

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	Docket No. 72-22-ISFSI
PRIVATE FUEL STORAGE, LLC)	
(Independent Spent Fuel)	ASLBP No. 97-732-02-ISFSI
Storage Installation))	May 6, 1998

**STATE OF UTAH'S MOTION FOR CLARIFICATION
AND RECONSIDERATION OF LBP-98-7**

Pursuant to LBP-98-7, the State of Utah files this Motion for Clarification and Reconsideration of LBP-98-7, Memorandum and Order (Rulings on Standing, Contentions, etc.) (April 22, 1998). The State's Motion for Reconsideration requests clarification of the Board's Order to the extent that it is insufficiently explained, and it also presents reasons why certain contentions and bases should have been admitted. However, by requesting reconsideration of only certain contentions the State does not waive any rights it may have to appeal other contentions and bases that were rejected or to disagree with the Board's decision in rejecting these contentions.

A. Request for Clarification of the Rationale for the Board's Ruling
Dismissing Various Utah Contentions and Bases.

The purpose of a motion for reconsideration is to demonstrate error in a decision by the Licensing Board. Texas Utilities Electric Co. (Comanche Peak

Steam Electric Station, Units 1 and 2), LBP-84-10, 19 NRC 509, 517 (1984). In order for an opportunity to seek reconsideration to be meaningful, the Board must provide a sufficient explanation for its decision to allow the parties to identify and respond to the Board's application of the law to the facts. As the Appeal Board held in Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-504, 8 NRC 406, 410-11 (1978), licensing boards have an obligation "to articulate in reasonable detail the basis for their determination." As the Board further explained:

[T]he general duty of licensing boards to insure that initial decisions and miscellaneous memoranda and orders contain a sufficient exposition of any ruling on a contested issue of law or fact to enable the parties, and this Board on its review, readily to apprehend the foundation for the ruling. Compliance with the general duty is not a mere procedural nicety but is a necessity if we are to carry out efficiently our appellate review responsibilities.

Id., 8 NRC at 411. Diablo Canyon, 8 NRC at 410, 412. See also Commonwealth Edison Co. (Carroll County Site), ALAB-601, 12 NRC 18, 23 (1980) (holding that in ruling on the admissibility of contentions, *inter alia*, the Board has an obligation to make known the underpinnings of its determination on all significant matters of law and fact). Furthermore, NRC rules of practice require a reasoned basis for the issuance of a presiding officer's initial decision,¹ which by extension

¹ A presiding officer's initial decision must include, *inter alia*, "(1) Findings, conclusions and rulings, with the reasons or basis for them, on all material issues of fact, law, or discretion

should also apply to other substantive rulings.

The requirement for an agency to adequately explain the basis for its decisions constitutes a fundamental principle of administrative law. As the court in Public Citizen, Inc. v. FAA, 988 F.2d 186, 197 (D.C. Cir. 1993) explained, "The requirement that agency action not be arbitrary and capricious includes a requirement that the agency adequately explain its result." Moreover, "the agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co., 463 U.S. 29, 43 (1983). A court may uphold a decision "if the agency's path may reasonably be discerned," but not when "boilerplate language" used by the agency makes it "impossible to discern" the agency's path. Dickson v. Secretary of Defense, 68 F.3d 1396, 1404-05 (D.C.Cir. 1995), quoting Bowman Transp. Inc. v. Arkansas-Best Motor Freight System, 419 U.S. 281, 286 (1974). Thus, in Dickson, the court found that while a military board recited the facts of a discharge classification case, it erroneously omitted the critical step of connecting the facts to the conclusion. Dickson, 68 F.3d at 1405.

Here, LBP-98-7 provides the State with insufficient notice of the Board's

presented on the record; [and] (2) All facts officially noticed and relied on in making the decision." 10 CFR § 2.760(c) (*emphasis added*).

rationale for its decision to permit the State to precisely identify and dispute the errors made by the Board in applying the law to the specific facts of the State's contentions. In ruling on the admissibility of a particular contention, LBP-98-7 often fails to relate the facts or specifics of the contention and bases to the applicable legal standard. Rather the Board relies on very general statements and refers back to its introductory discussion of the standards for admissibility found in Part II.B of the decision. For example, the Board frequently relies on the following or similar rationale as the only explanation for rejecting a contention in whole or in part:

Inadmissible in that the contention and its supporting bases fail to establish with specificity any genuine dispute; impermissibly challenge the Commission's regulations or rulemaking-associated generic determinations; and/or lack adequate factual and expert opinion support. See section II.B.1.a.i., ii., v. above.

