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 Storage Installation)	)	ASLBP No. 97-732-02-ISFSI
	)	February 13, 1998

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

AFFIDAVIT OF WILLIAM J. SINCLAIR

I, WILLIAM J. SINCLAIR, being first duly sworn upon oath, depose and state as follows:

1. I am the Executive Secretary of the Utah Radiation Control Board and Director of the Utah Division of Radiation Control. I have held these positions since 1993.

2. As Executive Secretary to the Board, I prepare the agenda for the monthly Board meetings and send Board members relevant documents prior to each Board Meeting (called "Board packets").

3. Robert Hoffman is a current member of the Utah Radiation Control Board.

4. Commencing in February 1997, the Board has been briefed monthly on the

status of the Private Fuel Storage, LLC high level waste storage proposal for the Skull Valley Reservation, and periodically the Board packets contain relevant information and documents about the PFS proposal.

5. I have attended all Board meetings from February 1997 to the present, as has Mr. Hoffman.

6. At the April 4, 1997 Board meeting, Scott Northard of PFS and Leon Bear from the Skull Valley Band of Goshutes gave presentations to the Board on the PFS proposal. A copy of the Board minutes for April 4, 1997, is attached hereto.

7. At the August 8, 1997 Board meeting the Board was given a copy of the July 31, 1997 Federal Register notice of an opportunity for hearing, the NRC intervention process was explained to the Board, and Scott Northard of PFS gave a presentation to the Board about the PFS license application that was recently submitted to the NRC. A copy of the Board minutes for August 8, 1997 is attached hereto.

8. Board members, including Mr. Hoffmann, were given a copy of the State's September 11, 1997 Petition to Intervene, and at the October 3, 1997 Board meeting, Mr. Hoffmann raised questions about the content of the State's Petition to Intervene.

9. Mr. Hoffmann requested and was given a copy of the State's Contentions A

through DD after the December 5, 1997 Board meeting.

10. Congressman Merrill Cook held a public hearing in Salt Lake City on December 2, 1997 on the PFS proposal. I attended the hearing which consisted of testimony by various people including Mr. Hoffmann.

FURTHER AFFIANT SAYETH NOT.

DATED this February 13, 1998.

WILLIAM J. SINCLAIR

Voluntarily signed and sworn to before me this 15th day of February, 1998, by the signer, whose identity is personally known to me or was proven to me on satisfactory evidence.

NOTARY PUBLIC

Residing at: SCC Utah
My Commission expires: 5-15-01

NOTARY PUBLIC
Karma L. Pathakis
160 East 300 South 5th Flr
Salt Lake City, Utah 84111
My Commission Expires
May 15, 2001
STATE OF UTAH

RADIATION CONTROL BOARD

MINUTES OF THE RADIATION CONTROL BOARD MEETING, April 4, 1997, Department of Environmental Quality (Bldg. #2), 168 North 1950 West, Conference Room 101, Salt Lake City, Utah

BOARD MEMBERS PRESENT

Norman R. Sunderland, Ph.D., Chairman
K.C. Jones, Vice Chairman
Dianne R. Nielson, Ph.D., Dir. of DEQ
William J. Sinclair, Exec. Sec.
J. Jerald Boseman, D.D.S.
Teryl W. Hunsaker
Robert J. Hoffman
Preston J. Truman
Lowell D. White, Ph.D.
Gary Edwards

STAFF MEMBERS PRESENT

Denise Chancellor
Christine Brown
Craig Jones
Dane Finerfrock
Karen Best
Ray Nelson
Philip Griffin
Woody Campbell
Yolanda Shropshire
Carol Sisco
Bill Craig
John Hultquist

BOARD MEMBERS ABSENT\EXCUSED

Khosrow B. Semnani
Barbara S. Reid, M.D.

GUESTS

Monte Bright, Downwinders
Mark Gibson, Utah Rad Watch, Inc.
Scott McGrew, KSTU
Curt Calhoon, KSTU
Mark Mesesan, KSL-TV
Byron Hardy, University of Utah
Leon D. Bear, Skull Valley Goshutes
Mary Allen Apadaca, Tapai Project Office
Scott Northard, Private Fuel Storage
Christine Call, KSL Radio
Michael Vigil, Tooele Transcript Bulletin
Donna Jensen
Brent Israelsen, Salt Lake Tribune
Matt Larsen
John Ward, Private Fuel Storage
Doug Foxley, Private Fuel Storage
Robert Baird, Rogers & Associates
Maggie Wilde, Aptus
Michelle Rehmann, Energy Fuels Nuclear
Rich Evans, Private Fuel Storage
Beverley B. Slack, Tapai Project Office
Marianne Dabel, Parsons, Behle & Latimer
Carl Straid, KSL Radio
Carey Hamilton, Associated Press
Fred Nelson, Attorney Generals Office
Larry Warren, KUTV
Randall Diamond
Teresa Gosnell

Boyer Jarvis
Steve Barth, State Representative
Margene Bullcreek, Skull Valley Goshutes
Steve Erickson, Downwinders
Craig Thorley, Envirocare of Utah
Craig Condie, University of Utah
Charlie Evans
David Bird, DEQ/DERR
Rex Allen, Skull Valley Goshutes
Tom Hazen, Deseret News
Alan R. Hammersmith, University of Utah
Lisa Bullcreek, Skull Valley Goshutes
Charles Judd, Envirocare of Utah
Mike Zumwalt, Envirocare of Utah
Charlie Roberts
Judy Ann Buffmire, State Representative
Ursula Trueman, DEQ/DAQ

GREETINGS/MEETING CALLED TO ORDER

The Radiation Control Board convened in the Department of Environmental Quality (Bldg. #2), 168 North 1950 West, Conference Room 101, Salt Lake City, Utah. The meeting was called to order at 2:06 p.m. by Norman R. Sunderland, Chairman, Utah Radiation Control Board.

ITEM I. APPROVAL OF MINUTES OF MARCH 7, 1997 (Board Action Item)

Dr. Jerald Boseman made a motion to approve the minutes as written for March 7, 1997, seconded by Robert Hoffman.

CARRIED AND PASSED UNANIMOUSLY

ITEM II. RULES

No items

ITEM III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No items

ITEM IV. X-RAY REGISTRATION/INSPECTION

a. Qualified expert designation requests from Roger G. Stano and R. Todd Clark (Board action item)

Philip Griffin acknowledged the receipt on February 21, 1997, of an application from Roger G. Stano and R. Todd Clark to be considered as qualified experts for the State of Utah. Mr. Stano has a Master's degree in Radiological Physics and is American Board of Radiology certified in both diagnostic and therapeutic radiological physics. Mr. Clark has a Master's degree in radiological physics and is American Board of Radiology

certified in Therapeutic Radiological Physics. He also has had more than 5 years of general experience in diagnostic radiology.

Staff Recommendation: It is recommended that both Mr. Stano and Mr. Clark be approved as qualified experts in both therapeutic and diagnostic radiology.

Mr. Gary L. Edwards made a motion that both Mr. Stano and Mr. Clark be approved as qualified experts in both therapeutic and diagnostic radiology. Dr. Jerald Boseman seconded the motion.

