain Outside Technical Experts To Review The License Application

The State contends that "the time provided by the Board for filing contentions is insufficient to allow the State to retain the experts and coordinate in-State experts" needed

⁷ The State also indicated in the same telephone conversation in early September that it would be contacting Sierra Nuclear Corporation to obtain the proprietary versions of the SARs for the TranStor Storage and Transportation System Casks, but again PFS has been advised by Sierra Nuclear that the State has not yet contacted it about obtaining the proprietary versions of the SAR.

to evaluate the technical issues involved with the license application. Motion at 6. As discussed above, however, the State has known since early Spring that a license application would be filed for the Facility sometime in June and has had the actual license application in hand for more than three months. The State therefore has had sufficient time to retain outside experts and to coordinate the review of the application by its in-State experts. Although the State claims to have been proceeding "diligently" to retain outside experts, it apparently did not issue a request for bids for such experts until late August, more than four months after it undertook a course of active opposition to the Facility. The State's tardiness in acting to obtain outside experts is no reason to delay the schedule set by the Board.

4. The Need To Comply With The Requirements Of 10 C.F.R. § 2.714(b) Is Not Grounds For Extending The Board's Schedule

The State also argues that an extension of the Board's schedule is warranted to allow it sufficient time to develop contentions with the required specificity and technical support. Motion at 6-7.⁸ However, as the State recognizes, the requirement for such specificity and support is not unique to this proceeding but flows from generally applicable NRC regulations which the State should have been aware of since the outset of its campaign against the Facility in early Spring. The State was certainly made aware of these

⁸The State also suggests that additional time is needed for the preparation of its contentions because of the unprecedented nature of the Facility. *Id.* There is nothing "unprecedented" about the application. The Facility's design is based upon concepts of dry cask storage that has been utilized by the nuclear industry since the middle 1980s. Similar on-site facilities have since been designed and constructed at various nuclear plants throughout the country. In addition, an application for an away-from-reactor ISFSI in Goodhue County, Minnesota was filed with the NRC in August 1996. *See* 61 Fed. Reg. 48,989 (1996)

requirements through the Notice of Opportunity for Hearing published July 31, 1997 which informed interested parties of the need to submit contentions in accordance with the requirements of 10 C.F.R. § 2.714(b). Moreover, at least by early August the State had engaged experienced nuclear licensing counsel, Diane Curran, to assist it in this proceeding. Ms. Curran has participated in many nuclear licensing proceedings, most recently the ongoing LES licensing proceeding for the Claiborne Enrichment facility,⁹ and is certainly knowledgeable of the NRC's requirements for pleading contentions.

Thus, the State has been aware for some time of the need to develop contentions with the specificity and support required by 10 C.F.R. § 2.714(b) and the need to do so is not sufficient grounds for the Board to abandon the schedule set forth in its September 23, 1997 order.

5. The Projected Length Of The Staff's Review Of The Application Is Not Grounds For Delaying This Proceeding

The final reason advanced by the State in support of its request for an extension in the Board's schedule for filing contentions is that such an extension will not injure PFS because of the lengthy time currently projected by the NRC Staff to complete its review of the application. Motion at 7-8. However, the time anticipated by the Staff for its review is only a projection. PFS has articulated to the Staff its need for this proceeding to progress expeditiously, as discussed previously, and expects to respond promptly to the

⁹ Louisiana Energy Services, L.P. (Claiborne Enrichment Center), Docket No. 70-3070-ML.

Staff's requests for additional information in order hopefully to enable the Staff to complete its review in less time than its current estimate.

Further, the Board should not extend its schedule by the 45 days requested by the State even assuming the Staff's current projection for completing its review is correct (which cannot be known at this time). The Board is charged with the duty "to take appropriate action to avoid delay." See 10 C.F.R. § 2.718. In this regard, the Commission's "Statement of Policy on Conduct of Licensing Proceedings," CLI-81-8, 13 N.R.C. 452, 453-55 (1981) directs Licensing Boards to avoid unnecessary delays by setting and adhering to reasonable schedules.