LBP-98-7 at 66, 67, 88, and 89; similar language is also used at 60, 61, 74, 75, 77, 79, 82, 83, 86, 92, 94, and 104. This "boilerplate" language is insufficient to demonstrate how the Board applied the law to the specific facts of the contention. Dickson, *supra*, 68 F.3d at 1405. Moreover, by using the phrase "and/or" in relation to the various potentially legal standards, the Board leaves unclear even the fundamental question of which aspect of the law was actually applied.

Accordingly, the State requests the Board provide a complete and full

elucidation of the basis of its ruling for rejecting the following contentions:

Contention G (Quality Assurance), bases 2 and 3. LBP-98-7 at 64.

Contention I (Lack of a Procedure for Verifying the Presence of Helium in Canisters.). Id. at 66.

Contention J (Inspection and Maintenance of Safety Components, Including Canisters and Cladding). Id. at 66-67.

Contention P (Inadequate Control of Occupational and Public Exposure to Radiation). Id. at 74.

Contention Q (Adequacy of ISFSI Design to Prevent Accidents). Id. at 75.

Contention R (Emergency plan), bases 1 (non-admitted portions), 2, 3 and 4 (subparagraph a.), and 5. Id. at 77.

Contention S (Decommissioning), bases 3, 6, 7, 8, and 9. Id. at 79.

Contention T (Inadequate Assessment of Required Permits and Other Entitlements), basis 1. Id. at 82.

Contention U (Impacts of Onsite Storage not Considered), bases 2, 3, and 4. Id. at 83.

Contention V (Inadequate Consideration of Transportation-Related Radiological Environmental Impacts), bases 1, 2 (non-admitted parts), 3, and 4. Id. at 86.

Contention W (Other Impacts not Considered), bases 1, 2, 3 (relating to PFS facility), 4, 5, and 6. Id. at 88.

Contention X (Need for the Facility). Id. at 88.

Contention Y (Connected Actions). Id. at 89.

Contention CC (One-sided Cost-Benefit Analysis). Id. at 92.

Contention DD (Ecology and Species), bases 1, 2, 3, 4 (subparagraphs a, b, e, and f), 5, and 6. Id. at 94.

Contention GG (Failure to Demonstrate Cask-Pad Stability During Seismic Event for TranStor Casks), bases 3 and 4. Id. at 104.

For ease of reference, Exhibit 1, attached hereto, excerpts the Board's ruling rejecting the above contentions and bases. The State further requests the Board to provide a ten day period for the parties to respond to any reissued order.

B. Request for Reconsideration of Specific Contentions that Were Deemed Inadmissible

To ensure that the State's arguments regarding specific contentions are placed before the Board, and in spite of the lack of explanation for the dismissal of certain contentions or bases, the State submits a request for reconsideration of the following contentions or bases.

Contention J. Inspection and Maintenance of Safety Components, Including Canisters and Cladding

Contention J asserts that:

The design of the proposed ISFSI fails to satisfy 10 C.F.R. § 72.122(f) and 72.128(a), and poses undue risk to the public health and safety, because it lacks a hot cell or other facility for opening casks and inspecting the condition of spent fuel.

The contention is supported by extensive bases demonstrating the need for the capability to inspect and maintain canisters and fuel cladding in the event of damage. State of Utah's Contentions, dated November 23, 1997, at 63-71. *See*

also State of Utah's Reply, dated January 16, 1998, at 49-53, Prehearing Conference, Tr. at 189 - 219. Due to the high radioactivity level of the canisters and cladding, inspections and repairs cannot be performed without special equipment such as a hot cell or spent fuel pool.

The Licensing Board dismissed the contention with only the following brief statement:

Inadmissible in that the contention and its supporting bases impermissibly challenge agency regulations or rulemaking-associated generic determinations, including those concerning canister inspection and repair; and/or lack adequate factual information or expert opinion support. See section II.B.1.a.i, ii., v. above.

LBP-98-7 at 66-67. As discussed in section A above, the Board's ruling is so terse and generalized as to prevent the State from understanding how the Board applied the law to the facts asserted in this contention.