CARRIED AND PASSED with one abstention from Robert J. Hoffman

ITEM V. RADIOACTIVE WASTE DISPOSAL (BOARD INFORMATION ITEMS)

a. Summary of Northwest Interstate Compact Meeting of March 11, 1997, Seattle, Washington/Notice of upcoming meeting in Salt Lake City, May 19 and 20, 1997

Bill Sinclair stated that he attended the Northwest Interstate Compact Meeting on March 11, 1997. Bill gave a discussion regarding the status report of the license renewal effort that is currently going on with Envirocare. There was also a discussion regarding the Envirocare situation relating to the lawsuits. There was some discussion about what members of the Compact wanted to do in regards to that situation.

As a result, the members of the Compact have been invited to Salt Lake City for their next meeting. They have also been invited here for a briefing on the license renewal effort that is underway with Envirocare by the DRC staff. On May 19, 1997, from 1:00 to 5:00 p.m. in room 101, the DRC will be briefing the members of the Northwest Interstate Compact on the license renewal application. This will be an open, public meeting that everyone is invited to attend.

On May 20, 1997, the routine meeting of the Northwest Interstate Compact will be held at the Salt Lake Hilton. Bill urged the members of the Board to attend these meetings because the Compact doesn't meet in Salt Lake very often.

b. DRC Notice of Violation - Envirocare of Utah, March 6, 1997

John Hultquist stated that during routine oversight inspections on January 17, 1997 and February 6, 1997, inspectors from DRC found some items that were in violation. The first violation was regarding certain written procedures that were required to be in place before the receipt, handling and disposal of dry, active (DAW) waste. It was noted by the DRC representative that this material had been placed prior to having these procedures in

place. A violation was issued with a proposed civil penalty of $2,500.00.

John continued by stating that the waste management plan requires that DAW be blended with soil or soil-like material. Envirocare failed to blend this material in accordance with the waste management plan. A violation was issued with a proposed civil penalty of $2,500.00.

The third violation regarding this particular waste stream dealt with the sampling as specified in the Waste Characterization Plan. Envirocare is required to characterize DAW once it is received at their facility. Based on the information provided to the Division, the inspector felt that they failed to sample under the frequency required under the Waste Characterization Plan. A violation was issued with a proposed civil penalty of $750.00. Envirocare's response to the NOV's is due to DRC by close of business today (April 4).

Bill Sinclair asked John to describe the severity level of the violations and to indicate what the waste stream was that was in violation. Mr. Hultquist stated that the first and second violations were of a Severity Level III. The third violation was a Severity Level IV. The generator that produced the waste is United States Enrichment Corporation (USEC). They are sending Envirocare what is known as dry active waste. This includes what is commonly referred to as bags, rags, and tags. This waste has no soil component to it.

c. NRC Notice of Violation - Envirocare of Utah, March 25, 1997

Bill Sinclair stated the Division had received a letter from the NRC on March 25, 1997 regarding an inspection that occurred during January 27-30, 1997. There were two Severity IV violations cited. The two violations involved some operating procedures that were not revised that incorporated certain procedures that Envirocare had committed to follow.

Bill Sinclair continued by stating that there were some changes made to the Quality Assurance Manual There are certain approvals and reviews required to make such changes and it appeared that those had not been accomplished. There is no civil penalty being proposed by the NRC. They are awaiting Envirocare's response to the Notice of Violation.

ITEM VI. URANIUM MILL TAILINGS UPDATE (BOARD INFORMATION ITEM)

a. NRC decision on the Atlas Technical Evaluation Report of March 7, 1997

Bill Sinclair updated the Board on the Atlas tailings. The Board has been following the situation since about 1993. We are beginning to see the end of some decision making that the NRC is required to do on the disposition of those tailings. They have made a decision regarding one aspect of the tailings proposal. They have looked at the technical evaluation reports and it appears that they have concluded that the on-site reclamation plan meets all of the current NRC requirements. This is one piece of the puzzle. The other piece is that the final acceptability of leaving the pile on-site. This is contingent upon the issuance of the final Environmental Impact Statement, which is due out this summer. One of the issues that is still being discussed deals with biological assessment and the potential impact of contaminated groundwater to the Colorado River. Until the final EIS is in place, the Atlas decision is not final. It appears that the NRC is leaning heavily toward leaving the tailings in place.

Preston Truman asked when the Board will hold its meeting in Moab. Bill Sinclair stated that a meeting has not been set in Moab, but if there is a desire from the members of the Board to hold another meeting in Moab, we would be looking at the July time frame.

ITEM VII. OTHER DEPARTMENT ISSUES

a. Goshute Skull Valley Tribe Spent Fuel Storage Facility Proposal

Presentations:

1. Scott Northard - Private Fuel Storage/Northern States Power

Scott Northard introduced a background of the characteristics of the type of material to be stored, as well as the technology used to store and transport the material. He stated that he would also address the NRC licensing process. He stated that the material they will be storing at this facility is spent nuclear fuel. Nuclear fuel is comprised of small, dry, ceramic-like pellets. The fuel is encased in long, zirconium rods. Fuel rod assemblies are used in nuclear reactors for four to six years, until their efficiency in generating heat begins to deteriorate. At that time, the fuel rods are removed and stored in an underwater pool at the nuclear plant site. They are stored there for a period of time to allow the amount of heat that is generated from the spent fuel to decay and also allowing the radiation levels to decrease.

Mr. Northard continued by stating that the fuel rods themselves cannot commence a chain reaction without the presence of a moderator like the water in a nuclear reactor. The rods cannot explode under any circumstance.

Mr. Northard stated that the storage technology is a vertical, upright, concrete and steel

cylinder technology called Dry Cask Storage Technology. This is a proven technology that has been in use since the 1960's. Currently there are eight plant sites that use this technology as well as several in Canada and many more in Europe. The spent fuel assemblies themselves are transferred to a steel container in a nuclear power plant storage pool. The container cover is placed on the canister and the water is removed and the container is welded closed. The container is backfilled with a helium gas which is used to prevent any corrosion. The access port is then welded closed, which leaves a completely sealed steel container. The steel container is placed inside a concrete storage cask. There are no moving parts and there is no active cooling system needed.

Mr. Northard continued by discussing transportation. Transportation of the fuel will occur by rail. There is a well-established commercial record of safe transportation. The casks that are used to ship the fuel are actually several-inch thick, sealed casks, into which the steel canisters are placed. The casks are designed to hold the spent fuel under all types of accident conditions that could occur. The casks are able to withstand an 80-mile-per-hour crash into a concrete wall and a fire of more than 1,400 degrees Fahrenheit without breaking open. All shipments that are made must be coordinated with state and local emergency preparedness officials. Mr. Northard noted that Tooele County has a very extensive emergency preparedness program.

Mr. Northard stated that the actual facility itself is on a site that is about 800 acres, but only about 40 acres of the facility would be used for storage. The steel containers would come in and be placed inside reinforced concrete casks. The casks would then be placed on the pad. The facility will sit there until it is ready to be transported to a DOE facility in Yucca Mountain, Nevada when that facility is available. Other equipment that is located would include health physics equipment, radiation monitoring equipment, security and other systems necessary to meet all NRC requirements. There would also be an additional fence encircling the entire 640-acre parcel.

