

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety And Licensing Board

In the Matter of)	
)	
PRIVATE FUEL STORAGE L.L.C.)	Docket No. 72-22
)	
(Private Fuel Storage Facility))	ASLBP No. 97-732-02-ISFSI

DECLARATION OF JOHN A. VINCENT

CITY OF PARSIPPANY)
) SS:
STATE OF NEW JERSEY)

John A. Vincent states as follows under penalties of perjury:

1. I am employed by GPU Nuclear as Senior Engineer Nuclear Fuel in Parsippany, New Jersey, and am the Chairman of PFS's Technology Committee. In my capacity as Senior Engineer Nuclear Fuel, I am responsible for managing the external nuclear fuel cycle activities for the nuclear facilities of GPU Nuclear, including the transportation of spent nuclear fuel. In this capacity I managed the GPU Nuclear spent fuel shipping campaign to return 224 spent fuel assemblies to the Oyster Creek Nuclear Generating Station from the Nuclear Fuel Services facility in West Valley, New York. As Chairman of PFS's Technology Committee, I am responsible for overseeing the activities of the Committee which focus on spent fuel storage and transportation technology, nuclear fuel specifications and characterization, spent fuel transportation, dry transfer systems, and storage space allocation and priority. My professional and educational experience is summarized in the curriculum vitae attached as Exhibit 1 to this Declaration.

2. As Chairman of PFS's Technology Committee, and based on my previous experience in transporting spent nuclear fuel, I have been actively involved in developing, and am knowledgeable about, PFS's plans for the shipment of spent nuclear fuel

from the various originating reactors to the PFSF as well as PFS's plan for the operation of the Intermodal Transfer Point ("ITP"). PFS has generally addressed both these issues in its response to the NRC's Request for Additional Information ("RAI") ITP-1, submitted under cover letter dated February 10, 1999. See Exhibit 2 to this Declaration.

3. PFS's current plan for the shipment of spent nuclear fuel to the PFSF is generally described in its application and response to RAI ITP-1. Under the PFS plan, spent fuel would be shipped in NRC-certified transportation casks from the originating reactor sites to the PFSF. The shipper will be the originating reactor licensee, who will ship the spent fuel under the general license authority of 10 C.F.R. § 71.12. Ownership of, and title to, the spent fuel will remain with the originating reactor licensee throughout the shipment (as well as at the PFSF).

4. The originating reactor licensees that ship spent fuel to the PFSF are authorized by the general license in 10 C.F.R. § 71.12 to deliver the spent fuel to one or more carriers that would be authorized under 10 C.F.R. § 70.20a to transport the spent fuel to the PFSF. Under PFS's current plan for the shipment of spent nuclear fuel to the PFSF, the transportation of spent fuel casks from the originating reactor to the PFSF would be undertaken by one or more carriers authorized to possess and transport the transportation cask under 10 C.F.R. § 70.20a. The carrier in possession of a spent fuel transportation cask would have actual custody and control of the cask, subject to NRC and DOT regulations governing the transportation of spent nuclear fuel. Under applicable NRC and DOT regulations, more than one carrier may be involved in transporting the cask from the originating reactor to the PFSF.

5. The ITP will be an integral part of transporting the spent fuel to the PFSF under the second of two alternatives being considered by PFS for the transport of spent nuclear fuel to the PFSF. Under this alternative, the spent fuel would be shipped by rail carrier to the ITP, and then transported the remaining 25 miles to the PFSF on Skull Valley Road by heavy haul.

6. Under PFS's current plan, described in PFS's response to RAI ITP-1, PFS would operate the ITP as a common/contract carrier under a transportation services agreement with its utility customers. Alternatively, PFS would arrange for a third party common/contract carrier to provide such services to its utility customers. See PFS RAI Response, ITP-1 at 2-3. 6. PFS's current plans are for it to own the physical structures and equipment at the ITP in either event. In the latter case, where a third party common/contract carrier were to operate the ITP, the third party may lease the ITP facilities and equipment from PFS or otherwise contract with PFS for the operation of the ITP. Id. at 5-6.

