

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

DOCKETED
USNRC

'98 FEB -9 A11:04

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

In the Matter of

PRIVATE FUEL STORAGE, L.L.C.

(Independent Spent Fuel
Storage Installation)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

February 9, 1998

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MEMORANDUM AND ORDER

(Contention Revisions and Transcript Corrections)

At the close of the January 29, 1998 session of the initial prehearing conference, counsel for applicant Private Fuel Storage, L.L.C. (PFS), provided the Licensing Board and the participants with a listing of the agreed upon revisions to the language of various petitioners' contentions. See Tr. at 815-22. Based on that information, the Board has prepared and attached to this memorandum and order a listing of the nonproprietary and nonsafeguards contentions, as revised, of petitioners State of Utah (State); Castle Rock Land and Livestock, L.C., Skull Valley Company, LTD., and Ensign Ranches of Utah, L.C. (Castle Rock);¹ Ohngo Gaudadeh

¹ As was noted at the prehearing conference, Tr. at 74, Ensign Ranches of Utah, L.C., has declared it only supports the first five of the twenty-four contentions filed by fellow petitioners Castle Rock Land and Livestock, L.C., and
(continued...)

Devia (OGD); and the Confederated Tribes of the Goshute Reservation and David Pete (Confederated Tribes/Pete). In addition to the language revisions provided to the Board, this listing incorporates conforming format revisions (e.g., subparts of lettered contentions are numbered, subparts of numbered contentions are lettered) and the withdrawal of certain contentions or portions of contentions by the parties.²

Any participant having any objections or further revisions to the attached list of contentions should advise the Board and the other participants by pleading filed on or before Tuesday, February 17, 1998. In addition, any participant wishing to propose corrections to the transcripts for the January 27-29, 1998 prehearing sessions

(...continued)
Skull Valley Company, LTD.

² Based on the representations of the participants at the prehearing conference, the Board understands that (1) the concern expressed in the basis for Utah F regarding mental examinations for operators has been resolved, Tr. - 261-62 at 257-58; (2) the concern about the applicability of 10 C.F.R. Part 75 described as part of the basis for Utah T has been withdrawn, id. at 481-82; (3) the concerns about the 2002 Winter Olympic Games set forth in portions of the basis for Castle Rock 6 and 13 have been withdrawn, id. at 682; (4) the concern about the lack of any environmental report discussion of a legislative solution regarding high-level nuclear waste storage set forth as part of the basis for Castle Rock 13 has been withdrawn, id. at 679-80; (5) the request for the onsite radiation monitoring measures specified in paragraphs A-D of ODG G has been withdrawn, id. at 380; (6) OGD H has been withdrawn, id. at 460; and (7) any discussion of OGD A as a basis for OGD J has been withdrawn, id. at 505.

461-62
481-82
682-87
679-80
505-96
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should do so on or before that same date. See 10 C.F.R. § 2.750(b). Objections to any additional revisions to the attached contentions or proposed transcript corrections shall be filed on or before Tuesday, February 24, 1998.

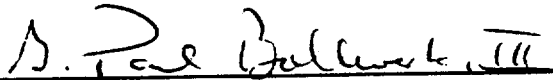
The Board also anticipates that in the State's reply pleadings now due February 11, 1998, the State will address the acceptability of the contention redrafts proposed by the applicant for contentions Utah EE through Utah GG and Utah Security-A through Utah Security-I. If the State makes any contention language revision counterproposals, the applicant and the NRC staff should address the acceptability of those changes as part of their reply pleadings regarding Utah EE through GG now due on February 23, 1998.³ The participants

³ The filings required or permitted under this memorandum and order that do not contain proprietary or safeguards information should be served on the Board, the Office of the Secretary, and counsel for the other participants by facsimile transmission, e-mail, or other means that will ensure receipt by close of business (4:30 p.m. EST) on the day of filing. See Licensing Board Memorandum and Order (Initial Prehearing Order) (Sept. 23, 1997) at 5-6 (unpublished) [hereinafter Initial Prehearing Order]; Licensing Board Memorandum and Order (Additional Guidance on Service Procedures) (Nov. 19, 1997) (unpublished). If, on the other hand, a filing includes proprietary or safeguards information, it should (1) be served in the manner and on the individuals described in paragraphs I.H.1.a.-b. of the Board's December 17, 1997 memorandum and order, as amended, and include a cover letter or memorandum that shall served on all other participants as described in paragraph I.H.2. of that issuance, see Licensing Board Memorandum and Order (Protective Order and Schedule for Filing Security Plan Contentions) (Dec. 17, 1997) at 8, 9 (unpublished); Licensing Board Memorandum and Order (Additional Amendments to Protective Order) (Dec. 23, 1997) at 2 (unpublished); and (2) be served so as ensure
(continued...)

are encouraged to reach agreement on contention language wherever possible.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁴


G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

February 9, 1998

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receipt by the individuals described in paragraph I.H.1.a. of the Board's December 17, 1997 memorandum and order by the next business day.

⁴ Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for the applicant PFS; to counsel for petitioners Skull Valley Band of Goshute Indians, OGD, Confederated Tribes/Pete, Castle Rock, and the State; and to the representative of petitioners Scientists for Secure Waste Storage/Atlantic Legal Foundation. Copies also were sent by e-mail transmission through the agency's wide area network system to counsel for the staff.

ATTACHMENT 1

State of Utah Contentions A through DD

A. Statutory Authority

CONTENTION: Congress has not authorized NRC to issue a license to a private entity for a 4,000 cask, away-from reactor, centralized, spent nuclear fuel storage facility.

B. License Needed for Intermodal Transfer Facility

CONTENTION: PFS's application should be rejected because it does not seek approval for receipt, transfer, and possession of spent nuclear fuel at the Rowley Junction Intermodal Transfer Point ("ITP"), in violation of 10 C.F.R. § 72.6(c)(1), in that:

1. The Rowley Junction operation is not merely part of the transportation operation but a de facto interim spent fuel storage facility at which PFS will receive, handle, and possess spent nuclear fuel for extended periods of time.
2. The anticipated volume and quantity of fuel shipments that will pass through Rowley junction is a large magnitude that is unlike the intermodal transfer operations that previously occurred with respect to shipments of spent nuclear fuel from commercial nuclear power plant sites.
3. The volume of fuel shipments will not be capable of passing directly through Rowley Junction and some type of temporary storage of casks will be necessary at the site of the ITP, thus, making Rowley Junction a spent nuclear fuel storage facility. Further PFS fails to discuss the number of heavy haul trucks that will be available to haul casks, the mechanical reliability of these units, and their performance under all weather conditions which is necessary to analyze the amount of queuing and storage that will occur at Rowley Junction.
4. Because the ITP is stationary, it is important to provide the public with the regulatory protections that are afforded by compliance with 10 C.F.R. Part 72, including a security plan, an emergency plan, and radiation dose analyses.