Mr. Northard stated that when the Skull Valley Goshutes were first involved with this project in 1991 and 1992, the federal government was proposing a much larger scale and a much more complicated facility. The federal government facility would have involved opening of the containers and consolidating the materials and re-packaging of the materials. This will not be done at this facility. This will only be a staging area to place the spent fuel storage containers until the DOE has a facility ready.

Mr. Northard continued by stating that this facility will be licensed under 10 CFR Part 72. The license application will begin this summer when the license is submitted. The facility will have to meet the requirements of the NRC, EPA, and other federal agencies.

Mr. Northard stated that another key difference between this facility and others in the state is that in 50 years or less from commencement of facility operations, there will be

no indication that a facility was ever there. Even during operation, the Skull Valley project will consume less land area than other facilities. The facility is approximately a mile and a half off of the main highway so it will not be apparent while driving through the area. There will be no discharge from operations: nothing in the air, nothing in the ground and nothing left behind.

2. Leon Bear of the Goshute Skull Valley Band

Leon Bear thanked the Board for having them speak. Mr. Bear recognized some fellow members of the Executive Committee of the Band: Mary Apadaca, Vice Chairman and Rex Allen, Tribal Secretary. Mr. Bear had handouts for all of the Board members as well as visual slides. He began by stating that the Skull Valley Fuel Storage Project is a project that the tribe has decided to undertake because it will be economically feasible to place on the reservation. It is a temporary storage facility for spent fuel from nuclear power plants.

The Skull Valley Goshute Indian Reservation is located 80 miles west of Salt Lake City. The Tribe has approximately 18,000 acres surrounded by military and hazardous waste facilities. The Band has looked at different things for their economy, but they have to be consistent with the surrounding industries. The Skull Valley Band has put together the Tapai Industrial Park which is located on the west end of the reservation. There are currently two projects. The first project is the Pony Express Station which is a small convenience store that the tribe has put together and is run under tribal government. The second one is the Alliant Tech Systems Tekoi Rocket Test Facility. This is a lease from the tribe. Rocket motors are tested at this facility. There have been numerous proposals to develop waste facilities on the Reservation. A lot of the waste facilities that came to them were refused because of the environment and the feelings of the tribal members.

Mr. Bear continued by stating the tribe started the U.S. Department of Energy Study Process in 1992. This project was originally viewed with skepticism. The tribe accepted two phased federal grants. The Phase I grant was to go out and visit sites to prepare themselves. The second grant was to study different technologies worldwide. The tribe made extensive visits to Japan, France, England, Sweden and several U.S. installations. They produced reports and videotapes of their findings from the two phases which included opinions of anti-nuclear parties. These studies were presented to the tribal membership. They were told to proceed with developing this storage facility. In 1994, the federal process was canceled.

Mr. Bear stated that after the federal process was canceled, they got together with Private Fuel Storage. They are a consortium of 10 nuclear electric utilities. Skull Valley

Goshutes entered into the discussions based on four years of study under the federal process. As they proceeded to talk with PFS, this resolution was approved by the tribe. A lease agreement was signed in December 1996. The lease provides for an approximately 820-acre facility site, approximately 200 acres of easements and rights-of-way, and approximately 3,000-acre buffer zone restricted to livestock grazing. The term of the lease is for 25 years with an option to extend the lease for an additional 25 years.

Mr. Bear continued by stating the project will be required to complete all environmental analyses required under the National Environmental Policy Act of 1969. They are also required to obtain an operating license from the U.S. Nuclear Regulatory Commission. There is also a requirement to fund and perform all decommissioning of the facility upon termination of operations. Finally, there is also a requirement to maintain all applicable forms of insurance for the project.

Mr. Bear continued by stating that the Skull Valley Goshutes are prepared and qualified to host this facility. The Band has prepared with four years of study and extensive discussions. The project will create substantial economic benefits within Utah. Construction of the facility will create a number of jobs. Economic benefits to the tribe will allow the Band to be self sufficient. The facility will provide an important service to the nation. The facility will be constructed and operated to the most rigorous safety standards.

Mr. Bear completed his remarks by commenting on their anticipated time line. In June of 1997, PFS will submit a license application to the NRC. During the Spring and Summer of 1997, they will start the public education activities. In the Fall of 1997 they will open up a public document room. From the Summer of 1997 through the Summer of 1999 there will be public participation. The process should take approximately 3-5 years.

Preston Truman asked if there were originally eleven members to the consortium. Scott Northard stated that in December there were ten parties that were members of the Limited Liability Company (LLC). There is one additional utility that had been seeking Department of Public Utility Commission approval to fund their participation for the project. They have not received that approval. Mr. Truman also stated that he understood that the Massachusetts authorities had issued a ruling on March 18, 1997 against the group announcing that they would have to make the documents public, and because of that they were withdrawing from the consortium. Mr. Truman stated that he would be happy to provide the Board with the rulings from Massachusetts if they were interested.

Mr. Northard indicated that they were never a member of the consortium. Mr. Truman continued by asking if any of the other members of the consortium were facing the same type of challenges in their respective states. Mr. Northard stated that he was aware of

none.

Preston Truman asked what effect would there be on this proposal should the U.S. Congress enact a bill establishing a temporary storage facility for all spent fuel in Nevada, currently referred to as Senate Bill 104 and should that Bill not be vetoed or the veto overturned, how would that affect the proposal from PFS. Mr. Northard stated that the Bill is to build an interim storage facility at Yucca Mountain, Nevada. He stated that the Bill is supported by the nuclear facilities. The utilities all have a contract with the federal government that says that the Department of Energy (DOE) and the federal government is supposed to take their spent fuel by January 31, 1998. The U.S. Court of Appeals ruled last year that the DOE and federal government have a binding obligation to provide a waste facility. The only way they can do that is to build an interim storage facility, because the Yucca Mountain facility is not scheduled to have a facility available until after the year 2010. The federal government is trying to get approval for the interim facility which will shorten the need for the Skull Valley facility, but not take away the need for the facility.

Preston Truman also asked what guarantee PFS could give the members of the Skull Valley Tribe, the citizens of Utah, or the citizens of the United States that Yucca Mountain will ever be built and what guarantee is there that there is ever going to be a federal place to put it and that the PFS proposal is temporary and not permanent. Mr. Northard stated that there are many things that they can do to ensure that the fuels from this facility are moved prior to the lease expiring. They are following the work at Yucca Mountain very closely. They are showing very promising results. They believe that the federal government will eventually have the facility available.

Mr. Truman asked how many native American tribes have rejected this type of proposal. Leon Bear stated that he was not aware of any tribes rejecting the idea. Mr. Truman stated that he would provide the Board with several cardboard boxes full of documents, public hearings and resolutions showing that temporary storage facilities have been defeated everywhere they have been proposed.

Robert Hoffman thanked the speakers and stated that he wanted to make some observations and indicated the information provided by PFS should serve as an education opportunity via the media. He thinks that the effort has been worthwhile in trying to inform the Board and the public at the meeting. He stated that he hoped that the Board would not become part of the endorsement of a political policy. He feels that the real reason for the Boards' existence is to enforce rules and regulations for protection of the citizens of Utah. He feels that it would be bad for the nuclear facilities to have to shut down for lack of storage space. He feels this would negatively affect the lifestyles of the citizens of the United States. He agrees that it would be better for the spent fuel to go directly to a DOE site; however, there is not one.