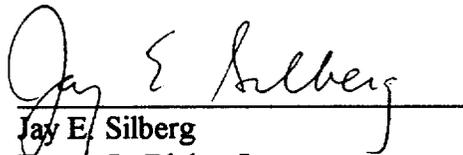
Moreover, there is much to be accomplished in this proceeding. Nothing can start until contentions have been admitted. Only then can discovery, summary disposition and other necessary tasks be undertaken in an orderly fashion. It is of no benefit to push off the start of the process. Early identification of contentions will also allow both the Staff and the Applicant to focus on those issues of concern to the parties. This it seems would benefit both the parties and the Board, and injures no one.

In short, none of the reasons advanced by the State support its requested extension of the Board's September 23 schedule for filing contentions.

IV. CONCLUSION

For the reasons stated above, PFS opposes the State's motion to extend the time in which it may file its contentions to December 8, 1997. PFS would not oppose a modest schedule extension of a week or so as long as the Prehearing Conference can still be held prior to the Christmas holidays. Any longer delay will have an unavoidable and damaging cascading effect that will significantly prejudice the Applicant's interests.

Respectfully submitted,



Jay E. Silberg
Ernest L. Blake, Jr.
SHAW, PITTMAN, POTTS &
TROWBRIDGE
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Washington, D.C. 20037
(202) 663-8000
Counsel for Private Fuel Storage L.L.C.

Dated: October 6, 1997

EXHIBIT 1

EXECUTIVE ORDER

Whereas, our state faces the threat of becoming the nation's dumping ground for high level nuclear waste; and

Whereas, Utahns don't generate nuclear power and don't consume nuclear power; and

Whereas, our state is being seriously considered as a storage site for more than 200,000 rods of spent nuclear waste; and

Whereas, nearly a dozen major utilities, most of them on the east coast, need a place to dump high level nuclear waste, which is a byproduct of the power they generate; and

Whereas, the ratepayers of these major utilities are not willing to store something this dangerous in their backyards, so these companies are willing to pay a very high price to move it to Utah and

Whereas, some of Utah's Goshute Indians propose building concrete containers and storing nuclear waste from all over the country in the Utah desert, 40 miles west of the Wasatch Front, thus making Utah a nuclear dumping ground ten times the size of any facility of this type anywhere in the entire United States; and

Whereas, building the biggest nuclear waste graveyard in the country is not a good quality of life decision for anyone in Utah; and

Whereas, the nuclear waste that would be brought to Utah doesn't last one year or 20 years, or 100 years, but remains lethally radioactive for 10,000 years. If nuclear waste comes to Utah, chances are it won't be moved again; and

Whereas, train and truck accidents do happen, containers do break, and human lives could well be at risk;

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah, do hereby order the following:

1. Create a multi-agency task force that will do everything possible to block storage of high level nuclear waste in Utah.

2. The task force shall be led by the Executive Director of the Department of Environmental Quality.

3. The task force shall be charged with researching and communicating all risks to all decision makers in this process, and coordinating all other efforts by the state to oppose the siting of nuclear waste in Utah, including the following:

- * Letters will be sent immediately to the President, the Skull Valley Goshutes, the Nuclear Regulatory Commission, Congress, the nuclear waste proprietors and others notifying them of the state's opposition, and appealing for other alternatives.

- * The Nuclear Regulatory Commission will be petitioned for standing to intervene in the regulatory process if and when a license application is officially submitted.

- * The state will actively oppose the license application and will seek complete and exhaustive reviews, and reconsideration and appeals if necessary.

- * All possible evaluations of the site will be undertaken, including an Environmental Impact Statement.

- * The fallacy of the term "temporary facility" will be exposed.