The only assertion in the Board's decision that approaches some degree of specificity is the statement that the contention challenges regulations or generic determinations "concerning canister inspection and repair." LBP-98-7 at 66. Without waiving its request for a full explanation of the Board's decision, the State responds to what appears to be the Board's adoption of an argument made by the Applicant that canisters do not need to be inspected, because the Commission has stated that spent fuel cask systems with helium-filled canisters

double-welded shut need not be inspected for leaks or corrosion, or opened up to inspect the cladding. Applicant's Answers to Petitioners' Contentions dated December 24, 1997, at 134, *citing* 59 Fed. Reg. 65,898, 65,901 (1994).

The Federal Register notice cited by the Applicant does not support the Board's determination that Contention J constitutes a challenge to the NRC's regulations concerning canister inspection and repair. The notice merely provides that licensees do not need to inspect or monitor canisters for corrosion, because the likelihood of corrosion of the stainless steel canisters is "very small." 59 Fed. Reg. at 65,902. The notice does not address situations following the discovery of defects or anomalies in canisters, when licensees must take appropriate measures to inspect and maintain the canisters and spent fuel in order to restore them to a safe condition.² To address such circumstances, NRC regulations quite clearly require licensees to have the *capability* to inspect, test, and repair defective canisters. *See* 10 CFR § 72.122(f) ("Systems and components that are important to safety³ must be designed to permit inspection, maintenance, and testing")

² For example, in 1992 the NRC Staff discovered defects in the recordkeeping regarding welds on canisters used for dry cask storage at the Palisades plant. Contention J at 68, citing Inspection Report 72-1007/92-01 (May 6, 1992). As a result, one of the canister must be unloaded.

³ There is no dispute that the canister constitutes a component that is important to safety. Applicant's Response at 133. The fuel cladding also constitutes a safety component, because it is relied on to prevent damage to spent fuel during handling and storage, and provide reasonable assurance that the spent fuel can be handled without undue risk to the public. *See* definition of

(*emphasis added*); 10 CFR § 72.128(a)(1) (spent fuel storage systems must be designed with a "capability to test and monitor components important to safety") (*emphasis added*).

Moreover, the Federal Register notice cited by the Applicant explicitly anticipates that canister breaches may be discovered, thus requiring the capability to transfer the fuel to an intact canister.⁴ 59 Fed. Reg. at 65,901. The activities incident to unloading of damaged canisters necessarily involve and encompass inspection, testing, and maintenance of canisters and the fuel within. For example, the Certificate of Compliance for the VSC-24 storage cask contemplates that fuel may need to be removed from the multi-assembly sealed basket (*i.e.*, the canister) "either at the end of service life or for inspection after an accident." Certificate of Compliance for Dry Spent Fuel Storage Casks, Certificate No. 1007 at A-2 (May 7, 1993) (*emphasis added*). *See* Exhibit 3 to State's Reply.

structures, systems, and components important to safety in 10 C.F.R. § 72.3. Moreover, even though the NRC allows reliance on the canister as a substitute for cladding (51 Fed. Reg. 19,106, 19,108 (1986)), in the event of a canister breach the cladding would become the first line of defense against a radioactive release.

⁴ As further stated in the notice:

According to 10 C.F.R. § 72.122(l), storage systems must be designed to allow ready retrieval of the spent fuel in storage. A general licensee using an NRC-approved cask must maintain the capability to unload a cask. Typically, this will be done by maintaining the capability to unload a cask in the reactor fuel pool. Other options are under consideration that would permit unloading a cask outside the reactor pool.

59 Fed. Reg. at 65, 901.

Contrary to the requirements of 10 C.F.R. §§ 72.122(f) and 72.128(a)(1), PFS proposes no "design" features whatsoever to permit onsite inspection and maintenance of canisters or cladding.⁵ Instead, PFS merely proposes to send the fuel back to the originating nuclear plants. Not only does this proposal fail to satisfy the regulations, but it is unreasonable. Given that one of the key purposes of the proposed ISFSI is to permit nuclear power plant licensees to shut down and decommission their facilities, the originating spent fuel pools are likely to be decommissioned during the term of the proposed ISFSI's operation, and thus unavailable to PFS. Moreover, shipping defective fuel or canisters unacceptably decreases the safety margin. *See State's Contentions at 71.*

Accordingly, the Applicant has not proposed a reasonable means for complying with NRC regulations requiring the capability to inspect and maintain canisters and fuel cladding. 10 C.F.R. §§ 72.122(f) and 72.128(a). The Board should reconsider its decision that Contention J is barred by the NRC's regulations for inspection and maintenance of canisters, and admit the contention.