C. Failure to Demonstrate Compliance With NRC Dose Limits.

CONTENTION: The Applicant has failed to demonstrate a reasonable assurance that the dose limits specified in 10 C.F.R. § 72.106(b) can and will be complied with in that:

1. License Application uses data for HI-STORM and TranStor casks that have not been fully reviewed or approved by the NRC.
2. License Application erroneously states that the loss of confinement accident is not credible.
- 3. License Application makes selective and inappropriate use of data from NUREG-1536 for the fission product release fraction.
4. License Application makes selective and inappropriate use of data from SAND80-2124 for the respirable particulate fraction.
5. The dose analysis in the License Application only considers dose due solely to inhalation of the passing cloud. Direct radiation and ingestion of food and water are not considered in the analysis.
6. In the dose calculation, PFS appears to assume local residents will be evacuated until contamination is removed, although this is not expressly discussed in the License Application.
7. PFS fails to calculate doses to children
8. PFS uses the ICRP-30 dose model which is outdated and inadequate. PFS should be required to use the new ICRP-60 dose model.

D. Facilitation of Decommissioning

CONTENTION: The proposed ISFSI is not adequately designed to facilitate decommissioning, because PFS has not provided sufficient information about the design of its storage casks to assure compatibility with DOE repository specifications. Moreover, in the reasonably likely event that PFS's casks do not conform to DOE specification, PFS fails to provide any measures for the repackaging of spent fuel for ultimate disposal in a high level radioactive waste repository. Moreover, PFS provides no measures for verification of whether the condition of spent fuel meets disposal criteria that DOE may impose.

E. Financial Assurance.

CONTENTION: Contrary to the requirements of 10 C.F.R. §§ 72.22(e) and 72.40(a)(6), the Applicant has failed to demonstrate that it is financially qualified to engage in the Part 72 activities for which it seeks a license.

F. Inadequate Training and Certification of Personnel.

CONTENTION: Training and certification of PFS personnel fails to satisfy Subpart I of 10 C.F.R. Part 72 and will not assure that the facility is operated in a safe manner.

G. Quality Assurance.

CONTENTION: The Applicant's Quality Assurance ("QA") program is utterly inadequate to satisfy the requirements of 10 C.F.R. Part 72, Subpart G.

H. Inadequate Thermal Design.

CONTENTION: The design of the proposed ISFSI is inadequate to protect against overheating of storage casks and of the concrete cylinders in which they are to be stored in that:

1. Storage casks used in the License Application are not analyzed for the PFS maximum site design ambient temperature of 110°F.
2. The maximum average daily ambient temperatures for unnamed cities in Utah nearest the site do not necessarily correspond to the conditions in Skull Valley; PFS should provide information on actual temperatures at the Skull Valley site.
3. PFS's projection that average daily temperatures will not exceed 100°F fails to take into account the heat stored and radiated by the concrete pad and storage cylinders.
4. In projecting ambient temperatures, PFS fails to take into consideration the heat generated by the casks themselves.

5. PFS fails to account for the impact of heating the concrete pad on the effectiveness of convection cooling.
6. PFS has not demonstrated that the concrete structure of the TranStor cask is designed to withstand the temperatures at the proposed ISFSI.
7. PFS has not demonstrated that the concrete structure of the HI-STORM cask is designed to withstand the temperatures at the proposed ISFSI.

I. Lack of a Procedure for Verifying the Presence of Helium in Canisters.

CONTENTION: The design of the proposed ISFSI fails to satisfy 10 C.F.R. §§ 72.122(f) and 10 C.F.R. § 72.128(a), and poses undue risk to the public health and safety, because it lacks a procedure, or any evidence of a procedure, for verifying the presence of helium inside spent fuel canisters.

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

CONTENTION: 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.

K. Inadequate consideration of credible accidents.

CONTENTION: The Applicant has inadequately considered credible accidents caused by external events and facilities affecting the ISFSI, intermodal transfer site, and transportation corridor along Skull Valley Road, including the cumulative effects of the nearby hazardous waste and military testing facilities in the vicinity

L. Geotechnical.

CONTENTION: The Applicant has not demonstrated the suitability of the proposed ISFSI site because the License Application and SAR do not adequately address site and subsurface investigations necessary to determine geologic

conditions, potential seismicity, ground motion, soil stability and foundation loading.

M. Probable Maximum Flood

CONTENTION: The application fails to accurately estimate the Probable Maximum Flood (PMF) as required by 10 C.F.R. § 72.98, and subsequently, design structures important to safety are inadequate to address the PMF; thus, the application fails to satisfy 10 C.F.R. § 72.24(d)(2).

1. The Applicant's determination of the PMF drainage area to be 26 sq. miles is inaccurate because the Applicant has failed to account for all drainage sources that may impact the ISFSI site during extraordinary storm events.
2. In addition to design structures important to safety being inadequate to address the PMF, the consequence of an inaccurate PMF drainage area may negate the Applicant's assertion that the facility area is "flood dry."

N. Flooding

CONTENTION: Contrary to the requirements of 10 C.F.R. § 72.92, the Applicant has completely failed to collect and evaluate records relating to flooding in the area of the intermodal transfer site, which is located less than three miles from the Great Salt Lake shoreline.

O. Hydrology

CONTENTION: The Applicant has failed to adequately assess the health, safety and environmental effects from the construction, operation and decommissioning of the ISFSI and the potential impacts of transportation of spent fuel on groundwater, as required by 10 C.F.R. §§ 72.24(d), 72.100(b) and 72.108, with respect to the following contaminant sources, pathways, and impacts:

1. Contaminant pathways from the applicant's sewer/wastewater system, the retention pond, facility operations and construction activities.
2. Potential for groundwater and surface water contamination.

3. The effects of applicant's water usage on other well users and on the aquifer.
4. Impact of potential groundwater contamination on downgradient hydrological resources.

P. Inadequate Control of Occupational and Public Exposure to Radiation

CONTENTION: The Applicant has not provided enough information to meet NRC requirements of controlling and limiting the occupational radiation exposures to as low is reasonably achievable (ALARA) and analyzing the potential dose equivalent to an individual outside of the controlled area from accidents or natural phenomena events in that:

1. The Applicant has failed to provide detailed technical information demonstrating the adequacy of it's policy of minimizing exposure to workers as a result of handling casks, nor does it describe the design features that provide ALARA conditions during transportation, storage and transfer of waste. Specifically, if the design has incorporated ALARA concepts, the storage casks used at the ISFSI should have the lowest dose rate.
2. The Applicant has failed to provide an analysis of alternative cask handling procedures to demonstrate that the procedures will result in the lowest individual and collective doses.
3. The Applicant has failed to adequately describe why the Owner Controlled Area boundaries were chosen and whether the boundary dose rates will be the ultimate minimum values compared to other potential boundaries.
4. The Applicant has failed to indicate whether rain water or melted snow from the ISFSI storage pads will be collected, analyzed, and handled as radioactive waste.
5. The Applicant has failed to provide design information on the unloading facility ventilation system to show that contamination will be controlled and workers will be protected in a manner compatible with the ALARA principle. In addition, procedures to maintain and ensure filter

efficiency and replace components are not provided.