Dr. Dianne Nielson stated that the Skull Valley Goshutes also have a contract for rocket testing. She asked what sort of considerations are being made about conflicts or problems or risks when you have this sort of a storage facility within the same area that you are looking at rocket testing. Scott Northard stated that they are looking at that issue. It will be addressed in the environmental report. They have to look at all adjacent facilities and all potential problems including airplane flights. He stated that with the natural barriers, there should not be a problem. Dr. Nielson also asked if this would include quantitative risk assessments or health and ecologic risk evaluations. Mr. Northard answered that this was the case.

Dr. Dianne Nielson asked about the size of the facility in relation to casks. Mr. Northard stated that the facility will be licensed for about 4,000 separate casks. Dr. Nielson asked how that compares to the storage that exists either on or off-site right now in other areas of the United States. Mr. Northard stated that this will be larger than any other plant storage facility. He stated that there is one plant on the East coast that has approximately 50 casks in storage.

Dr. Nielson asked why there would be a need for such a large facility here, when there are already small facilities at different sites. Mr. Northard stated that the facilities that have been built so far have been built to accommodate one power plant site. The facility which has approximately 50 casks located on it serves three plants. It is much more efficient and effective to build one central facility than to build 72 separate facilities across the nation. Dr. Nielson asked how many casks we create in the U.S. on an annual basis. Mr. Northard answered by stating 200 to 300 off the top of his head. Dr. Nielson also asked how many casks are generated by their ten member companies in a year. Mr. Northard stated that he would have to get that number.

Dr. Nielson asked about the guarantees that the material will be stored here temporarily, and if there is a guarantee that it will be going somewhere else. There is an indication that in 50 years or less, you will not know that the facility had been there. It was stated that the fuel would be moved before the lease would expire, but can the lease be renewed. Mr. Northard stated that the term of the lease is 25 years initially with a 25 year renewal. At the end of 50 years, if the Goshutes want to continue operating this facility on their land, they may enter into discussions at that time. They hope that the facility will not operate nearly that long and that the federal government meets their obligation very soon.

Dr. Jerald Boseman asked about transportation of the material. It was said in the presentation that state agencies will be made aware of its movement through the state, so that state emergency groups could prepare in case of an emergency. It was also said that economic benefit would also come to the state of Utah but it was not specified. It was asked if there were some provisions in the proposal whereby monies will be made available to the state of Utah to fund these emergency groups that may have to respond if

there is an accident. Mr. Northard stated that there are provisions in the business plan. They are planning on sitting down with the state of Utah and local communities to discuss the costs of emergency preparedness plans. Under federal law for hazardous materials transportation act, there are established procedures for early notification.

Dr. Jerald Boseman also asked about the tests the casks were subjected to. He asked if all of the tests were done with new casks and if we know what happens with these casks more than 50 years? Are they going to deteriorate and will they withstand the same kind of pressures in 50 years? Mr. Northard stated that the NRC certifies the casks for a certain period of time.

Bill Sinclair referred to the time line stating that there is quite a public education effort indicated. He asked what the specific plans for the education were because the NRC licensing process is not a user-friendly process. Mr. Northard stated that the NRC will be setting up public document rooms and public meetings well advertised in the local media. The power companies will also go a step further with their own public education.

Lowell White asked how much radiation will be emitted from the casks and how much radiation at the border of the 40-acre plot. Mr. Northard stated that the NRC has strict guidelines about occupational and health hazards due to radiation. They have to analyze risks for the surrounding neighbors and for the workers at the facility. The levels will meet NRC standards.

3. Opponents to the proposal representative - Margene Bullcreek

Margene Bullcreek stated that she came before the Board as a traditionalist. She opposes the nuclear waste facility and what it represents. She stated that even though she was at the meeting by herself, she is not alone in her opposition of the facility. Traditionalists respect the Mother Earth. She asked what effect the nuclear waste would have on the Reservation after 50 years. Ms. Bullcreek stated that in 1994 there was a vote taken in the tribe to see who was for the nuclear waste facility and who was against it. At that time there were 15 people for it and 11 people against it.

Ms. Bullcreek also touched on sovereignty of her people. The government has moved them from one place to another and finally placed them on Reservations. During that time they have been jailed. She states that the Goshutes are the only tribe in the United States that has gone for this type of facility. She feels that there is not enough money to pay for the damage a facility like this will create. She wonders what things are going to be like a few generations down the line.

Preston Truman asked Ms. Bullcreek if the wishes, desires, feelings and sentiments of all the members of the Skull Valley Band have been adequately represented so far in the

process of this agreement with the temporary storage facility. Ms. Bullcreek answered by saying no. She stated that they elected their officers to represent them to become a self-sustaining government, to be able to become sovereign and to become a nation within a nation. They have not had these opportunities on the Reservation. She doesn't feel that they are working for the people.

Preston Truman also asked Ms. Bullcreek if she felt it would be in the interest of the tribe if there was to be a supervised referendum of all tribal members to vote on whether they favor or oppose this process. Ms. Bullcreek stated that she had brought this point up before. They were told that there would be a time for a vote, which has not been done yet.

Gary Edwards asked for a clarification on the number of voters in the original vote that was taken. Ms. Bullcreek stated that there were 15 in favor and 11 against. She stated that this was not a majority vote because there are 70 voting members, and in order to make a majority you need to have 36.

Teryl Hunsaker asked Mr. Leon Bear if he would be amenable to some public hearings in Tooele County. Mr. Bear stated that as they move forward with the public participation part of the license process, he said he was sure something could be arranged.

4. Division of Radiation Control

Bill Sinclair stated that the Division's first contact with the project was a phone call that warned him that the media might be calling him regarding the lease that was imminent to be signed between the tribe and Private Fuel Storage on a day in January. The next contact was prior to the Board Meeting in February where the Department got the first opportunity to meet with Mr. Northard of Northern States Power and also representing Private Fuel Storage. During that particular meeting, Dianne and Bill asked some general questions regarding the arrangement and the lease agreement. They asked for a copy of the lease but were denied because it was proprietary.

Bill continued by stating that the next time they had an opportunity to hear about the proposal was when they sent Denise Chancellor to Washington, D.C. to attend a public meeting between the NRC and Private Fuel Storage regarding the license application process on March 19, 1997. That is all of the information they have up to date and they welcome this opportunity to have some interaction and appreciate Private Fuel Storage and the Tribe for coming in and talking to the Board today. Bill urged the Board to consider some of the actions they might want to take as a Board, such as requesting a routine briefing by PFS and/or the Band as to the status of the process.

Public Comment from meeting attendees

Representative Judy Ann Buffmire acknowledged herself as one of the six state representatives that had signed a letter expressing some concerns. She thanked the members of the Board for giving her time to speak. She stated that she was not speaking for the Democratic Party. They are speaking as individuals.