7. Should PFS choose the heavy-haul alternative for shipping spent fuel to the PFSF (which includes intermodal transfer at the ITP), under PFS's current plan it would file an appropriate application to qualify as, and to meet the applicable requirements for, a motor common or contract carrier with the Federal Highway Administration (FHWA). See PFS RAI Response, ITP-1 at 3-4. An entity seeking approval to become a motor common or contract carrier of property files a "fitness application" with the FHWA, 49 C.F.R. § 365.105, which the FHWA reviews in accordance with its safety fitness and financial responsibility policies, 49 C.F.R. § 365.109(a)(4), and determines whether the applicant is "fit, willing, and able to perform the involved operations and to comply with all applicable statutory and regulatory provisions," 49 C.F.R. § 365.107. In order to comply with the safety fitness requirements, an applicant must implement certain safety programs such as a system to ensure compliance with Federal Motor Carrier Safety Regulations, a driver safety training program and a means to oversee driver qualification requirements, an alcohol and controlled substances testing program, and a system for preparing and maintaining an accident register. 49 C.F.R. Parts 350-399. In order to comply with financial responsibility requirements, an applicant must submit proof of surety bonds for bodily injury, property damage, and cargo liability, which to carry radioactive materials requires providing a \$5,000,000 surety bond. Finally, an applicant must submit a designation of legal process agent. 49 C.F.R. § 365.109(a)(6).

8. Should PFS choose the ITP/heavy-haul alternative for shipping spent fuel to the PFSF, PFS would undertake all necessary steps to qualify as a motor carrier with the FHWA and would file an appropriate application and qualify as a carrier of hazardous materials with the Department of Transportation (DOT), which entails registration with DOT, payment of a nominal (\$300) registration fee (49 C.F.R. § 107.601(a)), and compliance with DOT hazardous materials transportation requirements. See PFS RAI Response, ITP-1 at 3-4. Beyond registration and applicable NRC requirements, these requirements include: 49 C.F.R. Part 171, (reports of accidents/incidents); Part 172 (hazard warning label, placarding, marking, shipping papers, and emergency response information); Part 173 (compatibility, segregation, loading, and shipment handling requirements); and Parts 172 Subpart H and 177 (employee training including general awareness, familiarization training, function-specific training, safety training, and modal specific training).

9. During intermodal transfer at the ITP, the spent fuel transportation cask will be under active shipping papers providing for the transit of the spent fuel from the originating reactor to the PFSF. No new shipping papers will be required for the intermodal transfer. As discussed in the PFS response to RAI ITP-1, PFS (or a third party under contract operating the ITP) will verify at a minimum that any transportation cask arriving at the ITP is accompanied by active shipping papers and is still marked, labeled and placarded in compliance with DOT regulations. See PFS RAI Response, ITP-1 at 3-4.

10. Further, as discussed in the PFS response to RAI ITP-1, PFS (or a third party under contract operating the ITP) will perform all operations at the ITP in compliance with applicable DOT and NRC regulations. PFS (or the third party) would comply with applicable DOT statutes and regulations pertaining to rail carriers or to motor carriers, as appropriate, and the related hazardous materials transportation requirements. See PFS RAI Response, ITP-1 at 3-4. The operations at the ITP involving the transportation cask will be in compliance with the transportation cask's NRC Certificate of Compliance

and, to the extent appropriate, all operations at the ITP will be in compliance with PFS's Commission-approved Part 71 quality assurance program.

11. As discussed in the PFS response to RAI ITP-1, PFS (or a third party under contract operating the ITP) will perform all operations at the ITP, as the carrier, in compliance with the physical protection requirements of 10 C.F.R. § 73.37, including the provision of escorts to maintain continuous surveillance of transportation casks at the ITP. See PFS RAI Response, ITP-1 at 4-5. These requirements have traditionally been readily met by shippers and carriers of commercial spent nuclear fuel.

12. As discussed in the PFS response to RAI ITP-1, PFS would not transport spent nuclear fuel or operate the ITP as a private carrier because PFS will never take title to or own the spent nuclear fuel. See PFS RAI Response, ITP-1 at 6.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 11, 1999.


John A. Vincent