6. The Applicant has failed to provide adequate or complete methods for radiation protection and failed to provide information on how estimated radiation exposures values to operating personnel were derived to determine if does rates are adequate.
7. The Applicant has failed to describe a fully developed radiation protection program that ensures ALARA occupational exposures to radiation by not adequately describing:
 - a. the management policy and organizational structure to ensure ALARA;
 - b. a training program that insures all personnel who direct activities or work directly with radioactive materials or areas are capable of evaluating the significance of radiation doses;
 - c. specifics on personnel and area, portable and stationary radiation monitoring instruments, and personnel protective equipment, including reliability, serviceability, equipment limitation specifications;
 - d. a program for routine equipment calibration and testing for operation and accuracy;
 - e. a program to effectively control access to radiation areas and movement of radiation sources;
 - f. a program to maintain ALARA exposures of personnel servicing leaking casks;
 - g. a program for monitoring and retaining clean areas and monitoring dose rates in radiation zones to ensure ALARA; and
 - h. specific information on conducting formal audits and review of the radiation protection program.
8. The Applicant has completely failed to include an analysis of accident conditions, including

accidents due to natural phenomena, in accordance with 10 C.F.R. §§ 72.104 and 72.126(d).

9. The Applicant has failed to control airborne effluent which may cause unacceptable exposure to workers and the public, Contention T, Basis 3(a) (Air Quality) is adopted and incorporated by reference.

Q. Adequacy of ISFSI Design to Prevent Accidents

CONTENTION: The Applicant has failed to adequately identify and assess potential accidents, and, therefore, the Applicant is unable to determine the adequacy the ISFSI design to prevent accidents and mitigate the consequences of accidents as required by 10 C.F.R. 72.24(d) (2).

R. Emergency Plan

CONTENTION: The Applicant has not provided reasonable assurance that the public health and safety will be adequately protected in the event of an emergency at the storage site, at the transfer facility, or offsite during transportation in that:

1. PFS has not adequately described the facility, the activities conducted there, or the area in sufficient detail to evaluate the adequacy and appropriateness of the emergency plan, nor has PFS considered specific impediments to emergency response such as flooding, ice, snow, etc.
2. PFS has not identified adequate emergency and medical facilities and equipment to respond to an onsite emergency.
 - a. Tooele County capabilities and equipment are not addressed adequately.
 - b. No provision for extra onsite preparedness given time for Tooele County to respond, particularly in adverse weather conditions.
3. The plan was not adequately coordinated with the State or other government (local, county, state, federal) agencies.
 - a. PFS has not supported its claim regarding absence of extremely hazardous substances and

that no assistance will be required external to Tooele County.

- b. PFS does not address transportation accidents or accidents at the intermodal transfer point.
- 4. PFS has not adequately described means and equipment for mitigation of accidents, because it:
 - a. Does not address how it would procure crane within 48 hours for tip over cask accident.
 - b. Does not adequately support capability to fight fires.
- 5. The Emergency Plan does not provide adequate detail to meet provisions of Reg. Guide 3.67, § 5.4.1 regarding equipment inventories and locations.

S. Decommissioning.

CONTENTION: The decommissioning plan does not contain sufficient information to provide reasonable assurance that the decontamination or decommissioning of the ISFSI at the end of its useful life will provide adequate protection to the health and safety of the public as required by 10 C.F.R. § 72.30(a), nor does the decommissioning funding plan contain sufficient information to provide reasonable assurance that the necessary funds will be available to decommission the facility, as required by 10 C.F.R. § 70.3(b).

T. Inadequate Assessment of Required Permits and Other Entitlements

CONTENTION: In derogation of 10 C.F.R. § 51.45(d), the Environmental Report does not list all Federal permits, licenses, approvals and other entitlements which must be obtained in connection with the PFS ISFSI License Application, nor does the Environmental Report describe the status of compliance with these requirements in that:

- 1. The Applicant has failed to show that it is entitled to use the land for the ISFSI site and if it does have such right whether there are any legal constraints imposed on the use and control of the land: the NRC must require the Applicant

to fully disclose all provisions of the Applicant's lease with the Skull Valley Band in order to fully evaluate under what conditions that Applicant is entitled to use and control the site.

2. The Applicant has shown no proof of entitlement to build a transfer facility at Rowley Junction or right to use the terminal there; nor has it identified the number of casks expected on each shipment, or explained the effects of rail congestion or whether Rowley Junction has the capacity of handling the expected number of casks; nor has it shown that Union Pacific is willing and capable to handle shipments to Rowley Junction.
3. The Applicant has shown no ability or authority to build a rail spur from the rail head at Rowley Junction to the proposed ISFSI site.
4. The Applicant has shown no basis that it is entitled to widen Skull Valley Road or that the proposed 15-foot roadway would satisfy health, safety and environmental concerns nor does the application describe and identify State and local permits or approvals that are required.
5. The proposed PFSF is subject to Part 75 and the Applicant must supplement its submittal with relevant Part 75 information.
6. The Applicant's air quality analysis does not satisfy the requirements of 10 C.F.R. § 51.45 in that the Applicant has failed to adequately analyze whether it will be in compliance with the health-based National Ambient Air Quality Standards, whether it is subject to section 111 of the Clean Air Act, and whether it is a major stationary source of air pollution requiring a Prevention of Significant Deterioration permit; the Applicant's analysis of air quality impacts in ER 4.3.3 is inadequate; and a state air quality approval order under Utah Code Ann. § 19-2-108 will be required.
7. The Applicant has not addressed the requirement to obtain a Utah Groundwater discharge permit.
8. The Applicant's analysis of other required water permits lacks specificity and does not satisfy the requirements in that the Applicant merely states that it "might" need a Clean Water Act Section 404

dredge and fill permit for wetlands along the Skull Valley transportation corridor and that it will be required to consult with the State on the effects of the intermodal transfer site on the neighboring Timpie Springs Wildlife Management Area.

9. The applicant must show legal authority to drill wells on the proposed ISFSI site and that its water appropriations will not interfere with or impair existing water rights and identify and describe state approvals that are required.

U. Impacts of Onsite Storage not Considered

CONTENTION: Contrary to the requirements of NEPA and 10 C.F.R. 51.45(c), the Applicant fails to give adequate consideration to reasonably foreseeable potential adverse environmental impacts during storage of spent fuel on the ISFSI site.