Representative Buffmire stated that their first concern is that we truly need a coherent nuclear policy in our country, before we start building and moving waste that may stay active for hundreds of thousands of years. Representative Buffmire submitted a letter that follows:

"Members of the Radiation Control Board:

We are submitting our comments and concerns regarding Item VII of your April 4, 1997 agenda, which addresses the Goshute Skull Valley Tribe Spent Fuel Storage Facility Proposal. We oppose this proposed siting of nuclear waste for the following reasons:

The proposal is for "temporary" storage. However, there is no expectation of a permanent storage facility in the reasonable future. As a result, this proposal would in practical terms be permanent, with no motivation for the private entities depositing the waste to ever move it again.

The proximity of this site to Utah's population centers should, by itself, eliminate the Skull Valley site from consideration.

The geology of the Skull Valley raises significant questions regarding the safety of both people and the environment in storing the highly dangerous nuclear waste at that location. Both the hydrology and active seismic nature of the area would indicate locating the facility there could result in catastrophic and irrevocable consequences.

Transporting the nuclear waste to the proposed site would pose significant risks to the residents of Utah. Addressing these risks would require careful planning and the creation of a costly transportation program, including public safety personnel and emergency response plans. The responsibility for implementing and paying for these essential safety measures should in no measure fall upon this state.

The storage facility is proposed by members of private utility industries, in order to dump within the borders of our state spent nuclear fuel rods generated by their facilities in the East. These utilities will continue to generate profits and nuclear waste, and our state will be the repository for this extremely dangerous waste without cause to believe it will ever be moved again to a safe and permanent disposal site.

If the industry group currently attempting to place its nuclear waste at Skull Valley is

successful, it is only reasonable to expect other industry groups to also arrange to place their nuclear waste at this location, thus increasing the dangers enumerated in this letter.

Utah is already the long term site for a number of major federal hazardous waste facilities. Siting of additional hazardous waste facilities, such as a nuclear waste site, should begin in the areas where these industries are generating the waste, thereby minimizing the risks of transportation and creating incentives for industry to manage its nuclear waste for the long term.

We recognize that the Skull Valley Goshute Tribe has a legitimate interest in the financial benefits of the proposed facility. There is no doubt the tribe is in need of assistance with economic development, and indeed the issue of the storage facility has brought this situation to the attention of a broader audience. However, we must respectfully suggest that the long-term environmental risks the facility would impose upon both the Skull Valley and the state at large more than outweigh the financial incentives the utility industry is offering to the tribe.

Thank you for your consideration of our comments. We look forward to working (with) members of the board to address this issue and answer any questions the members may have.

Sincerely,

Representative Dave Jones, Representative Steve Barth, Representative Gene Davis, Representative Judy Ann Buffmire, Representative Ralph Becker, Representative Patrice Arent"

Representative Buffmire stated that they do have concerns, and that they do know that the tribe has economic concerns. She is not sure that this facility is the answer. She understands, from information from the Nuclear Oversight Board, there is not additional storage room needed at this time. She stated that there is not enough knowledge or a need to risk endangering Utah's citizens and making Utah the country's dump.

Steve Erickson represents the Downwinders, which is a Salt Lake City based educational foundation dealing with protection of public health and safety on issues pertaining to radiation and the activities of the United States military. He stated that the world will be welcome here in 2002. He feels it is important to understand that Yucca Mountain is not a done deal. Mr. Erickson has information relating to problems that the DOE is encountering in moving forward with the Yucca Mountain facility, which include the lack of licensing procedures being completed, and construction permits. They have not yet met a deadline in this process.

Mr. Erickson referred to some publications relating toYucca Mountain including "DOE - unethical conduct at DOE's Yucca Mountain Project," published September 1996, "Nuclear Waste Comprehensive Review of Disposal Program Needed," "Nuclear Waste - Yucca Mountain Project behind schedule and facing major scientific uncertainties," "Nuclear Waste - Development of casks for transporting spent fuel needs modification." Mr. Erickson stated that to assume thatYucca Mountain is somehow going to come online within the time frames that have been discussed, 2010 being the deadline, is not likely to happen. What that means is we may see extensions of leases. He wanted to stress that the contract can be changed. He also stressed the fact that there has been no mention of an Environmental Impact Statement from the NRC.

Mr. Erickson also stated that Utah's involvement in the nation's nuclear programs has been an unmitigated disaster. They do not believe that it is in the best interest for the State to continue that legacy through this unnecessary arrangement, when there is no scientific or technical compelling reason for the transportation of these spent fuel rods to this location at this time. He also stated that the Goshutes last economic venture was a fiasco. It involved a recycling facility. While it was a good idea, it turned out to cost the tribe a considerable amount of money and embarrassment in the process. The Downwinders are asking the State and the Radiation Control Board to take a position in opposition to this proposal at this time.

Preston Truman asked whether it was true that the last time Utah lived up to its so-called obligation to the rest of the country to participate, they ended up requiring a congressional mandated apology from the President of the United States for illnesses. Mr. Erickson stated that he recalled such an incident. Mr. Erickson stated the history of radiation in this state has not been one that we feel good about. Mr. Truman brought up the nuclear testing and how this situation is very similar.

Chip Ward, a resident of Tooele County and representative of West Desert HEAL, read a letter he had composed:

"To whom it may concern:

I am writing to express the strong opposition of West Desert HEAL to the proposed private "temporary" storage facility for spent nuclear fuel rods on the Skull Valley Reservation. HEAL has a mailing list of 150, including approximately 100 from Tooele County. A quick poll of HEAL members reveals strong and unanimous opposition. Members are concerned that the term "temporary" is misleading. They believe that any waste brought into the county will stay forever. Other issues that need to be considered have to do with the uncertain hydrology of Skull Valley, the seismically active nature of that valley, serious transportation issues and risks, and the impact of this project on state and county images and public perception. The latter concern is particularly compelling as

we prepare to invite the world to the Olympics. Until a detailed contract is available, we do not know what technical issues might be added to that list but assume there will be many and that they can be and will be the basis for vigorous challenges to this project.

I believe Tooele County has done more than its share to solve the nation's hazardous waste and chemical munitions problems. Residents have shouldered more than their share of burden and risk. I believe these are statements that would be supported by the overwhelming majority of county residents, regardless of their attitude toward West Desert HEAL.

There is an important and broader principle at stake here. I oppose the notion that a consortium of utilities from the Midwest and East should solve their waste problem in my backyard. Those that produce the deadly and dangerous stuff should store it near where it was used as an incentive to find a better way to be responsible and accountable.

There is no doubt in my mind that the Skull Valley Reservation members are in need of and deserve economic development assistance. This proposed project, however, is far more likely to add to the legacy of mistreatment, misuse, and neglect than to redeem the relationship between the band and its neighbors.

Sincerely,

Chip Ward"

Mr. Ward also stated that since he wrote the letter, it has come to his attention that it is far from given that there will be an EIS done on this project, which he finds shocking given the potential impact that it will have. He believes that there should be public hearings. Mr. Ward also agreed with Mr. Erickson that the recycling plant was an unmitigated disaster. It really makes you question whether they are up to this project or not.