4. This Executive Order shall be in force until rescinded.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 15th day of April, 1997.
(STATE SEAL)

MICHAEL O. LEAVITT
Governor

Attest:
OLENE WALKER
Lieutenant Governor

EXHIBIT 2



MICHAEL O LEAVITT
GOVERNOR

STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114-0601

OLENE S WALKER
LIEUTENANT GOVERNOR

May 19, 1997

Shirley Ann Jackson, Chair
Nuclear Regulatory Commission
US NRC
Washington DC 20 55

Dear Chairman Jackson:

Over the last several years, I have stated publicly and unequivocally my opposition to the siting of a temporary storage facility for high level nuclear waste within the State of Utah. In 1993, I issued a Policy Statement regarding such efforts.

I am writing to you to reaffirm my strong opposition to the efforts of Private Fuel Storage to store high level nuclear waste at the presently proposed site on the Skull Valley Goshute Indian Reservation or anywhere else within Utah. Such storage presents a number of concerns, including the following.

- o "Temporary" storage cannot be guaranteed to be temporary. The proposed facility will be designed and constructed as a temporary facility. However, there is no way to ensure that the spent fuel rods which are shipped and stored at the site will ever be removed.
- o Need for this temporary storage site is not documented. The General Accounting Office, with the concurrence of the Department of Energy, has determined that sufficient temporary capacity exists for spent fuel rods to be stored at existing sites, pending completion of a permanent storage facility.
- o Utah has not generated these wastes. Utah takes seriously its responsibility for managing the storage and disposal of waste problems within the state. We have no interest in increasing the risk to people in this area by importing high level nuclear waste.
- o Health and safety issues regarding transportation of high level nuclear waste have not been addressed.

VDR # 9706110235

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I recognize that the Skull Valley Band of the Goshute Indian Tribe has a compelling interest in economic development. However, the long term risks and impacts which high level nuclear waste storage places on the Goshute Reservation and the State of Utah far outweigh the incentives.

I encourage your opposition to this temporary high level nuclear waste facility. I would welcome the opportunity to discuss this matter with you. If you would like additional information, please contact Dianne Nielson, Executive Director of the Utah Department of Environmental Quality, at 801-536-4404. Thank you for your careful consideration of this critical issue.

Sincerely,

A handwritten signature in black ink that reads "Michael O. Leavitt". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail on the "t".

Michael O. Leavitt
Governor

MOL:DRN:dco

EXHIBIT 3

Policy Statement
By Governor Leavitt
on Monitored Retrievable Storage
Jan. 18, 1983

After careful review, I am announcing today my opposition to the siting of a high-level nuclear waste storage facility in Utah. I oppose such a facility in Utah out of concern for the long-term interests of our state, for the reasons listed below.

I have informed San Juan County commissioners of my decision and have forwarded a letter to them. This action precludes them from applying for a Phase IIa feasibility grant under the Department of Energy's process conducted by the U.S. Nuclear Waste Negotiator to find a volunteer site for Monitored Retrievable Storage (MRS).

I recognize that San Juan County and Southeastern Utah face economic problems. The MRS facility would provide jobs and an infusion of money. But I believe the risks and problems outweigh the potential benefits.

My decision is based on the following reasons:

1. Utah has already been somewhat of a national sacrifice area as a result of nuclear activities. I am not willing to voluntarily bring in high-level nuclear waste from all over the country for what will likely amount to permanent storage.

2. Health and safety issues regarding transportation of spent nuclear fuel continue to be a problem area. I do not believe these issues have been adequately examined. Transportation over long distances is especially difficult to justify if storage capacity is available at reactor sites.

3. I do not believe it is in the best interests of San Juan County or Southeastern Utah to accept an MRS facility. An economic analysis by my Office of Planning and Budget indicates that state and local governments would experience a net loss of about \$300,000 annually following the construction phase, unless reimbursed by the federal government, because the infusion of tax dollars would not be enough to pay for the increased government services, such as education, police protection and road maintenance.

In addition, the tourism and recreation industries, which are highly important to San Juan County, would suffer significantly from the stigma of being what would be characterized nationally as a "nuclear dumping ground."