V. Inadequate Consideration of Transportation-Related Radiological Environmental Impacts.

CONTENTION: The Environmental Report ("ER") fails to give adequate consideration to the transportation-related environmental impacts of the proposed ISFSI in that:

1. In order to comply with NEPA, PFS and the NRC Staff must evaluate all of the environmental impacts, not just regional impacts, associated with transportation of spent fuel to and from the proposed ISFSI, including preparation of spent fuel for transportation to the ISFSI, spent fuel transfers during transportation to the ISFSI, transferring and returning defective casks to the originating nuclear power plant, and transfers and transportation required for the ultimate disposal of the spent fuel.
2. PFS's reliance on Table S-4 is inappropriate and inadequate. 10 C.F.R. § 51.52 applies only to light-water-cooled nuclear power plant construction permit applicants, not to offsite ISFSI applicants. Even if 10 C.F.R. § 51.52 applied, PFS does not satisfy the threshold conditions for using Table S-4, and its reliance on NUREG-1437 is misplaced. Since the conditions specified in 10 C.F.R. § 51.52(a) for use of Table

S-4 are not satisfied, the PFS must provide "a full description and detailed analysis of the environmental effects of transportation of fuel and wastes to and from the reactor" in accordance with 10 C.F.R. § 51.52(b).

3. The SAR is inadequate to supplement Table S-4 in that:
 - a. The Applicant fails to adequately address the intermodal transfer point in that the analysis utilizes unreasonable assumptions regarding rail shipment volume and its associated effects.
 - b. The Applicant fails to calculate impacts of the return of substandard or degraded casks to the originating nuclear power plant licensees, including additional radiation doses to workers and the public.
 - c. The Applicant fails to address the environmental impacts of any necessary intermodal transfer required at some of the originating nuclear power plants due to lack of rail access or inadequate crane capability.
4. New information shows that Table S-4 grossly underestimates transportation impacts.
 - a. WASH-1238, which is the basis for Table S-4, uses poor and outdated data, and hence the Applicant's reliance on WASH-1238 and Table S-4 is inadequate to demonstrate compliance with NEPA in that:
 - b. WASH-1238 does not quantify the risks of spent fuel transportation. 10 C.F.R. § 51.45(c) requires that, to the extent practicable, the cost and benefits of a proposal should be quantified.
 - c. WASH-1238 does not address accidents caused by human error or sabotage;
 - d. WASH-1238 does not include up-to-date analyses of maximum credible accidents;

- e. WASH-1238 does not address the potential for degradation of fuel cladding caused by dry fuel storage;
- f. WASH-1238 does not address the greater release fraction from severe accident consequences demonstrated in recent analyses;
- g. WASH-1238 does not address specific regional characteristics of impacts on the environment from transportation and therefore is inadequate to satisfy 10 C.F.R. § 72.108;
- h. WASH-1238 does not address circumstances and consequences of a criticality event of a representative rail transportation cask with a large capacity (capacity greater than a critical mass of fuel);
- i. WASH-1238 does not contain information from the more recent and more accurate dose modeling RADTRAN computer program;
- j. WASH-1238 does not address a representative transportation distance for the shipment of spent fuel from the originating nuclear power plants. WASH-1238 assumes an approximate distance of 1000 miles. The PFS acknowledges that the distance may be more than twice that amount. ER at 4.7-3.

W. Other Impacts not Considered.

CONTENTION: 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.

X. Need for the Facility

CONTENTION: The Applicant fails to demonstrate there is a need for the facility as is required under NEPA.

Y. Connected Actions

CONTENTION: The Applicant fails to adequately discuss the link between this proposal and the national high level waste program, a connected action, as is required under NEPA.

Z. No Action Alternative

CONTENTION: The Environmental Report does not comply with NEPA because it does not adequately discuss the "no action" alternative.

AA. Range of Alternatives

CONTENTION: The Environmental Report fails to comply with the National Environmental Policy Act because it does not adequately evaluate the range of reasonable alternatives to the proposed action.

BB. Site Selection and Discriminatory Effects

CONTENTION: The Applicant's site selection process does not satisfy the demands of the President's Executive Order No. 12,898 or NEPA and the NRC staff must be directed to conduct a thorough and in-depth investigation of the Applicant's site selection process.

CC. One-Sided Cost-Benefit Analysis

CONTENTION: 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.

DD. Ecology and Species

CONTENTION: The Applicant has failed to adequately assess the potential impacts and effects from the construction, operation and decommissioning of the ISFSI and the transportation of spent fuel on the ecology and species in the region as required by 10 C.F.R. §§ 72.100(b) and 72.108 and NEPA in that:

1. The License Application does not discuss the long term impacts of construction activities on the overall ecological system in Skull Valley.
2. The License Application fails to address adverse impacts of contaminated ground or surface waters on various species, and fails to provide for sampling of the retention pond for contaminants.
3. The License Application fails to include both protective and mitigation plans in conjunction with appropriate authorities for Horseshoe Springs, Salt Mountain Springs, Timpie Springs Waterfowl Management Area, and raptor nests.
4. The License Application has not estimated potential impacts to ecosystems and "important species" in that:
 - a. The License Application does not discuss the importance of the variety of species found in the Skull Valley ecological system, including aquatic organisms, and does not discuss the interdependence of various species on one another or impact on the ecological system as a whole.
 - b. The License Application fails to assess the individual and collective impacts on various species, including wetland species, aquatic organisms, plants, fish, and birds from additional traffic, fugitive dust, radiation and other pollutants.
 - c. The License Application fails to address all possible impacts on federally endangered or threatened species, specifically the peregrine falcon nest in the Timpie Springs Waterfowl Management Area.

- d. The License Application fails to include information on pocket gopher mounds which may be impacted by the proposal.
 - e. The License Application fails to determine whether "culturally or medically (scientific) significant" plant species may be impacted by the PFSF.
 - f. The License Application fails to identify aquatic plant species which may be adversely impacted by the proposed action.
 - g. The License Application has not adequately identified plant species that are adversely impacted or adequately assessed the impact on those identified, specifically the impact on two "high interest" plants, Pohl's milkvetch and small spring parsley.
 - h. License Application does not identify, nor assess the adverse impacts on, the private domestic animal (livestock) or the domestic plant (farm produce) species in the area.
5. License Application fails to assess the potential impacts on Horseshoe Springs, Timpie Springs Waterfowl Management Area, the Great Salt Lake, and Salt Mountain Springs.
6. License Application fails to include the results of detailed site-specific surveys and analyses to determine species in the vicinity of the PFSF. 10 C.F.R. §§ 72.100(b) and 72.108 require that detailed surveys of species plus mitigation or prevention plans be prepared now.

Contentions of Castle Rock Land and
Livestock, L.C., Skull Valley Company, LTD.,
and Ensign Ranches of Utah, L.C.

1. Absence of NRC Authority.

CONTENTION: The Application is defective because NRC does not have authority to license a large-scale, off-site facility for the long-term storage of spent nuclear fuel such as the proposed PFSF.