Board discussion and potential actions

Dr. Norman Sunderland asked the Board if they had any follow up actions they would like to consider. Preston Truman stated that the Board should be made aware of the history of this concept of temporary storage, especially a history of placing it on Native American land and a history of what the implications have been to the tribes where that has been proposed. He also stated that many of the tribes have been basically torn apart by the dissention. He believes that there should also be a briefing about the federal bills currently being considered and the debates going on in Congress about permanent versus temporary storage. He also wants to know what rights the citizens of the State of Utah have in this process versus the argument of sovereign nation status.

Dr. Dianne Nielson stated that in addition to questions that Mr. Truman raised, this is an ongoing process that the Board needs to be involved in all along the way. The NRC process is the least publicly friendly. The ability to have updates before the Board is very important. She asked PFS if they would be willing to keep the Board updated along the way. Mr. Scott Northard agreed that they would be willing to help in any way. The council also agreed to help with the process in the future.

Dr. Nielson also stated that she had a number of questions regarding this issue. She agreed to put the questions to be answered at the next Board meeting. Mr. Truman suggested that any questions the Board members have be submitted to the Division to be dispersed to the Board members and the correct parties.

Gary Edwards asked if there is a facility on the Skull Valley Reservation to hold a future meeting of the Board. Mr. Hunsaker stated that the Tooele County Courthouse could probably be a viable site for a future meeting.

ITEM VIII. <u>OTHER ISSUES:</u>

a. Next Board Meeting - May 9, 1997, Conference Room 101, 168 North 1950 West, DEQ Building #2, 2:00 P.M.

RADIATION CONTROL BOARD

MINUTES OF THE RADIATION CONTROL BOARD MEETING, August 8, 1997, Department of Environmental Quality (Bldg. #2), 168 North 1950 West, Conference Room 101, Salt Lake City, Utah

BOARD MEMBERS PRESENT

K.C. Jones, Vice Chairman
James J. Thompson, Ph.D.
William J. Sinclair, Exec. Sec.
J. Jerald Boseman, D.D.S.
Teryl W. Hunsaker
Robert J. Hoffman
Lowell D. White, Ph.D.
Gary L. Edwards
Barbara S. Reid, M.D.

STAFF MEMBERS PRESENT

Denise Chancellor
Craig Jones
Dane Finerfrock
Julie Felice
Ray Nelson
Philip Griffin
Yolanda Shropshire
Connie Nakahara
Carol Sisco
John Hultquist
Mark Novak

BOARD MEMBERS ABSENT\EXCUSED

Norman R. Sunderland, Chairman
Dianne R. Nielson, Ph.D., Dir of DEQ

GUESTS

Charles Judd, Envirocare of Utah
Maggie Wilde, Laidlaw Environmental Svcs.
Michelle Rehmann, International Uranium Corp.
Patrick Thomas. Atlas
Ken Alkema, Envirocare of Utah
Sue Martins, Adamson and Associates
Beverly B. Slack, Topai Project Office
Rex Allen, Skull Valley Goshutes
Steve Romano, Utah RadWatch
Scott Northard, Northern States Power
William H, Hazen, Data Chem Laboratories
David R. Bird, Parsons Behle
Gail Stuart, KSL Radio
Ginette McDonald, KSL-TV
Steve Erickson, Downwinders
Tolmie Wachter, ARUP Laboratories

GREETINGS/MEETING CALLED TO ORDER

The Radiation Control Board convened in the Department of Environmental Quality (Bldg. #2), 168 North 1950 West, Conference Room 101, Salt Lake City, Utah. The meeting was called to order at 2:05 p.m. by K.C, Jones, Vice Chairman, Utah Radiation Control Board.

ITEM I. APPROVAL OF MINUTES OF JULY 11, 1997 (Board Action Item)

Teryl Hunsaker made a motion to approve the minutes as written for July 11, 1997, seconded by Dr. James Thompson.

CARRIED AND PASSED UNANIMOUSLY

ITEM II. RULES (Board Action Items)

No items for Board consideration for the August meeting.

ITEM III. RADIOACTIVE MATERIALS LICENSING/INSPECTION (Board Information Items)

a. Summary of Enforcement Actions - 1997

Craig Jones stated that this item deals with the desire of the Board to have a semiannual update relating to significant enforcement actions and the collection of civil penalties. For 1997, there have been four civil penalties assessed and all relating to Notices of Violation issued to Envirocare of Utah. Of the four penalties, two have been paid and two remain outstanding pending further negotiations with the Division. Three other significant enforcement actions have been taken during this reporting period. Two involve groundwater sampling at the Western Zirconium facility (owned by Westinghouse Electric Corporation) and one involves Envirocare of Utah and disposal of excess amounts of Special Nuclear Material.

ITEM IV. X-RAY REGISTRATION/INSPECTION (Board Action Items)

a. Qualified Expert Annual Summary

Phil Griffin indicated to the Board that on an annual basis, the Board asks the Division staff to review the status of approved qualified experts to determine if changes need to be made to the current list of Utah approved qualified experts. Phil continued by stating that R3132-16-400 states, in part: "The qualifications of individual applicants will be presented to the Radiation Control Board, for their review and approval. Continued approval will depend upon performance. Inactivity or failure to comply with these rules or Executive Secretary requirements will result in review by the Board and may result in removal from the list of qualified experts." Phil indicated that some qualified experts have not actively been doing x-ray inspections or shielding calculations in Utah for several years. The staff recommended to the Board that three individuals be removed

from the qualified expert list: Edd Johnson, Ana Maria Kruger, and Peggy Reilly Horgan. These individuals have not completed any qualified expert work in Utah within the last three years.

Dr. Reid asked if the individuals had been contacted regarding the removal of their name from the Utah qualified expert list. Phil indicated that each person affected had received a letter explaining the proposed change to their status, and they have been given the opportunity to submit comments to the Board. Phil further stated that none of the affected persons had submitted comments prior to the Board meeting today.

Bill Sinclair indicated to Board members that as a policy he would appreciate a Board review of those individuals who had not done any work in Utah after a three year period had elapsed. He felt this was sufficient time to establish a work history in the state and would avoid the DRC staff having to keep track of those qualified experts who were only using the title as a filler for a resume or *curriculum vitae*.

Dr. Jerald Boseman made a motion that the Board accept the list of qualified experts with the exception of Edd Johnson, Ana Maria Kruger, and Peggy Reilly Horgan. Gary Edwards seconded the motion.

CARRIED AND PASSED with one abstention from Robert J. Hoffman

b. Qualified Expert Approval for F. Eugene Holly, Ann M. Jones, and Lizhong Liu

Phil Griffin introduced the individuals that have submitted documentation and evidence that they should have approval as a qualified expert in the state of Utah. Those individuals are: F. Eugene Holly, Ann M. Jones, and Lizhong Liu. Phil then summarized the qualifications of each individual.

Staff Recommendation: The staff recommended that the Board approve:

Mr. Holly as a qualified expert in diagnostic radiology and radiation therapy:

Ms. Jones as a qualified expert in diagnostic radiology; and

Mr. Liu as a qualified expert in radiation therapy.

Gary Edwards made a motion that the persons listed above be approved as qualified experts. Dr. James Thompson seconded the motion.