Contention W: Other Impacts Not Considered

As summarized in LBP-98-7, Contention W asserts that:

⁵ Although the Applicant vaguely suggests the existence of various technologies that might substitute for an onsite spent fuel pool or hot cell, the license application contains no commitment to any particular method, nor does it contain any design information. *See State's Reply at 52-53.*

The Environmental Report does not adequately consider the adverse impacts of the proposed ISFSI and thus does not comply with NEPA or 10 C.F.R. § 51.45(b) in that:

1. The Applicant has not discussed the cumulative impacts of this facility in relationship to hazardous and industrial facilities/activities located in the region of the ISFSI site and the intermodal transfer point.
2. The Applicant has not evaluated the potential for accidents from the heavy haul trucks that could make up to 400 trips per year along the Skull Valley Road, a secondary two-way paved road.
3. The Applicant has not considered the impact of flooding on its facility or the intermodal transfer point
4. The Applicant has not adequately discussed the degradation of air quality and water resources due to construction, operation, and maintenance of the ISFSI.
5. The Applicant has not fully assessed the environmental impact of placing 4,000 casks over a site with such complex seismicity, capable of faults and potentially unstable soils.
6. The Applicant has not adequately considered the cost of the visual impact of the proposed ISFSI and of the transportation of spent fuel by heavy haul trucks along Skull Valley Road on the public's use and enjoyment of the area.

LBP-98-7, at 86-87.

The Board admitted only that part of basis 3 which challenges the Applicant's failure to consider flooding on the intermodal transfer point. The other portions of the contention were rejected on the grounds that:

they and their supporting bases fail to establish with specificity any

genuine dispute; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., v., vi. above.

LBP-98-7 at 88.

As discussed above in Section A, the State seeks clarification of the Board's ruling, because it does not explain how the Board applied the law to the facts of this contention. Without waiving its request for clarification, however, the Board also seeks reconsideration of certain portions of this ruling that appear to be inconsistent with other aspects of LBP-98-7, in which the Board accepted contentions asserting the same facts. Until such time as the adequacy of the license application with respect to admitted health and safety contentions is resolved, it is not reasonable to conclude that the same factual issues are adequately addressed in the Environmental Report. In particular, the State requests reconsideration of the admissibility of paragraphs 1, 3, 4, and 5.

Paragraph 1 (cumulative impacts) incorporates Contention K (State's Contentions at 162), which contends that PFS did not address all credible accident events, especially those external to the facility. Id. at 72. Contention K was admitted by the Board. LBP-98-7 at 67. The Environmental Report relies on the SAR § 8.2 for the range of postulated accident scenarios. ER at 5.1-2. It is inconsistent for the Board to reject this aspect of Contention W, when the

Contention challenges the ER's reliance on the same accident analysis that the State has been permitted to question under Contention K.

Similarly, the rejected portion of Contention W, paragraph 3, which asserts that the ER fails to consider the impacts of flooding on the proposed ISFSI, incorporates by reference Contention N (State's Contentions at 163), admitted in its entirety by the Board. LBP-98-7 at 70. In Contention M, the State references the Environmental Report as well as the Safety Analysis Report in disputing the 26 square mile drainage area used by PFS to compute the Probable Maximum Flood and the flooding effects on the facility. State's Contentions at 96-97. It is inconsistent for the Board to accept Contention M, which specifically addresses the inadequacy of the ER, and yet reject paragraph 3 of Contention W.

Paragraph 4 (pollution), incorporates Contention T Basis 3 (State's Contentions at 163), which specifically references the ER 4.3.3 in discussing why the Applicant's air quality analysis is deficient; challenges the air quality dispersion modeling analysis in ER 4.8-2; contests the Applicant's description of air emissions sources in ER 9.1-4; and contests whether construction equipment and activities described in ER 3.2-1 will create major sources of air pollution. Id. at 137. Contention T, Basis 3 admitted by the Board in relation to permits and other entitlement required under NEPA (LBP-98-7 at 81) should also be admitted

under Contention W because by incorporating Contention T into Contention W, it raises a separate issue that must be addressed under NEPA: the degradation of air quality from this licensing action.