2. Non-Compliance with Regulations.

CONTENTION: PFS's Application is defective because it seeks a license for an ISFSI pursuant to 10 C.F.R. Part 72. However, the proposed storage installation is not an ISFSI and is otherwise not licensable under 10 C.F.R. Part 72 in that:

- a. In order to harmonize the NRC regulations with the NHPA and Atomic Energy Act, the regulation defining ISFSI must be interpreted to exclude the proposed PFSF.
- b. NRC regulations must be construed to require PFS to demonstrate maximization of the use of existing storage capability at reactor sites.
- c. NRC regulations must be construed to require PFS to demonstrate that DOE has exhausted all means for providing off-site storage capacity.
- d. NRC regulations must be construed to require a showing that DOE has attempted to establish a cooperative program for on-site storage under 42 U.S.C. § 10198

3. Conflict with DOE Duties and Prerogatives.

CONTENTION: The Application must be denied because the proposed PFSF interferes with DOE duties and prerogatives under the NHPA.

4. Attempts to Evade the Requirements of the NHPA.

CONTENTION: The status of the Application suggests that DOE has either tacitly or directly agreed with PFS and

its member utilities to allow the Application to proceed in an attempt to evade the statutory mandates of the NWPAA.

5. Application For Permanent Repository.

CONTENTION: The proposed PFSF is properly characterized as a de facto permanent repository, and the Application fails to comply with the licensing requirements for a permanent repository in that:

- a. no repository or other storage facilities capable of absorbing the 40,000 MTU of spent fuel to be stored at the PFSF exist, or likely will exist at the time PFS is proposed to decommission the PFSF; the PFSF will function as a de facto permanent repository and must be licensed as such; the Application is defective because it does not meet the requirements of a permanent repository.
- b. even if a permanent repository is operational at the time the PFSF is proposed to be decommissioned, such repository will not be able to absorb 40,000 MTU at once or at a rate that will permit decommissioning of the PFSF; the PFSF will function as a de facto permanent repository and must be licensed as such; the Application is defective because it does not meet the requirements of a permanent repository.

6. Emergency Planning and Safety Analysis Deficiencies.

CONTENTION: The Application does not provide for reasonable assurance that the public health and safety will be adequately protected in the event of an emergency affecting the PFSF.

7. Inadequate Financial Qualifications.

CONTENTION: The Application does not provide assurance that PFS will have the necessary funds to cover estimated construction costs, operating costs, and decommissioning costs, as required by 10 C.F.R. § 72.22(e) in that:

- a. PFS is a limited liability company with no known assets; because PFS is a limited liability company, absent express agreements to the contrary, PFS's members are not individually liable for the costs of the proposed PFSF, and PFS's members are not required to advance equity

contributions. PFS has not produced any documents evidencing its members' obligations, and thus, has failed to show that it has a sufficient financial base to assume all obligations, known and unknown, incident to ownership and operation of the PFSF; also, PFS may be subject to termination prior to expiration of the license;

- b. the Application does not adequately account for possible shortfalls in revenue if customers become insolvent, default on their obligations, or otherwise do not continue making payments to the proposed PFSF;
- c. the Application does not provide assurance that PFS will have sufficient resources to cover non-routine expenses, including without limitation the costs of a worst case accident in transportation, storage, or disposal of the spent fuel;
- d. the Application fails to provide enough detail concerning the limited liability company agreement between PFS's members, the Service Agreements to be entered with customers, the business plans of PFS, and the other documents relevant to assessing the financial strength of PFS;
- e. the Application fails to describe the legal obligations of the Skull Valley Band of Goshute Indians and provide assurance that third parties will have adequate legal remedies if injured as a result of the its acts or omissions; and
- f. the Application fails to itemize cost estimates and otherwise provide enough detail to permit evaluation of the tenability of such estimates.

8. Groundwater Quality Degradation.

CONTENTION: The Application, including the ER, is defective and therefore raises the issue of risk to public health and safety because the proposed site of the PFSF will not, or cannot, be adequately protected against ground water contamination due to facility design, its location, contaminants it will generate, and the nature of the soils and bedrock of the area.

9. Regional and Cumulative Environmental Impacts.

CONTENTION: The Application fails to adequately discuss the regional and cumulative environmental impacts of the proposed PFSF, as required by 10 C.F.R. §§ 72.98(b) & (c) and 72.100, and NEPA, in that:

- a. the SAR and ER fail to address the cumulative regional health and safety impact of the ISFSI and other dangerous facilities in Tooele County, including without limitation issues regarding the cumulative impact to the regional environment and population;
- b. the SAR and ER fail to address the cumulative quantitative risk to the public of numerous dangerous facilities in one area and the interrelated transportation, sabotage, and accident risks arising from concentration of such facilities.

10. Retention Pond.

CONTENTION: The Application, including the ER, is defective and therefore raises public health and safety risks because it does not adequately address the potential of overflow and groundwater contamination from the retention pond and the environmental hazards created by such overflow, in that

- a. The ER fails to discuss potential for overflow and therefore fails to comply with 10 C.F.R. Part 51.
- b. ER is deficient because it contains no information concerning effluent characteristics and environmental impacts associated with seepage from the pond in violation of 10 C.F.R. § 51.45(b) and § 72.126(c) & (d).
- c. The ER should address the applicability of the Utah Groundwater Protection Rules, which apply specifically to facilities such as the retention pond and generally require that such ponds be lined.

11. Radiation and Environmental Monitoring.

CONTENTION: The Application poses undue risk to the public health and safety and fails to comply with 10 C.F.R.

§ 72.22, § 72.24 and § 72.126 because it fails to provide for adequate radiation monitoring necessary to facilitate radiation detection, event classification, emergency planning, and notification, including systematic baseline measurements of soils, forage, and water either near the PFSF site, or at Petitioners' adjoining lands in that:

- a. PFS has taken no background radiological samples of nearby vegetation and groundwater.
- b. PFS has provided no radioactive effluent monitoring system to detect radioactive contamination in surface runoff water that collects in a retention pond on the PFSF site.

12. Permits, Licenses and Approvals.

CONTENTION: The Application violates NRC regulations and NEPA because the ER fails to address adequately the status of compliance with all Federal, State, regional and local permits, licenses and approvals required for the proposed PFSF facility (see, e.g., 10 C.F.R. §§ 51.45(d) and 51.71(d)) in that:

- a. The ER does not contain a list of all permits, etc. which must be obtained as required by 10 C.F.R. § 51.45(d).
- b. The ER fails to include a discussion of the status of compliance with applicable environmental quality standards and requirements as required by 10 C.F.R. § 51.45(d) in that:
 - i. the discussion of the Army Corps of Engineers permitting requirements for construction along the new corridor is inadequate;
 - ii. the discussion of requirements at the Site is inadequate; and
 - iii. the conclusory sentence that no air quality permitting requirements apply is inadequate.
- c. Section 9.2 of the ER discussing Utah permitting requirements is inadequate.
- d. Sections 4.1.3 and 4.2.3 of the ER concerning Utah air quality permits are inadequate.

- e. ER discussion of widening Skull Valley Road is inadequate.