CARRIED AND PASSED with one abstention from Robert J. Hoffman

c. Mammography Imaging Medical Physicist approval - E. Eugene Holly and Ann S. Jones

Richard Sanborn indicated that two individuals had submitted applications to the Division for approval as a Mammography Imaging Medical Physicist. The applications have been reviewed and it was recommended that the Board approve E. Eugene Holly and Ann M. Jones as a Mammography Imaging Medical Physicist for the period of August 8, 1997 through May 31, 1998.

Dr. James Thompson made a motion that the Board accept E. Eugene Holly and Ann M. Jones as Mammography Imaging Medical Physicists for the period of August 8, 1997 through May 31, 1998. Dr. Jerald Boseman seconded the motion.

CARRIED AND PASSED with one abstention from Robert J. Hoffman

A point of order was then raised by audience member, Maggie Wilde, concerning the exclusion of Ann Jones from the final agenda for approval as both a qualifed expert and Mammography Imaging Medical Physicist. Maggie stated that it was her understanding that before the Board could take action that it had to appear on the final agenda.

Bill Sinclair indicated that it was inadvertent that Ms. Jones name had been left off the final agenda since he had developed the final agenda. Bill then asked Denise Chancellor for a legal clarification. She suggested that the Board confirm Ms. Jones again at the next Board meeting such that her name appears on the final agenda.

d. FDA Public Health Notice - Radioactivity in Radiation Protection Devices (Board information item)

Craig Jones reported that FDA sent out a notice indicating that some shielding products used for radiation protection contain lead contaminated with small amounts of naturally occurring radionuclides. The contaminants are lead-210 and its daughter nuclides bismuth-210 and polonium-210. Initially FDA and state evaluations indicate there is only a very small exposure to radioactivity from the affected products, and the contaminants are not transferable ton patients, personnel, or equipment by ordinary use. The products identified to date are lead aprons, gonad shields, and thyroid shields manufactured after October 1, 1996.

Craig continued by indicating that investigations are underway to identify all firms that received these items. The source of the problem has been determined to be a shipment of contaminated lead alloy imported from Brazil and then processed in the United States. Recalls are being initiated by the medical device firms and distributors.

Bill Sinclair asked Craig if any such devices had been identified as shipped or used in Utah. Craig indicated that there had been none found or identified to date here in Utah.

ITEM V. <u>RADIOACTIVE WASTE DISPOSAL (Board Information Items)</u>

a. Annual inspection of Envirocare, Notice of Violation and Proposed Imposition of Civil Penalties of July 17, 1997, Observations from the Annual Inspection

Ray Nelson indicated that the annual comprehensive inspection of Envirocare had been completed during the week of May 20, 1997. As a result a Notice of Violation and Proposed Imposition of Civil Penalties was issued. The proposed civil penalty was $16,200. Ray then summarized the Notice of Violation going through each violation in the Notice. Ray indicated that for a facility the size and complexity of Envirocare, the number of citations should not be considered unusual. Ray also indicated that several Observations had been made and reported to Envirocare. These are improvement opportunities for the facility. Envirocare has thirty days to respond to the Notice.

b. DRC Confirmatory Action Letter of June 25, 1997 concerning corrective actions to water management and Envirocare response of July 1, 1997

Loren Morton reported on a dike failure and a dike and run off berm failure which resulted in loss of containment of contact storm waster and the commingling of contact and noncontact storm water. The Division, after examination of the root cause of the failure, issued a Confirmatory Action letter that provided several solutions to preclude a future event. This included construction of a new drainage system, purchases of new pumps, sampling of groundwater and soils impacted, and increased monitoring of a nearby well to assess any impact to local groundwater flow direction. Envirocare responded with a letter of July 1, 1997 that agreed with the actions proposed by the Division.

c. NRC letter to Dr. Carol Marcus regarding review of DRC program of June 25, 1997

Bill Sinclair indicated that on June 25, 1997, DRC received a letter from Richard Bangart, Director of the Office of State Programs, Nuclear Regulatory Commission. The NRC letter was a result of the DRC response to Dr. Marcus and the NRC, the NRC evaluation of the 1994 DRC program review, and the ongoing renewal application review. The NRC staff concluded that Utah is properly implementing Agreement State compatibility requirements. This brings to final conclusion the Board decision reached in March 1997 concerning Dr. Marcus' rulemaking petition and information request.

d. Letter from NRDC to Carol Browner, Administrator, EPA of May 30, 1997 concerning Envirocare radon emissions

Bill Sinclair stated that this letter was first introduced to the Board at last month's meeting by mistake. This letter is a request by NRDC for EPA to review the Envirocare 11e.(2) area to ensure it meets the requirements of Subpart W of NESHAPS. Active uranium mills must meet certain requirements to minimize radon emissions. Envirocare is unique in having a disposal area not connected to a processing uranium mill, nevertheless it must meet all applicable Subpart W standards. Bill indicated he was uncertain of any action on the part of the EPA in response to the letter.

e. Results of Northwest Interstate Compact Conference Call of July 18, 1997 - Discussion of Amicus Brief Supporting California's lawsuit against the Department of Interior relating to the development of the Ward Valley low-level radioactive waste facility.

Bill Sinclair reported on a recent Northwest Interstate Compact on Low Level Radioactive Waste conference call involving a lawsuit filed by the California licensing agency to compel the Department of Interior to transfer the federally owned Ward Valley site. The Northwest Compact voted unanimously to file an amicus brief supporting the California lawsuit. The Northwest Compact joins several other interested parties and other Compacts in filing such a brief.

ITEM VI. URANIUM MILL TAILINGS UPDATE (Board Information Item)

a. Cotter concentrates:
(1) Native American Petitioners Letter to President Clinton of July 11, 1997
(2) Meeting with White Mesa Utes Council of August 5, 1997
(3) NRC Memorandum and Order Denying a Hearing of July 23, 1997

Bill Sinclair indicated to Board members that he had supplied them with a copy of a letter from the Native American Petitioners to President Clinton of July 11, 1997 regarding the Cotter Concentrate. The Petitioners asked President Clinton to intervene in the decision process based on the Presidential Executive Order of February 16, 1996 regarding environmental racism (justice).
Bill Sinclair then reported on his meeting with the White Mesa Tribal Council last Tuesday. Bill and Stephanie Bernkopf from the DEQ Office of Planning and Public Affairs met with the Tribal Chairman and Board members at their Council meeting at the White Mesa Reservation south of Blanding. Bill discussed the NRC/DRC relationship and interaction, answered questions regarding the White Mesa Mill and activities at the Mill in general (radon emissions, groundwater), answered questions regarding the Cotter Concentrates, and asked how DRC/DEQ could better communicate information to the White Mesa Utes. It was indicated that they have E mail capability now. The Tribal Chairman expressed some concerns regarding various health issues occurring on the Reservation. Bill Sinclair encouraged those present to attend an NRC briefing to be held at the White Mesa Mill the following week

Bill then indicated a decision had been reached by the NRC regarding the petition for standing from several Native Americans. The Memorandum and Order issued by Judge Bloch of the NRC are very detailed and Bill then indicated he would attempt to summarize the major points. Judge Bloch concluded that there was little reason to suspect, based on the pleadings, that any harm to health and safety or to the environment would occur by reprocessing of the Cotter Concentrates at the White Mesa Mill. He pointed out that there was an important issue of communication because information available to the public did not indicate the composition of the Cotter Concentrate but he believed this problem could be resolved without a hearing.