4. I believe the MRS concept is flawed. It makes little sense to transport nuclear waste from all over the country to a "temporary" site (to be stored until a permanent site is prepared) when adequate storage space exists at nuclear power plants, where the waste is created, for the foreseeable future.

According to numerous studies and expert testimony, the nuclear waste can be stored safely in special canisters for many years. If that is the case, it makes more sense to store the waste on-site, where it is produced, until a permanent storage site is prepared. The waste would then have to be handled and transported only once, instead of twice, saving a great deal of money and reducing the chances of a serious accident.

The General Accounting Office, the Nuclear Regulatory Commission, and even the Department of Energy itself have recently questioned the need for an MRS facility. Within the federal government itself there is serious debate and questions regarding the MRS process.

5. While the concept of MRS is supposed to be temporary storage, the reality is that an MRS facility will likely become permanent. It has been extremely difficult for the DOE to find a permanent storage site. Yucca Mountain in Nevada has been chosen as the permanent site, but serious questions remain as to whether it will, in fact, ever receive any nuclear waste. The State of Nevada continues to fight placement of waste there and serious seismic problems exist with the site.

Thus, once a MRS site is selected and nuclear waste is located there, the pressure will be off to find a permanent site. The nuclear energy industry will also stop pressuring the federal government to find a permanent site because the waste will be gone from the nuclear power plants. Anyone who looks realistically at the process agrees that an MRS site will become a permanent storage site.

I do not believe it is in the long-term interests of Utah to have a permanent high-level nuclear waste storage site in our state.

6. The federal government has not proven itself to be a reliable partner in fulfilling its promises or following policy it has established. Although the Nuclear Waste Negotiator has stated that a volunteer site may withdraw from consideration even after receiving "feasibility grants," the repository selection process has shown that sites which have been studied are more likely to be forced into participation, eg. Yucca Mountain. The Department of Energy has a track record of numerous delays, cancellations, cost overruns, and changes of direction. This is not a process Utah should embrace, because disappointment will likely follow.

EXHIBIT 4

EXHIBIT 5

Mr. William J. Sinclair, Director
 Department of Environmental Quality
 Division of Radiation Control
 State of Utah
 168 North 1950 West
 P.O. Box 144850
 Salt Lake City, UT 84114-4850

April 29, 1997

SUBJECT: RESPONSE TO LETTER DATED APRIL 15, 1997

Dear Mr. Sinclair:

I am responding to your April 15, 1997, letter to Mr. Dennis Reid, in which you request that you and Denise Chancellor of Utah's Attorney General's Office be placed on the service list for Dockets 71-9268 (Sierra Nuclear Corporation's application for certification of the TranStor shipping cask) and 72-1023 (the TranStor storage cask). Since the Nuclear Regulatory Commission staff does not maintain service lists for either transportation casks or storage casks that are being reviewed for use under the general licensing provisions of 10 CFR Part 72, we cannot take the action you request. Information on these types of applications can be requested from the NRC Public Document Room.

The NRC staff intends to continue to ensure that the State of Utah and other interested parties are provided with all appropriate information associated with the proposal by Private Fuel Storage, LLC, (PFS) to apply to the NRC for a license to operate an Independent Spent Fuel Storage Installation (ISFSI) on the Skull Valley Goshute Indian Reservation. If, as is currently anticipated, an application is received from PFS and docketed, a service list for that application will be established, and both you and Ms. Chancellor will be included on it. As part of its application, PFS will have to identify the cask system(s) anticipated for use at the ISFSI. The NRC staff will review the Safety Analysis Report for the cask system(s) identified to determine whether compliance has been demonstrated with all applicable regulatory requirements, as they relate to the Skull Valley Facility.

I am the Senior Project Manager assigned to the PFS proposal. I will manage the NRC staff review of any application received in this regard. Please feel free to contact me with any questions. I can be reached at 301 415-8518.

