

October 14, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

**CONTENTIONS OF THE CONFEDERATED TRIBES OF THE GOSHUTE
RESERVATION RELATING TO THE LOW RAIL LICENSE AMENDMENT**

In response to the License "Amendment" filed by the Applicant on August 28, 1998, and served upon the Confederated Tribes of the Goshute Reservation (herein, "the Goshute Tribe") on September 29, 1998, the Goshute Tribe submits the following contentions with respect to the "Amendment:"

Contention I.

The Goshute Tribe hereby adopts and restates as though set forth in full herein the additional Contentions and Supporting Bases of the State of Utah filed with the Board on September 29, 1998, relating to the Low Rail Transportation License Amendment.

Contention J.

The Applicant's Environmental Report fails to provide adequate consideration to the potential fire hazards and the impediment to response to wild fires associated with constructing and operating the proposed rail line in the Low corridor.

Basis: The ER must consider the environmental effects of the proposed action. 10 CFR §51.45(c). The ER must also consider the regional environmental effects of the proposed action. 10 CFR §72.10(b). The proposed rail line creates the potential for new and additional wildfire ignition causes and locations. In addition to the points raised by the State in its Supplemental Contentions on this point, the Goshute Tribe also adds the following bases:

A slow moving train (20 mph speed per Application) could easily be overtaken by a wildfire, regardless of the cause of the fire. The location and 26 mile length of the train tracks makes this form of transportation particularly susceptible to damage and personal injury in the event of a wildfire which could occur at virtually any point along the tracks during a significant portion of each calendar year.

Thus, not only would the train possibly cause such fires (as noted in the State's Contention HH) it would be particularly vulnerable to damage and injury from such fires.

These new considerations are not addressed in the ER.

Contention K:

The "Amended" Application fails to account for the costs associated with the construction, maintenance, operation, and decommissioning of the rail line and the costs associated with the ultimate removal of the stored fuel at the end of the lease.

Basis: 10 CFR §72.100(b) requires an evaluation of "the effects on the regional environment resulting from construction, operation, and decommissioning of the ISFSI" In addition, 10 CFR §51.54(c) requires an analysis in the environmental report of "other benefits and costs of the proposed action." Inadequate consideration of these factors has been provided especially in view of the fact that the proposed rail line is inseparably connected with the storage site and, according to the "Amended" Application, would be the primary or preferred method of transport from the main rail line to the site.

In addition to those factors identified by the State in its Contention II, the Goshute Tribe notes that the Applicant has failed to provide any cost information relating to on-going maintenance of such a line. Also, there is no discussion by Applicant of the costs of removal of such a line at the termination of the lease, including the costs of revegetating the area.

In addition, no costs are provided for decommissioning using the line and/or associated other transportation facilities. That is, when the spent fuel waste is ultimately removed from this proposed "temporary" site, the costs of transporting that

waste to another site is not included. Clearly, removal costs (and the ability of Applicant to pay those costs) should be considered before the license is approved. At this point, Applicant has provided neither the costs nor any rational method for calculating such costs.

Contention L.

The intermodal transfer point (ITP), under the proposed "Amendment," becomes at temporary storage facility which requires a separate and additional license. 10 CFR §72.6(c)(1).

Basis: In addition to the points raised by the State in its Contention B-1, the Goshute Tribe points to the increased likelihood that materials will be stored at the ITP for potentially extended periods of time. Factors which have yet to be mentioned or considered are interruptions in transportation schedules caused by mechanical breakdowns (affecting the trains, cars, special trucks, cranes, rail lines, switching equipment, etc.), wildfires, employee work-stoppages, and problems occurring on the main rail lines (including, e.g., rising Great Salt Lake waters which could delay removal of defective casks). Any problem or combination of problems could result in an accumulation and temporary storage of waste materials at the ITP.

Contention M.

The proposed rail line will increase hazards to the public.

Basis: In addition to the issues raised earlier by the Goshute Tribe in its first set of Contentions, the placement of a slow-moving train on a track running parallel to the interstate highway will increase the vulnerability of the train and its cargo to terrorist attack. Moreover, running the line parallel to the Interstate will increase the possibility of exposure by the traveling public to the potential dangers stemming from accidental or intentionally released radiation.

Contention N.

The "Amendment" fails to provide adequate notice to the public of the changes, which are substantial.

Basis: The Application process contemplates publication of the initial application in the Federal Register so that the public will have notice of the nature of the license being sought. In this instance, the Applicant is circumventing that fundamental requirement by proposing substantial changes in the nature of the license through a so-called "Amendment." A review of the hundreds of pages contained in the "Amendment" shows that Applicant has made changes on virtually every page. Such a sweeping set of changes should mandate that Applicant proceed to republish the Application so that potentially interested citizens impacted by such changes would be able to participate in

this proceeding. The failure to do so taints this proceeding by denying due process notice to the public at large.

The Goshute Tribe Satisfies the Commission's Late-Filing Criteria.

The Goshute Tribe has good cause for late filing because the proposed amendments were not served upon the Tribe until September 29, 1998. The Tribe became aware of the proposed amendments only a few days before that time. Submission of these added contentions has followed in due course without unreasonable delay.

In addition, the Goshute Tribe has no immediate means, other than this proceeding, to protect its interests in the issues identified above.

Third, the Goshute Tribe's participation in this proceeding can reasonably be expected to assist in developing a record.

Fourth, with respect to the contentions added by the Goshute Tribe which go beyond those submitted by the State, there are no other parties who will represent the Goshute Tribe's interests with respect thereto.

Finally, if the admission of the foregoing contentions broadens this proceeding, such a result is caused by Applicant. Any delay or broadening is outweighed by the significance of the issues.

Thus, the foregoing satisfies the NRC's criteria for late consideration.

Dated: October 14, 1998

Respectfully submitted,

S/

A handwritten signature in black ink, appearing to read "John Paul Kennedy", written in a cursive style.

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Certificate of Service

I hereby certify that copies of the above Statement of Contentions were served upon the persons indicated below in the manner stated on the date stated:

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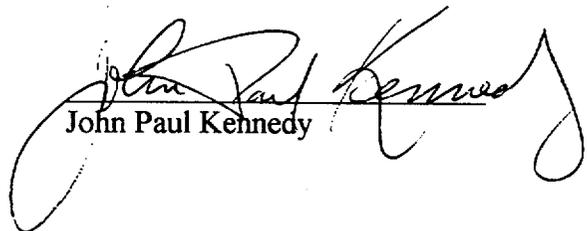
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