13. Inadequate Consideration of Alternatives.

CONTENTION: The Application violates NRC regulations and NEPA because the ER fails to give adequate consideration to alternatives, including alternative sites, alternative technologies, and the no-action alternative, see 10 C.F.R. § 51.45(c), in that:

- a. There is no discussion in the ER on the required topics of environmental effects and impacts, economic, technical and other costs and benefits of the alternatives.
- b. The evaluation and comparison of the no build or no action alternative is inadequate.
- c. The analyses of alternatives ignores every potential negative factor with respect to the PFSF. Such an analysis must include:
 - i. the environmental and safety benefits associated with maintaining and expanding a decentralized, onsite storage system;
 - ii. the environmental and safety impacts and risks associated with the proposed privately operated, centralized system;
 - iii. the state-by-state, plant-by-plant facts which create the need PFS asserts is present for moving the spent fuel to another location;
 - iv. the environmental impacts and safety hazards associated with moving so many casks from various locations across the country to a centralized location; and
 - v. the environmental benefits of a combination of expanded onsite storage and regional ISFSIs.

14. Inadequate Consideration of Impacts.

CONTENTION: The Application violates NRC regulations and NEPA because the ER fails to give adequate consideration

to the adverse impacts of the proposed PFSF, including the risk of transportation accidents, the risks of contamination of human and livestock food sources, the risks of contamination of water sources (including ground water contamination arising from leaching of contaminated soils), the risks of particulate emissions from construction and cement activities and similar risks (10 C.F.R. § 72.100) in that:

- a. Section 5.2 discussing transportation accidents contains no site specific information on the "effects on populations in the region" as required by the rule.
- b. Chapter 4 of the ER contains no meaningful evaluation of impact of unlined retention pond and other PFSF operations on surrounding subsoils and ground water.
- c. The ER fails to give adequate consideration to the adverse impacts of the PFSF, including the risks of contamination of human and livestock food sources.
- d. The ER fails to give adequate consideration to the adverse impacts of the PFSF, including the risks of particulate emissions from construction and cement activities.

15. Cost-Benefit Analysis.

CONTENTION: The Application violates NRC regulations and NEPA because the ER does not contain a reasonable and legitimate comparison of costs and benefits, 10 C.F.R. § 51.45(c), in that:

- a. ER Chapter 7 cost-benefit analysis is overly simplistic and fails to account for the true environmental, safety, social and economic costs associated with the proposed PFSF in Skull Valley.
- b. Cost-benefit analysis fails to account for the "loss of property values, economic opportunities and other business and economic losses" imposed by mere existence of PFSF.
- c. Chapter 7 of the ER fails to discuss applicant's financial arrangements with the Skull Valley Band which is essential to the cost-benefit analysis.

- d. The Castle Rock Petitioners intend to offer evidence on true costs of the proposed facility.

16. Impacts on Flora, Fauna and Existing Land Uses.

CONTENTION: The Application violates NRC regulations and NEPA because the ER does not adequately address the impact of the proposed PFSF upon the agriculture, recreation, wildlife, endangered or threatened species, and land quality of the area, see 10 C.F.R. § 72.100(b), in that:

- a. the ER fails to evaluate both usual and unusual site characteristics throughout all of Northwestern Utah;
- b. the ER fails to provide sufficient facts to enable one to understand the true impacts of the PFS on the environment, including without limitation information from a survey of endangered or threatened species in the area (including small spring parsley, Pohl's milkvetch, peregrine falcon, and the Skull Valley Pocket gopher);
- c. the precise transportation corridor has not been identified, and thus the Application does not contain specific information about affected species in the transportation corridor.

17. Inadequate Consideration of Land Impacts.

CONTENTION: The Application violates NRC regulations and NEPA because the ER does not adequately consider the impact of the facility upon such critical matters as future economic and residential development in the vicinity, potential differing land uses, property values, the tax base, and the loss of revenue and opportunity for agriculture, recreation, beef and dairy production, residential and commercial development, and investment opportunities, all of which have constituted the economic base and future use of Skull Valley and the economic interests of Petitioners, or how such impacts can and must be mitigated, see, e.g., 10 C.F.R. §§ 72.90(e), 72.98(c)(2) and 72.100(b), in that:

- a. the ER does not recognize the potential use of the areas surrounding the PFSF for residential or commercial development;

- b. the ER paints a misleading picture of the area population by ignoring a majority of the Salt Lake Valley;
- c. the ER fails to consider the effect of the PFSF on the present use of Castle Rock's lands for farming, ranch operations and residential purposes or the projected use of such lands for dairy operations, residential development, or commercial development;
- d. the ER provides no, or inaccurate, information on the economic value of current agricultural/ranching operations conduct on Castle Rock's lands; and
- e. the ER fails to discuss the impact of placing a spent fuel storage facility near a national wilderness area.

18. Impacts on Public Health.

CONTENTION: The Application violates NRC regulations and NEPA because the Environmental Report (ER) does not adequately consider the impact of the proposed PFSF upon the production of the agricultural products for human consumption by Petitioners, their tenants and others in the area (see 10 C.F.R. § 72.98(b)) in that:

- a. The ER fails to analyze, evaluate, or consider the potential impacts on the regional population associated with potential contamination of plants or animals destined for human consumption.
- b. The ER provides no detailed description at all of the coordinated ranching, farming, and livestock production activities currently carried on by Petitioners.

19. Septic Tank.

CONTENTION: The Application violates NRC regulations and NEPA because the ER does not adequately consider the impact of a septic tank system on the ground water and ecology of the area and the related potential of this system to injure Petitioners (See 10 C.F.R. §§ 72.98(b) and 72.100(b)), in that:

- a. The ER contains very little information on how sewage wastes will be managed at the proposed facility during both the construction and operation facilities.
- b. The ER fails to discuss in detail how the septic system will be designed so as to eliminate the risk of contamination to groundwater and petitioner's property.

20. Selection of Road or Rail Access to PFSF Site.

CONTENTION: The Application violates NRC regulations and NEPA because it fails to describe the considerations governing selection of either the Skull Valley Road or the rail spur access alternative over the other and the implications of such selection in light of such considerations. See 10 C.F.R. §§ 51.45(c) and 72.100(b), in that:

- a. The ER is deficient because it fails to properly analyze the transportation alternatives.
- b. The ER is incomplete because investigations and studies have not been performed which will have a direct bearing on the environmental effects of the alternative selected.
- c. The ER is defective because PFS is considering a third option not discussed in the ER.
- d. The ER fails to mention some significant environmental effects of the transportation alternatives such as increased traffic and noise.

21. Exact Location of Rail Spur.

CONTENTION: The Application violates NRC regulations and NEPA because it fails to describe in detail the route of the potential rail spur, property ownership along the route, and property rights needed to construct and operate the rail spur (see 10 C.F.R. § 72.90(a)), in that:

- a. The ER fails to provide any detail concerning location of the rail spur and impact on property rights along the route.

- b. Upon information and belief, ER is defective because PFS is considering two locations for the rail spur.

22. Road Expansion Authorizations.

CONTENTION: The Application violates NRC regulations and NEPA because it fails to describe adequately the nature and ownership of right-of-way that would permit PFS's contemplated improvements of the Skull Valley Road and what permits and approval from, or agreements with, the owner or owners thereof are needed for such improvements. See 10 C.F.R. § 72.90(a).