Paragraph 5 (seismic) incorporates Contention L. State's Contentions at 163. The underlying Geology and Seismology discussion in the Environmental Report relies on SAR Appendices 2A and 2B. Contention L challenges the analysis contained in the SAR, including the Appendices and the PFS Calculation Package. State's Contentions at 80-95. All of the foregoing contentions and bases have been admitted into this proceeding with respect to 10 CFR Part 72 and other health and safety requirements, but under the present ruling there will be no NEPA analysis of those admitted contentions.

NEPA is a legal requirement separate and apart from the Atomic Energy Act. Under NEPA § 102(2)(B) "all agencies of the Federal Government shall ... identify and develop methods and procedures ... which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." 42 USC § 4332(2)(B).

As the Commission stated, "the principal goals of an FEIS are two-fold: to force agencies to take a "hard look" at the environmental consequences of a

proposed project, and, by making relevant analyses openly available, to permit the public a role in the agency's decision-making process," and referred to Robertson v. Methow Valley Citizens Council, 490 US 332, 349-50 (1989) and Hughes River Watershed Conservancy v. Glickman, 81 F.3d 437, 443 (4th Cir. 1996). Louisiana Energy Services (Claiborne Enrichment Center), CLI-98-3, 1998 WL 191134 at *5 (1998). In Robertson, the Supreme Court stressed that the draft and final EIS played an important informational role in providing a springboard for public comment. Moreover, said the Court, "omission of a reasonably complete discussion of possible mitigation measures would undermine the 'action-forcing' function of NEPA." Robertson, 490 US at 352.

If the Board's decision limiting the scope of Contention W stands, the Environmental Report, and possibly the draft EIS, will contain a major defect in its presentation of the environmental effects of potential flooding on the facility; cumulative impacts from surrounding hazardous and industrial activities; potential for accidents along Skull Valley Road; degradation of air quality and water resources; consequences of placing spent nuclear fuel over an area of complex seismicity; and visual impacts. Consideration of all of these effects is fundamental to the "hard look" that is required by NEPA and necessary to provide a springboard for public comment; thus, Contention W should be admitted in its entirety.

Contention CC: One-Sided Cost-Benefit Analysis

Contention CC alleges:

Contrary to the requirements of 10 C.F.R. § 51.45(c), the Applicant fails to provide an adequate balancing of the costs and benefits of the proposed project, or to quantify factors that are amenable to quantification in that:

1. Applicant's Environmental Report makes no attempt to objectively discuss the costs of the project.
2. Applicant fails to weigh the numerous adverse environmental impacts discussed, for example, in Contentions H through P, against the alleged benefits of the facility.
3. Applicant fails to compare the environmental costs of the proposal with the significantly lower environmental costs of the no-action alternative.
4. Applicant fails to weigh the benefits to be achieved by alternatives that could reduce or mitigate accidents, environmental contamination, and decommissioning costs, such as inclusion of a hot cell in the facility design.
5. Applicant makes no attempt to quantify the costs associated with the impacts of the facility, many of which are amenable to quantification in that:
 - a. costs related to accidents and contamination may be quantified in terms of health effects and dollar costs;
 - b. decommissioning impacts can be quantified;
 - c. visual impacts can be quantified in terms of lost tourist dollars; and
 - d. emergency response costs can be quantified based on the cost of those services.

LBP-98-7 at 92.

Using boilerplate language similar to that on page 4, *supra*, and without further explanation, the Board rejected Contention CC. Without waiving its request for clarification, the State seeks reconsideration of this ruling.

In a recent decision the Commission reviewed the cost-benefit analysis relating to the "no action alternative" as described in a final Environmental Impact Statement (FEIS). Louisiana Energy Services (Claiborne Enrichment Center), CLI-98-3, 1998 WL 191134 (1998). The Commission was faced with a FEIS that contained a discussion of the no action alternative in "three-quarters of a page in five brief paragraphs" with cross references to other costs. *Id.* at *12. By contrast, the FEIS "meticulously identifie[d] virtually all of the ...[facility's] expected benefits, from positive local environmental effects, to the creation of jobs and generation of new tax revenues, to various national policy goals." *Id.* at *14. The Commission found the lopsided discussion of costs associated with the project lacked balance and evenhandedness, and directed the Staff to rework the EIS "to provide a fair accounting of the costs and benefits of no-action and how the NRC staff evaluates them." *Id.* at *14.