Sincerely,

Original signed by /s/

Mark S. Delligatti
 Senior Project Manager
 Spent Fuel Project Office
 Office of Nuclear Material Safety
 and Safeguards

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EXHIBIT 6



2060 Fairfax Avenue, Cherry Hill, NJ 08003-1666

Telephone: (609) 424-0999

Telex: 910-240-6663

Telefax: (609) 424-1710

71-9261

October 23, 1995

Mr. William Travers
Director of Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards
Mail Stop 06F18
U.S. Nuclear Regulatory Commission
White Flint Building
11555 Rockville Pike
Rockville, MD 20852

Subject: Submittal of Additional Copies of Revision 3 of Holtec International Storage, Transport and Repository (HI-STAR) 100 System Safety Analysis Report for Packaging, Holtec Report Number HI-951251 under NRC Docket #71-9261 (refer to Holtec International Project H-5014).

- Reference:
1. Holtec Letter 501443 dated September 8, 1995 from K.P. Singh to Mr. Charles Haughney (cover letter accompanying original submittal of Revision 3 of Holtec Report HI-951251 made on September 8, 1995).
 2. Holtec International Letter from Dr. Alan I. Soler to Mr. Charles Haughney of the NRC Office of Nuclear Materials and Safeguards, dated June 21, 1995
 3. NRC Letter from Mr. Michael Raddatz to Holtec dated October 6, 1995

Dear Mr. Travers:

Holtec International herewith submits additional copies of Revision 3 to our subject Safety Analysis Report for Packaging (SARP) which was previously provided to the U.S. Nuclear Regulatory Commission by Holtec (Reference 1). This revision included updated material for the criticality analyses in Chapter 6 and Revision 1 of the HI-STAR design drawings. This revision to the TSAR was occasioned by the selection of HI-STAR by ComEd for defueling its Dresden Unit One reactor in 1997. Additional copies of our 10CFR Part 72 Topical Safety Analysis Report (Report HI-941184) (USNRC Docket #72-1008 (Reference 2)), are also being forwarded under separate cover letter.

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PDR ADDCK 07109261
B PDR



Mr. William Travers
U.S. Nuclear Regulatory Commission
October 23, 1995
Page 2

Revision 3 packages were submitted to the NRC on September 8, 1995. Eight additional complete proprietary books were sent to Lawrence Livermore on October 6, 1995 at the request of Mr. Michael Raddatz. The copies being submitted today are in response to Reference 3. The original proprietary affidavits submitted with Reference 1 apply to these additional copies, as well.

Please contact me if you have any questions with respect to these additional copies.

Very truly yours,

A handwritten signature in cursive script that reads "Mark Soler".

Mark Soler
Senior Project Manager
MS:nlm

Document ID: 501448

- Enclosures: 1. Six (6) copies of the Proprietary Version of Revision 3
2. Six (6) copies of the Nonproprietary Version of Revision 3

October 6, 1997

**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 Answer To The State Of Utah's Motion For An Extension Of Time To File Contentions," dated October 6, 1997 were served on the persons listed below (unless otherwise noted) by facsimile with conforming copies by US mail, first class, postage prepaid, this 6th day of October 1997.

G. Paul Bollwerk III, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

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

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

* Charles J. Haughney
Acting Director, Spent Fuel Project Office
Office of Nuclear Material Safety and
Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

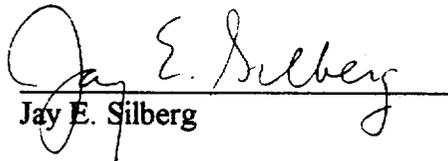
*Danny Quintana, Esq.
Danny Quintana & Associates, P.C.
50 West Broadway, Fourth Floor
Salt Lake City, Utah 84101

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications
Staff

(Original and two copies)

Jan Graham, Attorney General
Denise Chancellor, Assistant Attorney
General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114-0873

* By U.S. mail only


Jay E. Silberg