23. Existing Land Uses.

CONTENTION: The Application violates NRC regulations and NEPA because it fails to describe with particularity, using appropriate maps, land use patterns and ownership as to lands in the vicinity of the proposed PFSF and along the 24 mile access route, including without limitation, homes, outbuildings, corrals and fences, roads and trails, pastures, crop producing areas, water wells, tanks and troughs, ponds, ditches and canals. See 10 C.F.R. §§ 72.90(a) & (c), 72.98(b), in that:

- a. PFS fails to discuss in detail the various impacted property rights and owners around the site and along the 24-mile transportation corridor.
- b. PFS fails to discuss the legal basis for the right of way along the 24-mile transportation corridor.
- c. PFS fails to identify existing structures that would be impacted by the ISFSI and the various transportation corridors suggested by PFS.
- d. PFS fails to discuss impacts to existing grazing patterns and rights that would be impacted by the ISFSI and the various transportation corridors proposed by PFS.
- e. PFS fails to discuss all impacts to those living near to the ISFSI and the proposed transportation corridors.
- f. The PFS application has "other deficiencies."

24. Petitioners Castle Rock and Skull Valley Co. by this reference adopt in its entirety each and every contention filed by the State of Utah and incorporate each herein by this reference.

Ohngo Gaudadeh Devia Contentions

A. Lack of Sufficient Provisions for Prevention of and Recovery From Accidents

CONTENTION: The license application poses undue risk to public health and safety because it lacks sufficient provisions for prevention of and recovery from accidents during storage resulting from such causes as sabotage, fire, cask drop and bend, lid drop damage and/or improper welds.

1. The license application does not address the full range of accidents which could occur.
2. The license application does not adequately address the accident impacts of human error or intentional human actions.
3. The license application does not include a "hot cell" and the associated remote fuel handling equipment to safely unload, replace or reload a damaged fuel canister.
4. The ever present risk of accidents will adversely impact members of OGD.

B. Emergency Plan Fails to Address the Safety of Those Living Outside of the Facility

CONTENTION: The license application, specifically the emergency plan submitted with the license application fails to address the safety provisions made for those individuals living outside of the facility within a five mile radius of the facility. The emergency plan addresses only those measures that pertain to employees and have not addressed the provisions that would apply to those people living around the facility. The emergency plan does not address a warning system such as would be implemented to put the residents on notice of an accident.

1. Adequate backup means for offsite communications for notification of emergencies or requests for assistance are not included in the license application.
2. Means for compliance with the Emergency Planning and Community Right-To-Know Act of 1986, Title III, Pub. L. 99-499 is lacking in the license application.

C. License Application Lacks Sufficient Provisions for Protection Against Transportation Accidents

CONTENTION: The license application poses undue risk to public health and safety because it lacks sufficient provisions for protection against transportation accidents, including a criticality accident.

1. The license application fails to provide sufficient protection against transportation accidents because of the design of the shipping cask.
2. The license application lacks sufficient measures for protection of shipping casks during harsh summers and sub-zero temperatures of winter.
3. The license application fails to consider the historical record and consequences of spent nuclear fuel transportation accidents and incidents as well as the number of incidents that might occur given that record.
4. The license application fails to provide sufficient information about the radiological characteristics of the spent fuel to be shipped to fully evaluate the impacts and risks of spent nuclear fuel transportation to PFS.
5. The license application fails to provide sufficient detail about the anticipated shipment characteristics necessary for evaluation of transportation impacts and risks.
6. The license application ignores the potentially severe consequences of a successful terrorist attack against a spent fuel shipping cask using a high energy explosive device or an anti-tank weapon.
7. The license application ignores the significant radiation exposures which members of OGD and other residents of Skull Valley may receive as a result of gridlock traffic incidents and other routine transportation activities.

D. License Application Lacks Procedures for Returning Damaged Casks to the Generating Reactor

CONTENTION: The license application poses undue risk to public health and safety because it has not provided procedures for returning casks to the generating reactor. The SAR indicates that the casks will be inspected for damage prior to "accepting" the cask and before it enters the Restricted Area. SAR p. 5.1-4. If the casks are damaged or do not meet the criteria specified in LA AP. A, p. TS-19 there is no provision for housing the casks prior to shipping the cask back to the generating reactor.

E. License Application Fails to Provide Information and a Plan to Deal With Casks That May Leak or Become Contaminated During the 20 to 40 Year Storage Period

CONTENTION: The License Application poses undue risk to the public health and safety because it fails to provide information and a plan to deal with casks that may leak or become contaminated during the 20 to 40 year storage period. Sending such casks back to the generating reactor may not be an option for several reasons, such as: PFS does not have the facilities to repackage contaminated canisters, the casks may be too contaminated to transport, or the nuclear power plant from which the fuel originated may have been decommissioned, and there are no assurances that the storage will be only "interim". The license application provides no assurance that there will be an alternative location to which canisters and/or casks can be shipped if they become defective while in storage at PFS.

1. The license application provides very little procedure for dealing with defective canisters and/or casks that may leak or become contaminated.
2. No alternative location is designated in the license application should a canister become defective while in storage especially if the reactor that originally shipped the canister is decommissioned.
3. The license application does not adequately address the uncertainties about the suitability of Yucca Mountain as a repository site, and if ever, spent fuel stored at PFS should be shipped to Yucca Mountain.

F. License Application Fails to Make Clear Provisions for Funding of Estimated Construction Costs, Operating Costs, and Decommissioning Costs

CONTENTION: The license application fails to make clear provisions for funding of estimated construction costs, operating costs, and decommission costs. It also fails to make clear as part of the construction costs who the contractors will be.

1. The license application does not demonstrate that PFS "either possesses the necessary funds, or . . . has reasonable assurance of obtaining the necessary funds" as required by 10 C.F.R. § 72.22(e).

G. License Application Fails to Provide for Adequate Radiation Monitoring

CONTENTION: The license application poses undue risk to public health and safety because it fails to provide for adequate radiation monitoring to protect the health of the public and workers. It also fails to provide for adequate radiation monitoring necessary to facilitate radiation detection, event classification, emergency planning and notification.

1. The license application does not meet the requirements of 10 C.F.R. § 72.32(6).
2. The license application does not address releases outside of the ISFSI site.

I. The Cask Design is Unsafe and Untested for Long Periods of Time

CONTENTION: The license application poses undue risk to public health and safety because it calls for use of a cask whose design is unsafe and untested for long periods of time and which has not been certified for either transportation or long term storage.

1. The license application fails to meet the requirements of 10 C.F.R. § 72.22(e) because the cask design is not certified.
2. No meaningful EIS under NEPA can be completed until the cask design is certified.

J. The License Application Fails to Address the Status of Compliance with All Permits, Licenses, and Approvals for the Facility

CONTENTION: The license application violates NRC regulations because the ER fails to address the status of compliance with all permits, licenses and approvals required for the facility.