The Applicant's Environmental Report, like the FEIS in the Claiborne case, meticulously catalogues the project's expected benefits ranging from the national effects of reducing air pollution to the local benefits of job creation,

increased tax revenue, economic opportunity and infrastructure improvements.

ER § 7.2. Meanwhile, the costs associated with the project are contained in two paragraphs and one table. ER at 7.3-1, Table 7.3-1. The Applicant merely recites as direct costs \$100 million for capital costs and \$1.536 billion and \$1.125 billion for lifecycle costs (20 and 40 year operating life, respectively).⁶ Indirect cost are deemed "minimal." ER at 7.3.1.

None of the "costs" discussed in ER § 7.3 relate to environmental costs. Subpart 2 of Contention CC cites to Utah Contentions H through P as examples of the Applicant's failure to weigh adverse environmental impacts against the alleged benefits of the facility. The Board admitted Utah Contentions H (Thermal Design), K (Credible Accidents), L (Geotechnical), M (Probable Maximum Flood), N (Flooding), and O (Hydrology) in their entirety except for transportation-related issues. LBP-98-7 at 65-71. There being sufficient specificity, support and non-challenge to applicable regulations to admit those contentions under the health and safety provision also argues for contention CC, subpart 2 being admissible under NEPA.

⁶ The State in Contentions E (Financial Assurance) and S (Decommissioning) challenged PFS's costs estimates partly on the basis that PFS had not itemized costs by categories in sufficient detail to permit an evaluation of their reasonableness. The Board accepted the State's challenge to costs under Contentions E and S, and thus, it would be unreasonable for the Board to accept PFS's uncategorized and unsubstantiated costs as acceptable under NEPA.

According to the Commission "NEPA is regarded as calling for some sort of weighing of the environmental costs against the economic, technical, or other public benefits of a proposal." Claiborne, 1998 WL 191134 at *5. NRC regulations also require a weighing of environmental costs against the benefits of the proposed action. For example, 10 CFR § 51.45(c) requires the Environmental Report include "an analysis that considers and balances the environmental effects of the proposed action..." And 10 CFR § 51.71(d) requires the draft EIS "include a preliminary analysis that considers and weighs the environmental effects of the proposed action...."

Any cost-benefit analysis by the Applicant in the Environmental Report slants in favor of the perceived benefits from the proposed action. By contrasting the insipid discussion of direct and indirect costs with the discussion of the benefits it is clear that cost-benefit discussion is not evenhanded and lacks balance. And evenhandedness was the hallmark under which the Commission reviewed a recent licensing board's decision relating to costs-benefit analysis under NEPA. Claiborne, 1998 WL 191134 at *13.

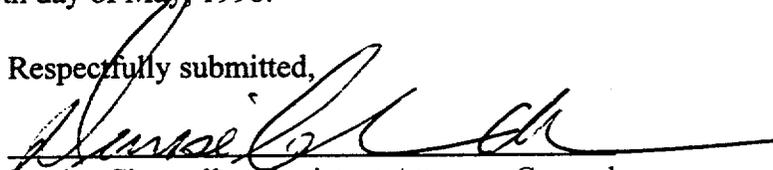
In reviewing a claim under NEPA that an agency relied on an inflated estimate of the project's economic benefits, the court in Hughes River engaged in a review of "the economic assumptions underlying a project to determine whether

the economic assumptions were so distorted as to impair fair consideration of the project's adverse environmental effects." Hughes River, 81 F.3d at 446 (internal quotations and citations omitted). Thus, the importance of an evenhanded discussion of costs and benefits under NEPA is to guard against the misleading information on the economic benefits of a project which could skew the overall assessment of the project's costs and benefits.

Upon reconsideration, the State requests the Board to review the distorted economic benefits portrayed by the Applicant in the Environmental Report and reach a conclusion that the uneven presentation in the Environmental Report impairs consideration by the public and decision-makers of the environmental costs of the PFS proposal and thus presents an appropriate basis for admission of Contention CC.

DATED this 6th day of May, 1998.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of STATE OF UTAH'S MOTION FOR CLARIFICATION AND RECONSIDERATION OF LBP-98-7 were served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 6th day of May, 1998:

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