Bill went on to further indicate that Judge Bloch indicated he had a difficult time deciphering whether the material was hazardous or not (according to RCRA listed waste definition) and suggested that the NRC staff and IUC voluntarily supply the legal and factual basis for the determination to the petitioners and the public. Judge Bloch also outlined some problems with the Native American Petitioners and their failure to comply with the hearing requirements. Among these problems were the petitioners failed to state whom they represented, did not state in a sworn affidavit where any of the petitioners reside or how far away they reside from the mill, and did not provide a plausible scenario how they might suffer health and safety consequences as a result of the Cotter Concentrate reprocessing.

Bill concluded by stating that Judge Bloch examined the spiritual and psychological effects of placement of the Cotter Concentrate on ancestral burial grounds and indicated that it struck a responsive chord but it did not involve public health and safety and as such he could not rule on such concerns. He also dismissed environmental justice as not applicable to a site that is already licensed. He stated there was no reason to believe this action could discriminate. Parties still may file for reconsideration even if the decision is closed.

b. IUC reprocessing request of April 3, 1997 and supplemental data of May 19, 1997 and June 20, 1997 - confidentiality determination by DRC

Bill Sinclair related that DRC had sent IUC a letter on July 22, 1997 indicating that since the IUC reprocessing request had become a public record under the NRC that the DRC was now reclassifying the record as public as well. IUC was given thirty days notice of the loss of the confidentiality status of the reprocessing request which would make the request public for DRC purposes on August 22, 1997.

ITEM VII. OTHER DEPARTMENT ISSUES

a. Finalization of Board Policy relative to requests from individuals and/or groups to be placed on the agenda (Board action item)

Bill Sinclair presented the Board with a revised Board Policy relative to requests from the public to be placed on the Board agenda. Bill indicated that two minor changes had been made in the revised policy that what the Board received in their packet. The first change

involved a clarification in the SUBJECT whereas it was changed to state "Requests by the public" and secondly, a typographical error was corrected under ACTIONS TO BE CONSIDERED BY THE BOARD. Bill emphasized that since the input from the last Board meeting, the policy had been revised to meet the comments of Board members. Most significant was a two-step approach to differentiate between those who wanted to have a specific issue on the agenda and someone who just wanted to comment on an issue on the Board agenda. After his presentation, Bill recommended that the Board adopt the policy effective with the next Board meeting.

Robert Hoffman made a motion to approve the Board policy, seconded by Dr. Lowell White.

CARRIED AND PASSED UNANIMOUSLY

b. Private Fuel Storage Independent Spent Fuel Storage Installation (Board information item)
(1) Board letter to NRC of July 18, 1997 concerning public documents room
(2) State of Utah 2.206 Petition of July 21, 1997
(3) NRC Notice of Docketing and Acceptance Review of Application for a License to Construct and Operate an Independent Spent Fuel Storage Installation at the Skull Valley Goshute Indian Reservation of July 21, 1997 and Federal Register Notice of July 31, 1997 Regarding Acceptance and Docketing
(4) Presentation by PFS on their license application to the NRC.

Bill Sinclair indicated that on behalf on the Board as directed at the last Board meeting, he had sent a letter to the NRC during the open public comment period concerning establishment of a public documents room for the Private Fuel Storage Independent Spent Fuel Storage Installation (ISFSI) application. Bill indicated to the Board that a recommendation had been forwarded to NRC to establish local public document rooms at the Marriott Library on the University of Utah campus in Salt Lake and the Tooele County Library in Tooele. It was also his understanding that most commentors had made the same suggestions to the NRC.

Connie Nakahara then explained that the State of Utah had filed a 2.206 petition with the NRC asking them to reject the PFS application because it was not complete. The petition gave several examples of where the State felt information was lacking or missing such that a technical review could not proceed. The information lacking including corporate information, financial assurance details, transportation aspects, and contingency measure details for handling damaged or contaminated casks. Connie then explained that the State had just been notified that the petition had been rejected because the petition did not meet the basis for a 2.206 petition.

Bill Sinclair asked Connie how the completeness review accomplished by the NRC

compare with other completeness reviews she was familiar with when she worked with hazardous waste permits. Bill pointed out that Connie had been the main permit writer for the Tooele Chemical Weapons Disposal Facility, an incineration facility to Board members. Connie stated that when the State had accomplished a completeness review for a hazardous waste permit (a comparable complex facility) that it took at least sixty days with multiple reviewers to make such a determination. Bill then asked what was the effort of the NRC in comparison. Connie stated that the NRC received the application on June 25, 1997 and a determination of completeness was made on July 21, 1997.

Connie continued by indicating that the NRC published a notice in the Federal Register on July 30, 1997 that the application is complete, the application was docketed, and the NRC gave notice that it is considering the application. The Notice indicated that September 15, 1997 was a deadline for filing a written request for a hearing and a petition to intervene. Connie indicated that the focus of the current efforts now was to file the petition for intervention and hearing request.

Scott Northard of Northern States Power representing Private Fuel Storage presented Board members with information regarding the application. He indicated that this was a continuation of the PFS commitment to keep the Board and the public informed as to the status of the facility. Mr. Northard distributed a picture of the application to the Board members to indicate that it was several three-inch ring binders in length. He then briefly described the contents of the application.

Bill Sinclair then asked Scott Northard what utilities were participating currently in the consortium. Bill stated that the application had indicated there were eight seats available on the Governing Board but seven members had been named in the application. Bill then asked Scott to name the consortium members. Scott did not have the names readily available and could not name them immediately. He did state that the membership had changed and could continue to change and this accounts for the discrepancy in the application

Bill Sinclair then asked about the status of the Goodhue County, Minnesota ISFSI application filed by Northern States Power with the NRC. Scott indicated that the application had been withdrawn. Bill then asked if there was a Minnesota law that required NSP to file an out of state application by a specified date. Scott indicated there was no such law.

Bill Sinclair then asked if PFS had decided how the waste was to be moved from Rowley Junction to the site. Bill also asked if PFS had purchased any property at the Junction for their needed transfer facility. Scott indicated that those details had not been fully worked out but would be later detailed in the Transportation Plan.

Bill then asked Scott why had several state and federal agencies been excluded from receiving the emergency response plan for PFS. Scott indicated that Tooele County Emergency Management had been designated by PFS as the primary contact. Bill then

asked Scott if he was familiar with the radiologic response capabilities of Tooele County. He was not. Finally Bill asked if PFS had made a determination in relation to public meetings on the proposal. Scott indicated that PFS would continue to inform the Board as progress continues and they planned on meeting with local civic groups in the near term.

Jim Thompson then asked Scott if what impact there would be on the Utah proposal if Congress and the President designated Nevada as the interim storage facility. Scott indicated that they still felt there would be a need for the Utah facility because the Nevada facility would not be "on-line" in time to satisfy their needs.

ITEM VIII. OTHER ISSUES:

a. Next Board Meeting - September 5, 1997, Conference Room 101, 168 North 1950 West, DEQ Building #2, 2:00 P.M.

Bill Sinclair asked Board members how many of them would be available if an October meeting was held in Moab or Blanding. A poll indicated a majority of the Board could attend.