K. There are No Provisions for Paying for Casks That May Need to be Returned to the Generating Facility

CONTENTION: The license application poses undue risk to public health and safety because it does not address how the facility will deal with paying for or returning casks that may prove unsafe should the generating reactor have been decommissioned.

L. Operators will not be Trained for the Specific Job When Hired and Operators will Undergo On-the-job Training

CONTENTION: The license application poses undue risk to public health and safety because it provides that operators will not be trained for the specific job when hired and that operators will undergo on-the-job training, and classroom training leading to certification. The license application states that "of necessity, the first individuals certified may have to improvise in certain situations to complete the practical factors." See, License Application, LA Chapter 7 p. 7.1. This doesn't protect public health and safety in any manner.

1. The license application does not meet the requirements of 10 C.F.R. § 72.327, in that persons being trained on the job will not be able to carry out their responsibilities under 10 C.F.R. § 72.32(a)(7).

M. No Provisions for Transportation Accidents are Made

CONTENTION: The license application poses undue risks to public health and safety because it makes no provisions for transportation accidents that might occur.

1. The license application does not adequately address the requirements of 10 C.F.R. § 72.32(a)(2) by failing to address transportation accidents near the site.

N. There may be a Leak that Contaminates the Present Water System

CONTENTION: The license application poses undue risk to public health and safety because it fails to address the possibility of a leak occurring that might contaminate the present water system that members of the community rely on. The application admits that several wells are going to have to be built to meet the demand that will be presented by the facility. Neither contingencies to deal with contamination nor lowering of the present water table are discussed.

O. Environmental Justice Issues Are Not Addressed

CONTENTION: The license application poses undue risk to public health and safety because it fails to address environmental justice issues. In, Executive Order 12898, 3 C.F.R. 859 (1995) issued February 11, 1994, President Clinton directed that each Federal agency "shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations in the United States." It is not just and fair that this community be made to suffer more environmental degradation at the hands of the NRC. Presently, the area is surrounded by a ring of environmentally harmful companies and facilities. Within a radius of thirty-five (35) miles the members of OGD and the Goshute reservation are inundated with hazardous waste from: Dugway Proving Ground, Utah Test and Training Range South, Deseret Chemical Depot, Tooele Army Depot, Envirocare Mixed Waste storage facility, Aptus Hazardous Waste Incinerator, Grassy Mountain Hazardous Waste Landfill and Utah Test and Training Range North.

P. Members of OGD will be Adversely Impacted by Routine Operations of the Proposed Storage Facility and Its Associated Transportation Activities

CONTENTION: The ability of OGD members to pursue the traditional Goshute life style will be adversely impacted by the routine operations at the storage facility. Obvious impacts resulting from the physical presence of the facility are; visual intrusion, noise, worker and visitor traffic to and from the storage site, and presence of strangers in the community. Those impacts that are not as obvious but nonetheless serious are; individual and collective social,

psychological, and cultural impacts such as a sense of loss of well-being because of the dangerous wastes that are being stored near their homes, in their community, and on their ancestral lands.

The ability of OGD members to pursue a traditional Goshute life style will be adversely affected by routine transportation operations of spent nuclear fuel and/or the presence of trucks, especially very large heavy haul trucks. The other obvious and other effects include the same kind of effects that are listed above, including fear that a transportation accident might happen, fear of acts of terrorism or sabotage which could expose members of OGD and their families, their homes, the community and their ancestral land.

**Contentions of Confederated Tribes of the
Goshute Reservation and David Pete**

A. Decommissioning Plan Deficiencies.

CONTENTION: PFS has not provided reasonable assurance that the ISFSI can be cleaned up and adequately restored upon cessation of operations.

B. Lack of Protection Against Worst Case Accidents.

CONTENTION: PFS has violated both NRC regulations and NEPA requirements by not adequately dealing with certain reasonably foreseeable accidents and failing to fully evaluate their potential impacts on health and the environment, to protect against them in an adequate manner, or to provide adequate emergency response measures.

C. Inadequate Assessment of Costs under NEPA.

CONTENTION: PFS has not adequately described or weighed the environmental, social, and economic impacts and costs of operating the ISFSI. Indeed, there is no adequate benefit-cost analysis which even demonstrates a need for the ISFSI. On the whole, Petitioners contend that the costs of the project far outweigh the benefits of the proposed action. See, e.g., Public Service Co. of New Hampshire, 6 NRC 33, 90 (1977).

D. Inadequate Discussion of No-Action Alternative.

CONTENTION: PFS has failed to satisfy the requirements of NEPA because it does not adequately discuss the alternatives to the proposed action.

E. Failure to Give Adequate Consideration to Adverse Impacts on the Historic District.

CONTENTION: PFS has failed to comply with NEPA in that it has not adequately discussed the impacts upon the historic district and the archeological heritage of the area.

F. Failure to Adequately Establish Financial Qualifications.

CONTENTION: PFS has failed to demonstrate that it is financially qualified to build and operate the ISFSI.

G. The Goshute Tribe hereby adopts and incorporates by reference the following Contentions and the Bases stated by Castle Rock Land & Livestock, L.C.:

1. Absence of NRC Authority. The Application is defective because NRC does not have authority to license a large-scale, off-site facility for the long-term storage of spent nuclear fuel such as the proposed ISFSI.

2. Non-Compliance with Regulations. PFS's Application is defective because it seeks a license for an ISFSI pursuant to 10 C.F.R. Part 72. However, the proposed storage installation is not an ISFSI and is otherwise not licensable under 10 C.F.R. Part 72.

3. Application for Permanent Repository. The proposed PFSF is properly characterized as a de facto permanent repository, and the Application fails to comply with the licensing requirements for a permanent repository.

4. Inadequate Financial Qualifications. The Application does not provide assurance that PFS will have the necessary funds to cover estimated construction costs, operating costs, and decommissioning costs, as required by 10 C.F.R. § 72.22(e).

5. Regional and Cumulative Environmental Impacts. The Application fails to adequately discuss the regional and cumulative environmental impacts of the proposed PFSF, as required by 10 C.F.R. §§ 72.98(b) & (c), NEPA.

H. The Goshute Tribe hereby adopts and incorporates by reference the Contentions and the Bases stated by the State of Utah including without limit the following:

A. Statutory Authority. Congress has not authorized NRC to issue a license to a private entity for 4,000 cask, away-from reactor, centralized, spent nuclear fuel storage facility.

B. License Needed for Intermodal Transfer Facility. PFS's application should be rejected because it does not

seek approval for receipt, transfer, and possession of spent nuclear fuel at the Rowley Junction Intermodal Transfer Point, in violation of 10 C.F.R. § 72.6(c)(1).

Docket No.(s)72-22-ISFSI
LB M&O--TRANSCRIPT CORRECTIONS

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Dated at Rockville, Md. this
9 day of February 1998

Adria T. Byrdson
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