



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

December 16, 1998

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Jerry Kline
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

In the Matter of
Private Fuel Storage L.L.C.
(Independent Spent Fuel Storage Installation)
Docket No. 72-22-ISFSI

Dear Administrative Judges:

During the Prehearing Conference on December 11, 1998, the Licensing Board inquired as to whether the Bureau of Land Management (BLM) intends to prepare an environmental impact statement (EIS) in connection with its consideration of the right of way application submitted by Private Fuel Storage, L.L.C. (PFS). This inquiry was the subject of the Licensing Board's "Order (Schedule for NRC Staff 'Lead Agency' Filing)," issued December 14, 1998. As noted by the Board, the NRC Staff (Staff) has committed to provide information to the Board "concerning the 'lead agency' relative to [the publication of] any environmental documents regarding the use of public land administered by the Bureau of Land Management for the proposed Low Corridor rail spur." *Id.*

In response to your inquiry, I wish to inform you that the Staff has entered into an Agreement with BLM concerning the publication of an EIS for the PFS facility. Pursuant to that Agreement, the NRC will serve as the lead agency and will supervise the preparation of an EIS for the PFS application; BLM has agreed to serve as a "Cooperating Agency" in the preparation of that EIS. See "Agreement Between U.S. Nuclear Regulatory Commission and Bureau of Land Management," dated October 15, 1998, at ¶ II (attached hereto).

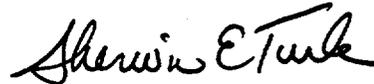
In accordance with the Agreement, BLM, *inter alia*, is to provide information to the NRC concerning the occurrence of conditions, resources, and uses of the public lands, and any impacts thereon that may be caused by the facility (Agreement, ¶ III. E), potential alternative locations and routes from facilities and ROWs that may be required on public lands (*Id.*, ¶ III. F), and required and suggested mitigating measures (*Id.*, ¶ III. G); and BLM will provide comments

on the Draft EIS (DEIS) and Final EIS (FEIS) (*Id.*, ¶ III. J-K). The NRC Staff, *inter alia*, will analyze BLM's recommended alternatives and describe BLM's required and suggested mitigating measures in the DEIS and FEIS (*Id.*, ¶ III. H), inform BLM of the progress of its review, and provide an opportunity for BLM to comment on its preliminary, draft and final EIS documents (*Id.*, ¶ I-J).

The Agreement between BLM and NRC contemplates that BLM will not prepare its own EIS but will, instead, participate in the NRC's preparation of an EIS. In a telephone conversation on December 15, 1998, a BLM representative confirmed to me that BLM will serve as a cooperating agency in the NRC Staff's preparation of an EIS, and will not prepare its own EIS.

I trust that this information responds to your inquiry.

Sincerely,



Sherwin E. Turk
Counsel for NRC Staff

Enclosure: As stated

cc w/Encl.: Service List

**AGREEMENT BETWEEN
U.S. NUCLEAR REGULATORY COMMISSION
AND BUREAU OF LAND MANAGEMENT**

I. Purpose and Objectives

This agreement provides procedures and guidance for coordination and cooperation between the U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Material Safety and Safeguards and the U.S. Department of the Interior, Bureau of Land Management (BLM), Utah State Office, concerning the preparation of an Environmental Impact Statement (EIS) for the application of Private Fuel Storage, L.L.C. (PFS) to construct and operate an Independent Spent Fuel Storage Installation at the Skull Valley Goshute Indian Reservation in Tooele County, Utah.

This agreement is intended to assist in meeting the requirements and objectives of the National Environmental Policy Act (NEPA) through integrating each agency's planning, environmental review, and other procedures with NEPA requirements so that such efforts may take place concurrently rather than consecutively; eliminating duplication of effort; and emphasizing interagency cooperation.

II. Agency Roles

The NRC shall be the lead agency and shall supervise the preparation of the EIS. The BLM shall be a cooperating agency.

III. Procedures and Responsibilities

- A. The NRC shall provide financial resources for its environmental review and preparation of the EIS. BLM shall provide the financial resources to carry out its role as a cooperating agency.
- B. If PFS requires rights-of-way (ROWs) from BLM for required facilities, NRC will require PFS to seek such ROWs from BLM prior to publication of the draft EIS (DEIS).
- C. NRC shall identify BLM as a cooperating agency for preparation of the EIS in all Federal Register (FR) Notices concerning availability of the DEIS, final EIS (FEIS) and any Record of Decision (ROD).
- D. Each agency shall designate a coordinator who shall be a single point of contact for the project.
- E. BLM shall provide information to NRC concerning the occurrence of and impacts on conditions, resources, and uses on the public lands that may be affected by the subject repository.

ENCLOSURE

- F. BLM shall identify potential alternative locations and routes from facilities and ROWs that may be required on the public lands.**
- G. BLM shall provide to NRC the BLM required and suggested mitigating measures for actions for facilities and ROWs proposed on the public lands.**
- H. NRC shall analyze BLM's recommended alternatives in the draft and final EISs and shall describe BLM's required and recommended mitigating measures in the subject EIS.**
- I. NRC shall inform BLM of progress on the project and shall invite BLM to attend meetings (at BLM's expense) related to NRC's environmental review.**
- J. NRC shall provide an opportunity for BLM to comment on the preliminary DEIS (if any), DEIS, preliminary Final EIS (if any), and Final EIS.**
- K. Upon NRC's request, BLM shall provide a letter indicating whether it concurs with the scoping report, draft EIS, and final EIS.**
- L. To the extent consistent with NRC regulations and policy, NRC shall attempt to schedule notices and releases of required documents, approvals and decisions to accommodate the requirements of Department of Interior and BLM.**
- M. NRC shall provide financial resources for its technical experts to testify in the Atomic Safety and Licensing Board hearing. If expertise within BLM's authority is required, BLM shall provide assistance, including expert witnesses at BLM's expense.**

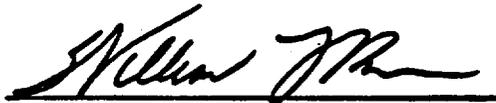
IV. Administration

- A. Nothing in this agreement will be construed as affecting the authorities of the participating agencies or as binding beyond their respective authorities or to require either agency to obligate or expend funds in excess of available appropriations or contributions by the applicant.**
- B. NRC, as the lead agency, shall maintain the formal project file and shall make the file available to BLM as needed by BLM.**
- C. This agreement terminates following the completion of the final EIS and issuance of the final ROD; or the agreement may be canceled at any time by one of the participating agencies following at least 30-days notice to the other participant.**

- D. The terms of this agreement may be renegotiated at any time at the initiative of one of the participating agencies, following at least 30-days notice to the other participant. Changes will be in the form of an amendment and will become effective upon signature by both agencies.

APPROVED:

William F. Kane, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission


Signature

Dated: SEPTEMBER 28, 1998

G. William Lamb, Utah State Director
Bureau of Land Management
United States Department of the Interior


Signature

Dated: 10/6/, 1998